

---

CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

HOPE LAKE HOLDINGS, LLC,  
GREEK PEAK ADVENTURES, LLC and SKI GREEK PEAK, LLC

---

LEASE AGREEMENT

---

DATED AS OF SEPTEMBER 1, 2013

---

RESPECTING THE PREMISES LOCATED AT  
2000 NYS ROUTE 392 IN THE TOWN OF  
VIRGIL, CORTLAND COUNTY, NEW YORK.

---

THIS LEASE AGREEMENT CONSTITUTES A SECURITY  
AGREEMENT UNDER THE UNIFORM COMMERCIAL  
CODE OF THE STATE OF NEW YORK.

**TABLE OF CONTENTS**  
(This Table of Contents is not part of the Lease  
Agreement and is for convenience of reference only.)

	<u>PAGE</u>
PARTIES .....	1
RECITALS .....	1

**ARTICLE I**  
**DEFINITIONS**

Section 1.1. Definitions.....	4
Section 1.2. Interpretation .....	9

**ARTICLE II**  
**REPRESENTATIONS, WARRANTIES  
AND COVENANTS**

Section 2.1. Representations, Warranties and Covenants of the Agency .....	10
Section 2.2. Representations, Warranties and Covenants of the Company .....	11

**ARTICLE III**  
**CONVEYANCE TO THE AGENCY AND  
USE OF PROJECT FACILITY**

Section 3.1. Conveyance to the Agency.....	13
Section 3.2. Use of the Project Facility.....	13
Section 3.3. Hazardous Materials.....	14
Section 3.4. Non-Merger .....	15
Section 3.5. Compliance with the Underlying Lease .....	15

**ARTICLE IV**  
**UNDERTAKING AND COMPLETION OF THE PROJECT**

Section 4.1. Acquisition, Construction and Installation of the Project Facility .....	16
Section 4.2. Completion of the Project Facility .....	18
Section 4.3. Remedies to be Pursued Against Contractors, Subcontractors, Materialmen and their Sureties .....	18

**ARTICLE V**  
**LEASE OF THE PROJECT FACILITY; RENTAL PAYMENTS  
AND OTHER AMOUNTS PAYABLE**

Section 5.1. Lease of the Project Facility.....	19
Section 5.2. Duration of the Lease Term; Quiet Enjoyment.....	19

Section 5.3.	Rental Payments and Other Amounts Payable .....	19
Section 5.4.	Nature of Obligations of the Company Hereunder.....	20
Section 5.5.	Grant of Security Interest.....	21

## ARTICLE VI MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1.	Maintenance and Modifications of the Project Facility .....	21
Section 6.2.	Taxes, Assessments and Utility Charges .....	21
Section 6.3.	Insurance Required .....	22
Section 6.4.	Additional Provisions Respecting Insurance.....	23
Section 6.5.	Application of Net Proceeds of Insurance.....	23
Section 6.6.	No Real Property Tax Exemption .....	23

## ARTICLE VII DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1.	Damage or Destruction.....	24
Section 7.2.	Condemnation .....	25
Section 7.3.	Additions to the Project Facility.....	27

## ARTICLE VIII SPECIAL COVENANTS

Section 8.1.	No Warranty of Condition or Suitability by the Agency; Acceptance "As Is" .....	27
Section 8.2.	Hold Harmless Provisions.....	27
Section 8.3.	Right of Access to the Project Facility .....	28
Section 8.4.	Company not to Terminate Existence or Dispose of Assets; Conditions under which Exceptions are Permitted .....	28
Section 8.5.	Agreement to Provide Information .....	29
Section 8.6.	Books of Record and Account; Compliance Certificates .....	29
Section 8.7.	Compliance with Applicable Law .....	29
Section 8.8.	Discharge of Liens and Encumbrances .....	30
Section 8.9.	Performance of the Company's Obligations .....	30
Section 8.10	Depreciation Deductions and Tax Credits .....	30
Section 8.11	Employment Opportunities .....	30
Section 8.12	Sales and Use Tax Exemption .....	31
Section 8.13	Sales and Use Tax Recapture.....	32
Section 8.14.	Identification of the Equipment .....	33

## ARTICLE IX ASSIGNMENTS; MERGER OF THE AGENCY

Section 9.1.	Assignment of the Lease Agreement.....	34
Section 9.2.	Merger of the Agency .....	34

Section 9.3. Sale or Lease of the Project Facility .....	34
--	----

## ARTICLE X EVENTS OF DEFAULT AND REMEDIES

Section 10.1. Events of Default Defined .....	35
Section 10.2. Remedies on Default .....	36
Section 10.3. Remedies Cumulative .....	37
Section 10.4. Agreement to Pay Attorneys' Fees and Expenses .....	37
Section 10.5. No Additional Waiver Implied by One Waiver .....	37

## ARTICLE XI OPTIONS AND OBLIGATION TO PURCHASE

Section 11.1. Early Termination of the Lease Agreement .....	38
Section 11.2. Obligation to Sell and Purchase the Project Facility .....	38
Section 11.3. Conveyance on Purchase of the Project Facility .....	39

## ARTICLE XII MISCELLANEOUS

Section 12.1. Notices .....	39
Section 12.2. Binding Effect .....	40
Section 12.3. Severability .....	40
Section 12.4. Amendment .....	41
Section 12.5. Execution of Counterparts .....	41
Section 12.6. Applicable Law .....	41
Section 12.7. Recording and Filing .....	41
Section 12.8. Survival of Obligations .....	41
Section 12.9. Table of Contents and Section Headings Not Controlling .....	41
Section 12.10. No Recourse; Special Obligation .....	41
 TESTIMONIUM .....	42
SIGNATURES .....	43
ACKNOWLEDGMENTS .....	43

EXHIBIT A – Description of the Land

EXHIBIT B – Description of the Equipment

EXHIBIT C – Form of Bill of Sale to Company

EXHIBIT D – Initial Employment Plan

EXHIBIT E – Form of Annual Employment Report

EXHIBIT F – Form of Sales Tax Exemption Letter

EXHIBIT G – Annual Report

EXHIBIT H – Form of Thirty-Day Sales Tax Report

EXHIBIT I – Form of Termination of Lease Agreement

EXHIBIT J – Form of Termination of Underlying Lease

## LEASE AGREEMENT

THIS LEASE AGREEMENT dated as of September 1, 2013 (the "Lease Agreement") by and between CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 37 Church Street, Cortland, New York (the "Agency"), and Hope Lake Holdings, LLC, Greek Peak Adventures, LLC and Ski Greek Peak, LLC, limited liability companies organized and existing under the laws of the State of New York having an office for the transaction of business located at 2000 NYS Route 392, Cortland, New York (collectively, the "Company");

### 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; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip 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 or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and 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, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 77 of the Laws of 1974 of the State (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, by resolution adopted by the members of the Agency on August 12, 2013 (the "Preliminary Inducement Resolution") the Agency agreed to accept an application (the "Application") from the Company and further agreed, subject to numerous conditions, to consider undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in up to 1,290 acres of real property (the

"Land") located at 2000 NYS Route 392 in the Town of Virgil, Cortland County, New York, (2) the renovation on the Land of certain existing improvements including, but not limited to, the Base Lodge, Tuning Center and Adventure Center, all constituting part of the Greek Peak Ski Resort (the "Facility"), and (3) the acquisition and installation therein and thereon of certain machinery and equipment including, but not limited to, a magic carpet, a quad-chair lift, skies and snowboards, tuning equipment, a trail groomer, snowmaking equipment and entertainment equipment for the Adventure Center (collectively the "Equipment"), all of the foregoing to constitute a recreation facility and tourism destination open to the public and to be operated by the Company and occupied by the Company (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company agreed upon by the Agency; and

WHEREAS, pursuant to the Preliminary Inducement Resolution adopted by the members of the Agency on August 12, 2013 the Executive Director of the Agency (A) caused notice of a public hearing of the Agency to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project (the "Public Hearing") to be mailed on August 2, 2013 to the chief executive officer of the county and of each city, town, village and school district in which the Project is to be located, (B) caused notice of the Public Hearing to be published on August 7, 2013 in the Cortland Standard, a newspaper of general circulation available to residents of the County of Cortland, (C) conducted the Public Hearing on August 20, 2013 at 10:30 o'clock a.m., local time at the Town of Virgil Town Hall located at 1176 Church Street in the Town of Virgil, Cortland County, New York, and (D) prepared a report of the Public Hearing which fairly summarized the views presented at said public hearing and distributed same to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the members of the Agency adopted a resolution on August 12, 2013 (the "SEQR Resolution") in which the Agency determined (A) that the Project constitutes an "Unlisted Action", (B) therefore that the coordinated review procedures outlined in the Regulations are strictly optional, (C) that the Project will not have a "significant effect on the environment" pursuant to SEQRA and, therefore that no environmental impact statement need be prepared with respect to the Project, and (D) that a negative declaration would be prepared with respect to the Project; and

WHEREAS, by resolution adopted by the members of the Agency on August 20, 2013 (the "Final Inducement Resolution"), the Agency determined, following review of

the Report, to finalize the preliminary determination made by the Agency in the Preliminary Inducement Resolution to proceed with the Project; and

WHEREAS, by resolution adopted by the members of the Agency on August 20, 2013 (the "Approving Resolution"), the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of September 1, 2013 (the "Lease Agreement") between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"); and

WHEREAS, pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Company for a lease term ending on the earlier to occur of (1) August 31, 2018 or (2) the date on which the Lease Agreement is terminated pursuant to the termination provisions thereof. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, pursuant to the provisions of the Lease Agreement, (A) the Company will, as agent of the Agency, undertake and complete the Project and (B) the Agency will lease (with an obligation to purchase) the Project Facility to the Company; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company will execute and deliver to the Agency (1) a certain lease to agency dated as of September 1, 2013 (the "Underlying Lease"), pursuant to which the Company leases to the Agency the portion of the Land under the Facility (the "Facility Parcel") for a lease term ending on the earlier to occur of (a) August 31, 2018 or (b) the date on which the Lease Agreement is terminated pursuant to the termination provisions thereof, and (2) a bill of sale dated as of September 1, 2013 (the "Bill of Sale to Agency"), from the Company to the Agency, pursuant to which the Company will convey to the Agency its interest in the portion of the Project Facility constituting the Equipment, fixtures and other personal property; and

WHEREAS, the providing of the Project Facility and the lease of the Project Facility to the Company pursuant to this Lease Agreement is for a proper purpose, to wit, to advance the job opportunities, health, general prosperity and economic welfare of the inhabitants of the State, pursuant to the provisions of the Act; and

WHEREAS, all things necessary to constitute this Lease Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Lease Agreement have in all respects been duly authorized by the Agency and the Company.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY FORMALLY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS, TO WIT:

## ARTICLE I DEFINITIONS

**SECTION 1.1. DEFINITIONS.** The following words and terms used in this Lease Agreement shall have the respective meanings set forth below, unless the context or use indicates another or different meaning or intent:

"Act" means Title 1 of Article 18-A of the General Municipal Law of the State, as amended from time to time, together with Chapter 77 of the 1974 Laws of the State, constituting Section 902 of the General Municipal Law of the State, as amended from time to time.

"Agency" means (A) Cortland County Industrial Development Agency and its successors and assigns, and (B) any public benefit corporation or other public corporation resulting from or surviving any consolidation or merger to which Cortland County Industrial Development Agency or its successors or assigns may be a party.

"Applicable Laws" means all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all Governmental Authorities, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to or affect the Project Facility or any part thereof or the conduct of work on the Project Facility or any part thereof or to the operation, use, manner of use or condition of the Project Facility or any part thereof (the applicability of such statutes, codes, laws, acts, ordinances, orders, rules, regulations, directions and requirements to be determined both as if the Agency were the owner of the Project Facility and as if the Company and not the Agency were the owner of the Project Facility), including but not limited to (1) applicable building, zoning, environmental, planning and subdivision laws, ordinances, rules and regulations of Governmental Authorities having jurisdiction over the Project Facility, (2) restrictions, conditions or other requirements applicable to any permits, licenses or other governmental authorizations issued with respect to the foregoing, and (3) judgments, decrees or injunctions issued by any court or other judicial or quasi-judicial Governmental Authority.

"Approving Resolution" means the resolution duly adopted by the Agency on August 20, 2013 authorizing and directing the undertaking and completion of the Project and the execution and delivery of the Basic Documents to which the Agency is a party.

"Authorized Representative" means the person or persons at the time designated to act in 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 (A) the Agency by its Chairman or Vice Chairman or such other person as may be authorized by resolution of the members of the Agency to act on behalf of the Agency, and (B) the Company by its General Partner or such other person as may be authorized in writing by the General Partner or the members of the Company to act on behalf of the Company.

"Basic Documents" means the Underlying Lease, the Bill of Sale to Agency and the Lease Agreement, and all other instruments and documents related thereto and executed in connection therewith, and any other instrument or document supplemental thereto, each as amended from time to time.

"Bill of Sale to Agency" means the bill of sale delivered on the Closing Date from the Company to the Agency conveying all of the Company's interest in the Equipment to the Agency.

"Bill of Sale to Company" means the bill of sale from the Agency to the Company conveying all of the Agency's interest in the Equipment to the Company, substantially in the form attached as Exhibit "C" to the Lease Agreement.

"Business Day" means a day on which banks located in the City of Cortland, New York are not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

"Closing" means the closing at which the Basic Documents are executed and delivered by the Company and the Agency.

"Closing Date" means the date of the Closing.

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Treasury Department promulgated thereunder.

"Company" means, collectively, Hope Lake Holdings, LLC, Greek Peak Adventures, LLC and Ski Greek Peak, LLC, limited liability companies duly organized and existing under the laws of the State of New York, and their successors and assigns, to the extent permitted pursuant to Section 8.4 of the Lease Agreement.

"Completion Date" means the earlier to occur of (A) August 31, 2018 or (B) such date as shall be certified by the Company to the Agency as the date of completion of the Project pursuant to Section 4.2 of the Lease Agreement, or (C) such earlier date as shall be designated by written communication from the Company to the Agency as the date of completion of the Project.

"Condemnation" means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any Governmental Authority.

"Default Interest Rate" means a per annum rate of interest equal to twelve percent (12%) per annum, or the maximum rate of interest permitted by law, whichever is less.

"Equipment" means all equipment, fixtures, machines, building materials and items of personal property and all appurtenances intended to be acquired in connection with the completion of the Project prior to the Completion Date with the proceeds of any payment made by the Company pursuant to Section 4.1(H) of the Lease Agreement, and such substitutions and replacements therefor as may be made from time to time pursuant to the Lease Agreement, including without limitation, all the Property described in Exhibit "B" attached to the Lease Agreement.

"Event of Default" means, with respect to any particular Basic Document, any event specified as an Event of Default pursuant to the provisions thereof.

"Facility" means the renovation on the Land of certain existing improvements including, but not limited to, the Base Lodge, Tuning Center and Adventure Center, all constituting part of the Greek Peak Ski Resort as part of the Project and any other improvements on the Land.

"Facility Parcel" means the portion of the Land as the site for the Facility, as more particularly described on Exhibit "A" attached to the Lease Agreement.

"Facility Premises" means the Facility and the Facility Parcel.

"Facility Term" shall have the meaning assigned to such term in Section 3.2 of the Underlying Lease.

"Final Inducement Resolution" means the resolution of the Agency adopted by the members of the Agency on August 20, 2013 finalizing the Preliminary Inducement Resolution and approving the Project.

"Financial Assistance" shall have the meaning assigned to such term in the fifth recital clause to the Lease Agreement.

"Governmental Authority" means the United States of America, the State, any other state and any political subdivision thereof, and any agency, department, commission, court, board, bureau or instrumentality of any of them.

"Gross Proceeds" means one hundred percent (100%) of the proceeds of the transaction with respect to which such term is used, including, but not limited to, the settlement of any insurance or Condemnation award.

"Hazardous Materials" shall mean all hazardous materials including, without limitation, any flammable explosives, radioactive materials, radon, asbestos, urea formaldehyde foam insulation, polychlorinated byphenyls, petroleum, petroleum

products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), Articles 15 or 27 of the State Environmental Conservation Law, or in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule or regulation.

"Indebtedness" means (1) the monetary obligations of the Company to the Agency and its members, officers, agents, servants and employees under the Lease Agreement and the other Basic Documents, and (2) all interest accrued on any of the foregoing.

"Independent Counsel" means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state and not a full-time employee of the Company or the Agency.

"Land" means the land located at 2000 NYS Route 392 in the Town of Virgil, Cortland County, New York, as more particularly described on Exhibit "A" attached to the Lease Agreement.

"Lease Agreement" means the lease agreement dated as of September 1, 2013 by and between the Agency, as landlord, and the Company, as tenant, pursuant to which, among other things, the Agency has leased the Project Facility to the Company, as said lease agreement may be amended or supplemented 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 a security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes or a judgment against the Company. The term "Lien" includes reservations, exceptions, encroachments, projections, easements, rights of way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not limited to mechanics', materialmen's, warehousemen's and carriers' liens and other similar encumbrances affecting real property. For purposes of the Basic Documents, 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.

"Net Proceeds" means so much of the Gross Proceeds with respect to which that term is used as remain after payment of all fees for services, expenses, costs and taxes (including attorneys' fees) incurred in obtaining such Gross Proceeds.

"Permitted Encumbrances" means (A) utility, access and other easements, rights of way, restrictions, encroachments and exceptions that exist on the Closing Date and benefit or do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (B) mechanics', materialmen's, warehousemen's, carriers' and other similar Liens, to the extent permitted by Section 8.8 of the Lease Agreement, (C) Liens for taxes, assessments and utility charges, to the extent permitted by Section 6.2(B) of the Lease Agreement, (D) any Lien on the Project Facility obtained through any Basic Document, and (E) any Lien requested by the Company in writing and consented to by the Agency, which consent shall not be unreasonably withheld or delayed.

"Person" means an individual, partnership, corporation, trust, unincorporated organization or Governmental Authority.

"Plans and Specifications" means the description of the Project appearing in the fifth recital clause to the Lease Agreement.

"Preliminary Agreement" means the preliminary agreement dated as of August 12, 2013 between the Agency and the Company with respect to the Project.

"Preliminary Inducement Resolution" means the resolution adopted by the members of the Agency on August 12, 2013 offering to consider undertaking the Project, authorizing a public hearing pursuant to Section 859-a of the Act, and authorizing the Agency to execute and deliver the Preliminary Agreement.

"Prime Rate" means a per annum rate of interest equal to the highest "prime rate" of interest quoted, from time to time, in the Money Rates column of the Wall Street Journal as the "base rate on corporate loans at large U.S. money center commercial banks", provided, however, that in the event that the Wall Street Journal does not publish the National Prime Rate, the Prime Rate shall be the per annum rate of interest quoted as the "Bank Prime Loan Rate" for "this week" in Statistical Release H.15(519) published from time to time by the Board of Governors of the Federal Reserve System calculated on actual days elapsed in a year of 360 days, such rate to be adjusted each Business Day based on the Prime Rate as reported for the previous Business Day. Any provisions to the contrary notwithstanding, in no event shall the Prime Rate be established beyond the maximum rate allowed by law.

"Project" means the project undertaken by the Agency consisting of (A) (1) the acquisition of a leasehold interest in the Facility Parcel, (2) the construction of the Facility on the Facility Parcel, and (3) the acquisition and installation therein and thereon of the Equipment, all of the foregoing to constitute an office building to be operated by the Company and occupied in part by the Company and in part by tenants providing related services; (B) the granting of certain Financial Assistance with respect to the foregoing, and (C) the lease of the Project Facility to the Company pursuant to the Lease Agreement.

"Project Facility" means the Facility Parcel, the Facility and the Equipment.

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

"Sales Tax Exemption Letter" shall have the meaning assigned to such term in Section 8.12 of the Lease Agreement.

"SEQRA" means Article Eight of the Environmental Conservation Law of the State and the statewide regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York.

"State" means the State of New York.

"Termination of Lease Agreement" means a termination of lease agreement by and between the Company, as tenant, and the Agency, as landlord, intended to evidence the termination of the lease agreement, substantially in the form attached as Exhibit D to the Lease Agreement.

"Termination of Underlying Lease" means the termination of the underlying lease by and between the Agency and the Company, substantially in the form attached as Exhibit E to the Lease Agreement.

"Unassigned Rights" means (A) the rights of the Agency granted pursuant to Sections 2.2, 3.2, 3.3, 4.1(B), 4.1(D), 4.1(E)(2), 4.1(G), 5.2(A), 5.3(B), 5.4(B), 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.12, 8.13, 9.1, 9.3, 11.4, 11.8 and 11.10 of the Lease Agreement, (B) the moneys due and to become due to the Agency for its own account or the members, officer, agents and employees of the Agency for their own account pursuant to Sections 2.2(F), 3.3, 4.1, 5.3, 6.4(B), 8.2, 10.2 and 10.4 of the Lease Agreement, and (C) the right to enforce the foregoing pursuant to Article X of the Lease Agreement.

"Underlying Lease" means the lease to agency dated as of September 1, 2013 by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company has leased the Facility Premises to the Agency, as said lease to agency may be amended or supplemented from time to time.

**SECTION 1.2. INTERPRETATION.** In this Lease Agreement, unless the context otherwise requires:

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

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

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

(D) Any certificates, letters or opinions required to be given pursuant to this Lease Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Lease Agreement.

## **ARTICLE II** **REPRESENTATIONS, WARRANTIES** **AND COVENANTS**

**SECTION 2.1. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY.** The Agency makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Agency is duly established under the provisions of the Act and has the power to enter into this Lease Agreement and the other Basic Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder. Based upon the representations of the Company as to the utilization of the Project Facility, the Project will constitute a "project", as such quoted term is defined in the Act. By proper official action, the Agency has been duly authorized to execute, deliver and perform this Lease Agreement and the other Basic Documents to which the Agency is a party.

(B) Neither the execution and delivery of this Lease Agreement or the other Basic Documents to which the Agency is a party, the consummation of the transactions contemplated hereby or thereby nor the fulfillment of or compliance with the provisions of this Lease Agreement or the other Basic Documents to which the Agency is a party will conflict with or result in a breach by the Agency of any of the terms, conditions or provisions of the Act, the By-Laws of the Agency or any order, judgment, agreement or instrument to which the Agency is a party or by which the Agency is bound, or will constitute a default by the Agency under any of the foregoing.

(C) Pursuant to the Basic Documents, the Agency will acquire a leasehold interest in the Facility Premises, the Agency will cause the Project Facility to be acquired, constructed and installed and will lease the Project Facility to the Company pursuant to this Lease Agreement, all for the purpose of advancing the job opportunities, health, general prosperity and economic welfare of the people of the State and improving their standard of living.

(D) Except as provided in Article IX and Article X hereof, the Agency, to the extent of its interest therein, shall not sell, assign, transfer, encumber or pledge as security the Project Facility or any part thereof and shall maintain the Project Facility

free and clear of all Liens or encumbrances, except as contemplated or allowed by the terms of this Lease Agreement and the other Basic Documents.

**SECTION 2.2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY.** The Company makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Company is three (3) limited liability companies which are duly organized and validly existing under the laws of the State of New York, are qualified to do business in the State and all other jurisdictions in which their operations or ownership of Properties so require, and have the power to enter into this Lease Agreement and the other Basic Documents to which the Company is a party and to carry out its obligations hereunder and thereunder. By proper action of its, the Company has been duly authorized to execute, deliver and perform this Lease Agreement and the other Basic Documents to which the Company is a party.

(B) Except as has been heretofore disclosed to the Agency, neither the execution and delivery of this Lease Agreement or the other Basic Documents to which the Company is a party, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the provisions of this Lease Agreement or the other Basic Documents to which the Company is a party will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the Company's articles of organization or operating agreements or any other corporate restriction, order, judgment, agreement or instrument to which the Company is a party or by which the Company or any of its Property is bound, or constitute a default by the Company under any of the foregoing, or result in the creation or imposition of any Lien of any nature upon any Property of the Company under the terms of any such instrument or agreement, other than the Permitted Encumbrances, (2) require consent (which has not been heretofore received) under any corporate restriction, agreement or instrument to which the Company is a party or by which the Company or any of its Property may be bound or affected, or (3) require consent (which has not been heretofore obtained) under or conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court (domestic or foreign) having jurisdiction over the Company or any of the Property of the Company.

(C) The completion of the Project Facility will not result in the removal of a plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York or in the abandonment of a plant or facility of any proposed occupant of the Project Facility (other than the Company) located in the State of New York and, although the completion of the Project Facility may result in the abandonment of one or more plants or facilities of the Company located in the State of New York, such abandonment is reasonably necessary to preserve the competitive position of the Company in its industry.

(D) The Project Facility does not and will not constitute a project where facilities or property that are primarily used in making sales of goods or services to customers who personally visit such facilities constitute more than one-third of the total cost of the project.

(E) The Basic Documents to which the Company is a party constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(F) The Project Facility is, and so long as this Lease Agreement shall remain in effect, the Project Facility will continue to be a "project", as such quoted term is defined in the Act, and the Company will not take any action (or omit to take any action required by the Basic Documents or which the Agency advises the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way (1) cause the Project Facility not to constitute a "project", as such quoted term is defined in the Act, or (2) cause the Financial Assistance to be applied in a manner contrary to that provided in the Basic Documents.

(G) The Project Facility and the operation thereof will comply in all material respects with all Applicable Laws, and the Company will defend and save the Agency and its officers, members, agents and employees harmless from all fines and penalties due to failure to comply therewith. The Company shall cause all notices as required by all Applicable Laws to be given, and shall comply or cause compliance with all Applicable Laws, and the Company will defend and save the Agency and its officers, members, agents and employees harmless from all fines and penalties due to failure to comply therewith.

(H) The Project will not have a "significant effect on the environment" (within the meaning of such term as used in SEQRA), and the Company hereby covenants to comply with all mitigating measures, requirements and conditions, if any, enumerated in the SEQR Resolution issued by the Agency on August 12, 2013 under SEQRA applicable to the acquisition, construction and installation of the Project Facility and in any other approvals issued by any other Governmental Authority with respect to the Project. No material changes with respect to any aspect of the Project Facility have arisen from the date of the issuance of such negative declaration which would cause the determination contained therein to be untrue.

(I) The Company acknowledges receipt of notice of Section 874(8) of the Act, which requires that the Company as agent of the Agency must annually file a statement with the New York State Department of Taxation and Finance, on a form and in such a manner as is prescribed by the Commissioner of Taxation and Finance, of the value of all sales tax exemptions claimed by the Company under the authority granted by the Agency, such amount not to exceed the amount of the sales and use tax exemption authorized by the Agency.

(J) The Company acknowledges receipt of notice of Section 858-b of the Act, which requires that the Company list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "JTPA Entities"): (1) the New York State Department of Labor Community Services Division and (2) the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the Project Facility is located. The Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

(K) The Company acknowledges receipt of notice of Section 874(9) of the Act, which requires the Company, as agent of the Agency, to file within thirty (30) days of the date the Company is appointed the agent of the Agency, a statement with the New York State Department of Taxation and Finance, on a form and in such a manner as is prescribed by the Commissioner of Taxation and Finance, identifying the Company as agent of the Agency, setting forth the taxpayer identification number of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating a rough estimate of the value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

### **ARTICLE III CONVEYANCE TO AGENCY AND USE OF PROJECT FACILITY**

**SECTION 3.1. CONVEYANCE TO THE AGENCY.** (A) Pursuant to the Underlying Lease, the Company has or will convey, or will cause to be conveyed, to the Agency a leasehold interest in the Facility Parcel. Pursuant to the Bill of Sale to the Agency, the Company has or will convey, or will cause to be conveyed, to the Agency title to the Equipment.

(B) The Company hereby represents and warrants that it has good and marketable title to the Land and the Equipment.

(C) The Company shall execute, deliver and record or file all instruments necessary or appropriate to so vest title in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons. The Company also agrees to pay all reasonable expenses incurred by the Agency in defending any action with respect to title to or a Lien affecting the Project Facility, except for Permitted Encumbrances.

**SECTION 3.2. USE OF PROJECT FACILITY.** Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in any manner not otherwise prohibited by the Basic Documents or the Act, provided such use causes the Project Facility to qualify or continue to qualify as a "project" under the Act and does not tend, in

the reasonable judgment of the Agency, to bring the Project Facility into disrepute as a public project; provided, further, however, that at no time shall any such use be other than as a recreation facility and tourism destination and uses related thereto without the prior written consent of the Agency.

**SECTION 3.3. HAZARDOUS MATERIALS.** (A) To the best of its knowledge, the Company represents, warrants and covenants that the Company has not used Hazardous Materials on, from or affecting the Project Facility in any manner which violates in any material respect any Applicable Law, including but not limited to those governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best of the Company's knowledge, no prior owner of the Project Facility or any tenant, subtenant, prior tenant or prior subtenant has used Hazardous Materials on, from or affecting the Project Facility in any manner which violates any Applicable Law, including but not limited to those governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials.

(B) The Company shall keep or cause the Project Facility to be kept free of Hazardous Materials. Without limiting the foregoing, the Company shall not cause or permit the Project Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all material Applicable Laws, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company, or any tenant or subtenant of the Company, an unlawful release of Hazardous Materials onto the Project Facility or onto any other property.

(C) The Company shall comply with, and ensure compliance by all tenants and subtenants of the Company with, all Applicable Laws regarding Hazardous Materials whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants of the Company obtain and comply with, any and all approvals, registrations or permits required thereunder.

(D) The Company shall (1) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up, remove or contain all Hazardous Material on, from or affecting the Project Facility (a) in accordance with all Applicable Laws, and (b) in accordance with the orders and directives of all federal, state and local governmental authorities and (2) defend, indemnify, and hold harmless the Agency and its employees, agents, officers and members from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (a) the presence, disposal, release or threatened release of any Hazardous Materials used, transported, stored, manufactured, refined, handled, produced or disposed of on or in the Project Facility which are on, from or affecting soil, water, vegetation, buildings, personal property, persons, animals or otherwise, (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such

Hazardous Materials, (c) any lawsuit brought or threatened, settlement reached, or any government order relating to such Hazardous Materials, and/or (d) any violations of Applicable Laws which are based upon or in any way related to such Hazardous Materials, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses. Costs under this subsection (D) will be repaid immediately with interest at the Default Interest Rate or the maximum permitted by law, whichever is less.

(E) In the event the Project Facility is foreclosed by the Agency, or the Company tenders a deed in lieu of foreclosure, the Company shall deliver the Project Facility to the purchaser free of any and all Hazardous Materials (except Hazardous Materials the presence of which do not violate any Federal, State or local laws, ordinances, rules and regulations governing the use and storage of such materials), so that the condition of the Project Facility shall conform with all Applicable Laws affecting the Project Facility.

(F) The Company agrees that the Agency and its officers, agents or representatives, may at any reasonable time and at the Company's expense inspect the Company's books and records and inspect and conduct any tests on the Project Facility, including taking soil samples, in order to determine that the Company is in compliance with all Applicable Laws.

(G) In the event that insurance shall become available at a reasonable cost to cover the Company's obligations under this Section 3.3, then, at the option of the Agency, the Company shall obtain adequate coverage.

**SECTION 3.4. NON-MERGER.** During the term of this Lease Agreement, there shall be no merger of this Lease Agreement nor of the leasehold estate created by this Lease Agreement with the fee estate in the Premises or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (1) this Lease Agreement or the leasehold estate created by this Lease Agreement or any interest in this Lease Agreement or in any such leasehold estate and (2) the fee estate in the Premises or any part thereof or any interest in such fee estate, and no such merger shall occur unless and until all corporations, firms and other entities, including any mortgagee having any interest in (x) this Lease Agreement or the leasehold estate created by this Lease Agreement and (y) the fee estate in the Premises or any part thereof or any interest in such fee estate, shall join in a written instrument effecting such merger and shall duly record the same.

**SECTION 3.5. COMPLIANCE WITH THE UNDERLYING LEASE.** (A) Notwithstanding the granting of the leasehold interest created by the Underlying Lease in the Facility Parcel to the Agency pursuant to the Underlying Lease, the Company agrees, in consideration of the undertakings of the Agency set forth herein, that the Company will be and remain solely liable under the Underlying Lease for the performance of all covenants, agreements, obligations and duties of the Agency under the Underlying Lease, including but not limited to the making of all payments thereunder, and the

Company will perform all of the covenants, agreements and obligations of the Agency under the Underlying Lease, at no expense to the Agency, in consideration of the execution and delivery by the Agency of the Basic Documents.

(B) The Company shall, on behalf of the Agency, (1) pay all sums required to be paid by the Agency as tenant under and pursuant to the provisions of the Underlying Lease and (2) diligently perform and observe all of the terms, covenants and conditions of the Underlying Lease on the part of the Agency, as tenant thereunder, to be performed and observed, unless such performance or observance shall be waived or not required in writing by the landlord under the Underlying Lease, to the end that all things shall be done which are necessary to keep unimpaired the rights of the Agency, as tenant, under the Underlying Lease.

## **ARTICLE IV UNDERTAKING AND COMPLETION OF THE PROJECT**

**SECTION 4.1. ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE PROJECT FACILITY.** (A) The Company shall, on behalf of the Agency, promptly acquire, construct and install the Project Facility, or cause the acquisition, construction and installation of the Project Facility, all in accordance with the Plans and Specifications.

(B) No material change in the Plans and Specifications shall be made unless the Agency shall have consented thereto in writing (which consent of the Agency shall not be unreasonably withheld or delayed).

(C) Title to all materials, equipment, machinery and other items of Property presently incorporated or installed in and which are a part of the Project Facility shall vest in the Agency immediately upon execution of the Bill of Sale to Agency. Title to all materials, equipment, machinery and other items of Property acquired subsequent to the Closing Date and intended to be incorporated or installed in and to become part of the Project Facility shall vest in the Agency immediately upon deposit on the Land or incorporation or installation in the Project Facility, whichever shall first occur. The Company shall execute, deliver and record or file all instruments necessary or appropriate to vest title to the above in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(D) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1; provided, however, that the liability of the Agency thereunder shall be limited to the moneys of the Company available therefor and advanced by the Company for such purpose pursuant to Section 4.1(H) hereof.

(E) The Agency hereby appoints the Company as its true and lawful agent to perform the following in compliance with the terms, purposes and intent of the Basic Documents, and the Company hereby accepts such appointment: (1) to acquire,

construct and install the Project Facility, (2) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons and, in general, to do all things which may be requisite or proper, all for the acquisition, construction and installation of the Project Facility, with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the liability of the Agency thereunder shall be limited to the moneys made available therefor by the Company and advanced for such purposes by the Company pursuant to this Lease Agreement, (3) to pay all fees, costs and expenses incurred in the acquisition, construction and installation of the Project Facility from funds made available therefor in accordance with this Lease Agreement, and (4) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the acquisition, construction and installation of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond or other performance security in connection with the same, said appointment as agent to be retroactive to August 20, 2013 and to last until the Completion Date.

(F) The Company has given or will give or cause to be given all notices and has complied or will comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on the Project Facility, and the Company will defend, indemnify and save the Agency and its officers, members, agents, servants and employees harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(G) To the extent required by Applicable Law, the Company, as agent of the Agency, will cause (1) compliance with the requirements of Article 8 of the New York Labor Law, and (2) any contractor, subcontractor and other person involved in the acquisition, construction and installation of the Project Facility to comply with Article 8 of the New York Labor Law. The covenant in this subsection is not intended as a representation that Article 8 of the New York Labor Law applies to the Project.

(H) The Company agrees, for the benefit of the Agency, to undertake and complete the Project and to pay all such sums as may be required in connection therewith. Title to portions of the Project Facility acquired, constructed and installed at the Company's cost shall immediately upon such acquisition, construction or installation vest in the Agency. The Company shall execute, deliver and record or file such instruments as the Agency may request in order to perfect or protect the Agency's title to such portions of the Project Facility.

(I) No payment by the Company pursuant to this Section 4.1 shall entitle the Company to any reimbursement for any such expenditure from the Agency or to any diminution or abatement of any amounts payable by the Company under this Lease Agreement.

**SECTION 4.2. COMPLETION OF THE PROJECT FACILITY.** The Company will proceed with due diligence to commence and complete the acquisition, construction and installation of the Project Facility. Completion of the same shall be evidenced by a certificate signed by an Authorized Representative of the Company delivered to the Agency stating (A) the date of such completion, (B) that all labor, services, materials and supplies used therefor and all costs and expenses in connection therewith have been paid, (C) that the acquisition, construction and installation of the Project Facility has been completed, with the exception of ordinary punchlist items and work awaiting seasonal opportunity, (D) that the Company or the Agency has good and valid title to all Property constituting a portion of the Project Facility, free and clear of all Liens and encumbrances except Permitted Encumbrances, and (E) that the Project Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate may state (1) that it is given without prejudice to any rights of the Company against third parties which exist at the date of such certificate or which may subsequently come into being, (2) that it is given only for the purposes of this Section 4.2, and (3) that no Person other than the Agency may benefit therefrom. Such certificate shall be accompanied by a certificate of occupancy, or a letter from the local Governmental Authority stating that no certificate of occupancy is required, and any and all permissions, licenses or consents required of Governmental Authorities for the occupancy, operation and use of the Project Facility for its intended purposes.

**SECTION 4.3. REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES.** In the event of a default by any contractor, subcontractor or materialman under any contract made by it in connection with the acquisition, construction and installation of the Project Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Company shall proceed, either separately or in conjunction with others, to exhaust the remedies of the Company and the Agency against the contractor, subcontractor or materialman so in default and against each surety for the performance of such contract. The Company may, in its own name or, with the prior written consent of the Agency, in the name of the Agency, prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety which the Company deems reasonably necessary, and in such event the Agency hereby agrees, at the Company's sole expense, 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 Net Proceeds of any recovery secured by the Company as a result of any action pursued against a contractor, subcontractor, materialman or their sureties pursuant to this Section 4.3 shall be used to the extent necessary to complete the Project Facility, and thereafter be paid to the Company for its own use. The Company shall advise the Agency of any actions or proceedings taken hereunder.

**ARTICLE V**  
**DEMISE OF PROJECT FACILITY; RENTAL PAYMENTS AND  
OTHER AMOUNTS PAYABLE**

**SECTION 5.1. LEASE OF THE PROJECT FACILITY.** In consideration of the Company's covenant herein to make rental payments hereunder, and in consideration of the other covenants of the Company contained herein, including the covenant to make additional and other payments required hereby, the Agency hereby agrees to demise and lease to the Company, and the Company hereby agrees to rent and lease from the Agency, the Agency's interest in the Project Facility, subject only to Permitted Encumbrances. The obligation of the Agency under this Section 5.1 to lease the Project Facility to the Company shall be subject to there being no Event of Default existing hereunder, or any other event which would, but for the passage of time, be such an Event of Default.

**SECTION 5.2. DURATION OF THE LEASE TERM; QUIET ENJOYMENT.** (A) The Agency shall deliver to the Company possession of the Project Facility, and the leasehold estate created hereby shall commence, on the Closing Date, and the Company shall accept possession of the Project Facility on the Closing Date.

(B) Except as otherwise provided in Article X hereof, the leasehold estate created hereby shall terminate on the earlier to occur of (1) August 31, 2018 or (2) the date that this Lease Agreement shall terminate pursuant to Article X or Article XI hereof.

(C) The Agency shall take no action, other than pursuant to Article X of this Lease Agreement, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project Facility during the term of this Lease Agreement and will, at the request of the Company and at the Company's expense, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project Facility.

**SECTION 5.3. RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.** (A) The Company shall pay basic rental payments for the Project Facility as follows: On the date of execution and delivery of this Lease Agreement, the Company shall pay, (1) as the basic lease payments due hereunder, a single lump sum basic rental payment equal to the Agency's administrative fee relating to the Project and (2) Agency Counsel's fees and expenses relating to the Project.

(B) Within seven (7) days after receipt of a demand therefor from the Agency, the Company shall pay to the Agency the sum of the expenses of the Agency and the officers, members, agents and employees thereof incurred by reason of the Agency's ownership, leasing or sale of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Lease Agreement or any of the other Basic Documents, and any other fee or expense of the Agency with respect to the Project Facility, the leasing or sale of the Project Facility to the Company, or any of the

other Basic Documents, the payment of which is not otherwise provided for under this Lease Agreement.

(C) The Company agrees to make the above-mentioned payments, without any further notice, by check or wire transfer, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event the Company shall fail to make any payment required by this Section 5.3 within ten (10) days of the date such payment is due, the Company shall pay the same, together with interest thereon at the Default Interest Rate or the maximum rate permitted by law, whichever is less, from the date on which such payment was due until the date on which such payment is made.

**SECTION 5.4. NATURE OF OBLIGATIONS OF THE COMPANY HEREUNDER.** (A) The obligations of the Company to make the payments required by this Lease Agreement 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 right of set-off, recoupment, counterclaim or abatement that the Company may otherwise have against the Agency. The Company agrees that it will not suspend, discontinue or abate any payment required by, or fail to observe any of its other covenants or agreements contained in, this Lease Agreement, or terminate this Lease Agreement for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the Project, any defect in the title, design, operation, merchantability, fitness or condition of the Project Facility or any part thereof or in the suitability of the Project Facility or any part thereof for the Company's purposes or needs, failure of consideration for, destruction of or damage to, Condemnation of title to or the use of all or any part of the Project Facility, any change in the tax or other laws of the United States of America or of the State or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lease Agreement.

(B) Nothing contained in this Section 5.4 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Lease Agreement, and, in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance or recover damages for non-performance (subject to the provisions of Section 12.10 hereof); provided, however, that the Company shall look solely to the Agency's estate and interest in the Project Facility for the satisfaction of any right or remedy of the Company for the collection of a judgment (or other judicial process) requiring the payment of money by the Agency in the event of any liability on the part of the Agency, and no other Property or assets of the Agency or of the members, officers, agents (other than the Company) or employees of the Agency shall be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of the Company's remedies under or with respect to this Lease Agreement, the relationship of the Agency and the Company hereunder or the Company's use and

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

**SECTION 5.5. GRANT OF SECURITY INTEREST.** The Company hereby grants the Agency a security interest in all of the right, title and interest of the Company in the Project Facility and in all additions and accessions thereto, all replacements and substitutions therefor and all proceeds thereof, and all books, records and accounts of the Company pertaining to the Project Facility, and all proceeds thereof, as security for payment of the rental payments and all other payments and obligations of the Company hereunder. The Company hereby irrevocably appoints the Agency as its attorney-in-fact to execute and deliver and file any instruments necessary or convenient to perfect and continue the security interest granted herein.

## **ARTICLE VI** **MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE**

**SECTION 6.1. MAINTENANCE AND MODIFICATIONS OF THE PROJECT FACILITY.** (A) During the term of this Lease Agreement, the Company shall (1) keep the Project Facility in good condition and repair and preserve the same against waste, loss, damage and depreciation, ordinary wear and tear excepted, (2) make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen), and (3) operate the Project Facility in a sound and economic manner.

(B) The Company shall not make any structural additions, modifications or improvements to the Project Facility or any part thereof unless:

(1) the Company shall (a) give or cause to be given all notices and comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on such addition, modification or improvement to the Project Facility, or a part thereof, (b) defend and save the Agency and its officers, members, agents (other than the Company) and employees harmless from all fines and penalties due to failure to comply therewith, and (c) promptly procure all permits and licenses necessary for the prosecution of any work described in this Section 6.1(B);

(2) the addition, modification or improvement to the Project Facility shall not constitute a default under any of the Basic Documents; and

(3) the Company shall furnish to the Agency, at least thirty (30) days prior to commencing such addition, modification or improvement to the Project Facility detailed plans and specifications therefor; provided, further, however, that such plans need not be furnished to the Agency for additions, modifications or improvements to the Project Facility which do not exceed, at any one time, \$250,000 in value.

**SECTION 6.2. TAXES, ASSESSMENTS AND UTILITY CHARGES.** (A) The Company shall pay or cause to be paid, as the same respectively become due, (1) all taxes and

governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Project Facility, (2) all utility and other charges, including "service charges", incurred or imposed for the operation, maintenance, use, occupancy, upkeep and improvement of the Project Facility, (3) all assessments and charges of any kind whatsoever lawfully made against the Project Facility by any Governmental Authority for public improvements, and (4) all payments required under Section 6.6 hereof; 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 hereunder to pay only such installments as are required to be paid during the term of this Lease Agreement.

(B) Notwithstanding the provisions of subsection (A) of this Section 6.2, the Company may in good faith actively contest any such taxes, assessments and other charges, provided that the Company (1) first shall have notified the Agency in writing of such contest and (2) is not in default under any of the Basic Documents. Otherwise, the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

**SECTION 6.3. INSURANCE REQUIRED.** During the term of this Lease Agreement, the Company shall maintain insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(A) Insurance protecting the interests of the Company and the Agency as insureds, as their interests may appear, against loss or damage to the Project Facility by fire, lightning, vandalism, malicious mischief and other perils normally insured against with a uniform extended coverage endorsement, such insurance at all times to be in an amount acceptable to the Company and the Agency.

(B) To the extent applicable, workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility or who are responsible for the acquisition, construction or installation of the Project Facility.

(C) Insurance protecting the Company and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract (including, without limitation, the contractual liability assumed by the Company under Section 8.2 of this Lease Agreement) and arising from personal injury or death or damage to the Property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per person per accident or occurrence on account of personal injury, including death resulting therefrom, and \$500,000 per accident or occurrence on account of damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law.

(D) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE COMPANY'S BUSINESS OR INTEREST.

**SECTION 6.4. ADDITIONAL PROVISIONS RESPECTING INSURANCE.** (A) All insurance required by Section 6.3 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State and having a Best rating satisfactory to the Agency. 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 Company is engaged. All policies evidencing such insurance shall name the Company and the Agency as insureds, as their interests may appear, and provide for at least thirty (30) days' written notice to the Company and the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof. All insurance required hereunder shall be in form, content and coverage satisfactory to the Agency. Certificates satisfactory in form and substance to the Agency to evidence all insurance required hereby shall be delivered to the Agency on or before the Closing Date. The Company shall deliver to the Agency on or before the first Business Day of each calendar year thereafter 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 in the amounts and of the types required by Sections 6.3 and 6.4 hereof. At least thirty (30) days prior to the expiration of any such policy, the Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Lease Agreement.

(B) All premiums with respect to the insurance required by Section 6.3 hereof shall be paid by the Company; provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest thereon at the Default Interest Rate or the maximum rate permitted by law, whichever is less.

**SECTION 6.5. APPLICATION OF NET PROCEEDS OF INSURANCE.** The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 hereof shall be applied as follows: (A) the Net Proceeds of the insurance required by Section 6.3(A) hereof shall be applied as provided in Section 7.1 hereof, and (B) the Net Proceeds of the insurance required by Section 6.3(B) and 6.3(C) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

**SECTION 6.6. NO REAL PROPERTY TAX EXEMPTION.** (A) It is recognized that under the provisions of the Act, the Agency is required to pay no taxes or assessments upon any of the Property acquired by it or under its jurisdiction, control or supervision or upon its activities. It is not the intention, however, of the parties hereto that the Project Facility be treated as exempt from real property taxation. As such, in the event that (1)

the Facility Premises would be subject to real property taxation if owned by the Company but shall be deemed exempt from real property taxation due to the involvement of the Agency therewith, and (2) a Payment in Lieu of Tax Agreement shall not have been entered into by the Agency and the Company, or if entered into the Payment in Lieu of Tax Agreement shall for any reason no longer be in effect, the Agency and the Company hereby agree that the Company, or any subsequent user of the Project Facility under this Lease Agreement, shall in such event be required to make or cause to be made payments in lieu of taxes to the school district or school districts, city, town, county, village and other political units wherein the Facility Premises or the Project Facility, as the case may be, is located having taxing powers (such political units are hereinafter collectively referred to as the "Taxing Entities") in such amounts as would result from taxes being levied on the Facility Premises or the Project Facility, as the case may be, by the Taxing Entities if the Facility Premises or the Project Facility, as the case may be, were privately owned by the Company and not deemed owned by or under the jurisdiction, control or supervision of the Agency, but with appropriate reductions similar to the tax exemptions and credits, if any, which would be afforded to the Company if it were the owner of the Facility Premises or the Project Facility, as the case may be.

## **ARTICLE VII** **DAMAGE, DESTRUCTION AND CONDEMNATION**

**SECTION 7.1. DAMAGE OR DESTRUCTION.** (A) If the Project Facility shall be damaged or destroyed, in whole or in part:

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

(2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement (whether or not the Project Facility is replaced, repaired, rebuilt or restored);

(3) the Company shall promptly give notice thereof to the Agency; and

(4) except as otherwise provided in subsection (B) of this Section 7.1, (a) the Company shall promptly replace, repair, rebuild or restore the Project Facility to substantially the same condition and value as an operating entity as existed prior to such damage or destruction, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or modifications do not so change the nature of the Project Facility that it does not constitute a "project", as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b)(1) the Agency shall make available to the Company (from the Net Proceeds of any insurance settlement relating to the Project Facility, if any, on deposit with the Agency) such moneys as may be necessary to pay

the costs of the replacement, repair, rebuilding or restoration of the Project Facility, and in the event that the funds from the Net Proceeds of any insurance settlement provided by the Agency to the Company are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the Company shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any insurance settlement relating to the Project Facility, if any, remaining on deposit with the Agency after payment of all of the costs of such replacement, repair, rebuilding or restoration shall be paid to the Company for its own purposes.

(B) Notwithstanding anything to the contrary contained in subsection (A) of this Section 7.1, the Company shall not be obligated to replace, repair, rebuild or restore the Project Facility and the Net Proceeds of any insurance settlement shall not be applied as provided in subsection (A) of this Section 7.1, if the Company shall so notify the Agency. In such event, or if an Event of Default shall have occurred and be continuing, the lesser of (1) the total amount of the Net Proceeds collected under any and all policies of insurance covering the damage to or destruction of the Project Facility, or (2) the amount necessary to prepay the Indebtedness in full shall be applied to the prepayment of the Indebtedness in full. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to prepay the Indebtedness in full, the Company shall pay to the Agency the difference between the Net Proceeds of such insurance and the amount necessary to prepay the Indebtedness in full.

(C) If all Indebtedness has been paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(D) Unless an Event of Default under any of the Basic Documents shall have occurred and be continuing, the Company may adjust all claims under any policies of insurance required by Section 6.3(A) hereof.

**SECTION 7.2. CONDEMNATION.** (A) To the knowledge of the Company, no condemnation or eminent domain proceeding has been commenced or threatened against any part of the Project Facility. The Company shall notify the Agency of the institution of any condemnation proceedings and, within seven days after inquiry from the Agency, inform the Agency in writing of the status of such proceeding.

(B) If title to, or the use of, all or any part of the Project Facility shall be taken by Condemnation:

(1) the Agency shall have no obligation to restore the Project Facility;

(2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement (whether or not the Project Facility is restored);

(3) the Company shall promptly give notice thereof to the Agency; and

(4) except as otherwise provided in subsection (C) of this Section 7.2, (a) the Company shall promptly restore the Project Facility (excluding any part of the Land or the Facility taken by Condemnation) as a complete architectural unit of substantially the same usefulness, design and construction as existed immediately prior to such Condemnation, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or modifications do not so change the nature of the Project Facility that it does not constitute a "project" as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b)(1) the Agency shall make available to the Company (from the Net Proceeds of any Condemnation award relating to the Project Facility, if any, on deposit with the Agency) such moneys as may be necessary to pay the costs of the restoration of the Project Facility, and in the event that the funds from the Net Proceeds of any Condemnation award on deposit with the Agency provided by the Agency to the Company are not sufficient to pay in full the costs of such restoration, the Company shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any Condemnation award, if any, remaining on deposit with the Agency after payment of all of the costs of such restoration shall be paid to the Company for its own purposes.

(C) Notwithstanding anything to the contrary contained in subsection (B) of this Section 7.2, the Company shall not be obligated to restore the Project Facility, and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection (B) of this Section 7.2, if the Company shall so notify the Agency. In such event, or if an Event of Default shall have occurred and be continuing, the lesser of (1) the Net Proceeds of any Condemnation award, or (2) the amount necessary to prepay all of the Indebtedness in full shall be applied to the prepayment of the Indebtedness in full. If the Net Proceeds collected under any and all Condemnation awards are less than the amount necessary to prepay the Indebtedness in full, the Company shall pay to the Agency the difference between such amounts and the Net Proceeds of such Condemnation awards so that the Indebtedness shall be prepaid in full.

(D) If all of the Indebtedness has been paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(E) Unless an Event of Default under any of the Basic Documents shall have occurred and be continuing, the Company shall have sole control of any Condemnation proceeding with respect to the Project Facility or any part thereof and may negotiate the settlement of any such proceeding. The Company shall notify the Agency of the institution of any condemnation proceedings and, within seven days after inquiry from the Agency, inform the Agency in writing of the status of such proceeding.

(F) The Agency shall, at the expense of the Company, cooperate fully with the Company in the handling and conduct of any such Condemnation proceeding. In no event shall the Agency voluntarily settle, or consent to the settlement of, any such Condemnation proceeding without the written consent of the Company.

**SECTION 7.3. ADDITIONS TO THE PROJECT FACILITY.** All replacements, repairs, rebuilding or restoration made pursuant to Sections 7.1 or 7.2, whether or not requiring the expenditure of the Company's own money, shall automatically become part of the Project Facility as if the same were specifically described herein.

#### **ARTICLE VIII SPECIAL COVENANTS**

**SECTION 8.1. NO WARRANTY OF CONDITION OR SUITABILITY BY AGENCY; ACCEPTANCE "AS IS".** THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE PROJECT FACILITY OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE PROJECT FACILITY OR ANY PART THEREOF FOR THE COMPANY'S PURPOSES OR NEEDS. THE COMPANY SHALL ACCEPT TITLE TO THE PROJECT FACILITY "AS IS", WITHOUT RE COURSE OF ANY NATURE AGAINST THE AGENCY FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

**SECTION 8.2. HOLD HARMLESS PROVISIONS.** (A) The Company hereby releases the Agency and its members, officers, agents (other than the Company) and employees from, agrees that the Agency and its members, officers, agents (other than the Company) and employees shall not be liable for and agrees to indemnify, defend and hold the Agency and its members, officers, agents (other than the Company) and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Agency's undertaking the Project, including, but not limited to, (1) liability for loss or damage to Property or bodily injury to or death of any and all Persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Project Facility, (2) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, installing, owning, leasing or selling the Project Facility, including, without limiting the generality of the foregoing, any sales or use taxes which may be payable with respect to goods supplied or services rendered with respect to the Project Facility, all liabilities or claims arising as a result of the Agency's obligations under this Lease Agreement or any of the other Basic Documents or the enforcement of or defense of validity of any provision of any of the Basic Documents, (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Section 4.1(E) hereof, and (4) all

causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company) or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(B) In the event of any claim against the Agency or its members, officers, agents (other than the Company) or employees by any employee of the Company or any 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 obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(C) To effectuate the provisions of this Section 8.2, the Company agrees to provide for and insure, in the liability policies required by Section 6.3(C) of this Lease Agreement, its liabilities assumed pursuant to this Section 8.2.

(D) Notwithstanding any other provisions of this Lease Agreement, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Lease 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 the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency, or its officers, members, agents (other than the Company) or employees, relating thereto.

**SECTION 8.3. RIGHT OF ACCESS TO THE PROJECT FACILITY.** The Company agrees that the Agency and its duly authorized agents shall have the right at all reasonable times to enter upon and to examine and inspect the Project Facility. The Company further agrees that the Agency shall have such rights of access to the Project Facility as may be reasonably necessary to cause the proper maintenance of the Project Facility in the event of failure by the Company to perform its obligations hereunder.

**SECTION 8.4. COMPANY NOT TO TERMINATE EXISTENCE OR DISPOSE OF ASSETS; CONDITIONS UNDER WHICH EXCEPTIONS ARE PERMITTED.** The Company agrees that, during the term of this Lease Agreement, it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another corporation, without notice to the Agency and the prior written consent of the Agency; provided, however, that, if no

Event of Default specified in Section 10.1 hereof shall have occurred and be continuing, the Company may consolidate with or merge into another domestic corporation organized and existing under the laws of one of the states of the United States, or permit one or more such domestic corporations to consolidate with or merge into it, or sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided that (A) the Agency has received notice of such action, (B) the Agency gives its written consent to the proposed transaction, which consent shall not be unreasonably withheld or delayed, (C) the surviving, resulting or transferee corporation assumes in writing all of the obligations of and restrictions on the Company under this Lease Agreement and the other Basic Documents, and (D) as of the date of such transaction, the Agency shall be furnished with (1) an opinion of counsel to the Company as to compliance with item (A) of this Section 8.4 and (2) a certificate, dated the effective date of such transaction, signed by an Authorized Representative of the Company and an authorized officer of the surviving, resulting or transferee corporation, as the case may be, or the transferee of its assets, as the case may be, to the effect that immediately after the consummation of the transaction and after giving effect thereto, no Event of Default exists under this Lease Agreement and no event exists which, with notice or lapse of time or both, would become such an Event of Default.

**SECTION 8.5. AGREEMENT TO PROVIDE INFORMATION.** The Company agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such public information concerning the Company, its finances and other topics as the Agency from time to time reasonably considers necessary or appropriate including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation.

**SECTION 8.6. BOOKS OF RECORD AND ACCOUNT; COMPLIANCE CERTIFICATES.** (A) The Company agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all business and affairs of the Company.

(B) As soon as possible after the end of each fiscal year of the Company, but in any event within thirty (30) days after such date, the Company shall furnish to the Agency a certificate of an Authorized Representative of the Company stating that no Event of Default hereunder has occurred or is continuing or, if any Event of Default exists, specifying the nature and period of existence thereof and what action the Company has taken or proposes to take with respect thereto.

**SECTION 8.7. COMPLIANCE WITH APPLICABLE LAWS.** (A) The Company agrees, for the benefit of the Agency, that it will, during the term of this Lease Agreement, promptly comply with all Applicable Laws.

(B) Notwithstanding the provisions of subsection (A) of this Section 8.7, the Company may in good faith actively contest the validity or the applicability of any Applicable Law, provided that the Company (1) first shall have notified the Agency in

writing of such contest, (2) is not in default under any of the Basic Documents, (3) shall have set aside adequate reserves for any such requirement, and (4) demonstrates to the reasonable satisfaction of the Agency that noncompliance with such Applicable Law will not subject the Project Facility or any part thereof to loss or forfeiture. Otherwise, the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

(C) Notwithstanding the provisions of subsection (B) of this Section 8.7, if the Agency or any of its members, officers, agents, servants or employees may be liable for prosecution for failure to comply therewith, the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

**SECTION 8.8. DISCHARGE OF LIENS AND ENCUMBRANCES.** The Company hereby agrees not to create or suffer to be created any Lien on any Properties of the Agency (other than the Project Facility) or on any funds of the Agency applicable to the Project Facility.

**SECTION 8.9. PERFORMANCE OF THE COMPANY'S OBLIGATIONS.** Should the Company fail to make any payment or to do any act as herein provided, the Agency may, but need not, without notice to or demand on the Company and without releasing the Company from any obligation herein, make or do the same including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company or the Agency, and paying all fees, costs and expenses including, without limitation, reasonable attorneys' fees, incurred by the Agency in connection therewith, and the Company shall pay immediately upon demand all sums so incurred or expended by the Agency under the authority hereof, together with interest thereon at the Default Interest Rate or the maximum rate permitted by law, whichever is less.

**SECTION 8.10. DEPRECIATION DEDUCTIONS AND TAX CREDITS.** The parties agree that as between them the Company shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Project Facility which constitutes "Section 38 Property" and to all other state and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

**SECTION 8.11. EMPLOYMENT OPPORTUNITIES.** (A) The Company shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

(B) Pursuant to Section 858-b of the Act, except as otherwise provided by collective bargaining contracts or agreements, the Company agrees (1) to list all new employment opportunities created as a result of the Project with the New York State Department of Labor, Community Services Division ("NYSDOL") and with the

administrative entity (collectively with NYSDOL, the "JTPA Referral Entities") of the service delivery area created by the federal Job Training Partnership Act (P.L. No. 97-300) ("JTPA") in which the Project is located and (2), where practicable, to first consider for such new employment opportunities persons eligible to participate in federal JTPA programs who shall be referred by the JTPA Referral Entities.

(C) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency, prior to the effective date of this Lease Agreement, an employment plan, in substantially the form attached hereto as Exhibit "D".

(D) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency, on an annual basis, reports regarding the number of people employed at the Project Facility and certain other matters, the initial said annual employment report to be in substantially the form annexed hereto as Exhibit "E".

**SECTION 8.12. SALES AND USE TAX EXEMPTION.** (A) Pursuant to Section 874 of the Act, the parties understand that the Agency is exempt from certain sales taxes and use taxes imposed by the State and local governments in the State, and that the Project may be exempted from those taxes due to the involvement of the Agency in the Project. The Agency makes no representations or warranties that any property is exempt from the payment of New York sales or use taxes. Any exemption from the payment of New York sales or use taxes resulting from the involvement of the Agency with the Project shall be limited to purchases of services and tangible personal property conveyed to the Agency or utilized by the Agency or by the Company as agent of the Agency as a part of the Project prior to the Completion Date, or incorporated within the Project Facility prior to the Completion Date. No operating expenses of the Project Facility, and no other purchases of services or property shall be subject to an exemption from the payment of New York sales or use tax. It is the intention of the parties hereto that the Company will receive a sales tax exemption with respect to the Project, said sales tax exemption letter to be issued on the date of the execution of this Lease Agreement and in a form similar to the form attached hereto as Exhibit "F".

(B) Pursuant to Section 874(8) of the Act, the Company agrees to annually file and cause any sublessee or other operator of the Project Facility to file annually, with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the "Annual Report"), a statement of the value of all sales and use tax exemptions claimed by the Company and all contractors, subcontractors, consultants and other agents of the Company under the authority granted to the Company pursuant to Section 4.1(E) of this Lease Agreement. Pursuant to Section 874(8) of the Act, the penalty for failure to file the Annual Report shall be removal of authority to act as agent of the Agency. Additionally, if the Company shall fail to comply with the requirements of this subsection (B), the Company shall immediately cease to be the agent of the Agency in connection with the Project. A current sample form of such Annual Report required to be

completed by the Company pursuant to this Lease Agreement is attached hereto as Exhibit "G". For future filings of the Annual Report, the Company is responsible for obtaining from the New York State Department of Taxation and Finance any updated or revised versions of such Annual Report.

(C) The Company agrees to furnish to the Agency a copy of each such Annual Report submitted to the New York State Department of Taxation and Finance by the Company pursuant to Section 874(8) of the Act.

(D) Pursuant to Section 874(9) of the Act, the Company agrees to file within thirty (30) days of the Closing Date with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the "Thirty-Day Sales Tax Report"), a statement identifying the Company as agent of the Agency, setting forth the taxpayer identification number of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating a rough estimate of the value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease. A current sample form of such Thirty-Day Sales Tax Report required to be completed by the Company pursuant to this Lease Agreement is attached hereto as Exhibit "H". For future filings of the Thirty-Day Sales Tax Report, the Company is responsible for obtaining from the New York State Department of Taxation and Finance any updated or revised versions of such Thirty-Day Sales Tax Report.

**SECTION 8.13. SALES AND USE TAX RECAPTURE.** (A) Pursuant to Section 875(3) of the Act, the Agency shall recover, recapture, receive, or otherwise obtain from the Company that portion of the Financial Assistance which constitutes state sales and use tax exemptions taken or purported to be taken by the Company to which the Company is not entitled or which are in excess of the amount authorized by the Agency or which are for property or services not authorized by the Agency as part of the Project or were taken by the Company when the Company failed to comply with a material term or condition to use property or services in the manner required by the Basic Documents. The Company shall cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such state sales and use tax exemptions and shall promptly pay over any such amounts to the Agency. In addition to constituting an Event of Default hereunder, the failure to pay over such amounts to the Agency shall be grounds for the New York State Commissioner of Taxation and Finance to assess and determine state sales and use taxes due from the Company under Article 28 of the Tax Law of the State of New York, together with any relevant penalties and interest due on such amounts.

(B) Minimum Employment Requirements. The parties recognize that the purpose of the Project is to create or retain permanent private sector jobs in Cortland County. Accordingly, the parties have agreed that the portion of the Financial Assistance which constitutes state sales and use exemptions with respect to the Project

Facility shall bear a direct relationship to the success or lack of success of the Project in achieving this goal. Therefore, on or before November 1 of each calendar year during the Term of this Lease Agreement, the Company shall file with the Agency an affidavit indicating the average number of full time employees (at least 35 hours per week constituting a full time employee) employed by the Company at the Project Facility during the preceding twelve (12) month period. If the Company fails to file such an affidavit with the Agency on or before November 1 of a calendar year, then the Agency shall be entitled to assume that the Company employed less than 20% of the minimum required employees during such period, the minimum required employees being Seventy Five (75). Notwithstanding anything contained herein to the contrary, in each year during the Term of this Lease Agreement, the Company shall pay to the Agency an amount to recover, recapture, receive, or otherwise obtain that portion of the Financial Assistance which constitutes state sales and use tax exemptions which payment shall be an amount equal to the applicable percentage of the actual amount of state sales and use tax exemptions received by the Company for such calendar year that relates to the number of jobs in existence at the Project Facility during the preceding calendar year, all as shown in the following table:

	If less than 80% but more of minimum required <u>Jobs</u>	If less than 60% but more of minimum required <u>Jobs</u>	If less than 40% but more of 20% of minimum required <u>Jobs</u>	If less than 20% of minimum required <u>Jobs</u>	
	If 80% or more of minimum required <u>Jobs</u>	If 60% or more of minimum required <u>Jobs</u>	If 40% or more of minimum required <u>Jobs</u>	If 20% or more of minimum required <u>Jobs</u>	
Percentage of Actual Amount of Sales and Use Tax Exemption to be Paid to the Agency	0%	25%	50%	75%	100%

Under no circumstances shall the cumulative amount paid to the Agency to recover, recapture, receive, or otherwise obtain that portion of the Financial Assistance which constitutes state sales and use tax exemptions ever exceed the actual amount of sales and use tax exemptions received by the Company.

**SECTION 8.14. IDENTIFICATION OF THE EQUIPMENT.** All Equipment which is or may become part of the Project Facility pursuant to the provisions of this Lease Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency.

## ARTICLE IX ASSIGNMENTS; MERGER OF THE AGENCY

**SECTION 9.1. ASSIGNMENT OF THE LEASE AGREEMENT.** Except as otherwise provided in Section 8.4 hereof, this Lease Agreement may not be assigned by the Company, in whole or in part, without the prior written consent of the Agency, which consent shall not be unreasonably withheld or delayed.

**SECTION 9.2. MERGER OF THE AGENCY.** (A) Nothing contained in this Lease Agreement shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to, any other public benefit corporation of the State or political subdivision thereof which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger or assignment, the due and punctual performance and observance of all of the agreements and conditions of this Lease 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 Agency's rights and interests under this Lease Agreement shall be assigned.

(B) As of the date of any such consolidation, merger or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger or assignment as the Company may reasonably request.

**SECTION 9.3. SALE OR LEASE OF THE PROJECT FACILITY.** (A) The Company may not sell, lease, transfer, convey or otherwise dispose of the Project Facility or any part thereof without the prior written consent of the Agency, which consent shall not be unreasonably withheld or delayed.

(B) Notwithstanding anything to the contrary contained in this Lease Agreement, in any instance after the Completion Date where the Company determines that any portion of the Project Facility has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such portion of the Project Facility and may sell, trade in, exchange or otherwise dispose of the same, as a whole or in part, without the prior written consent of the Agency, provided that such removal will not materially impair the value of the Project Facility as collateral and provided the same is forthwith replaced with similar items. At the request of the Company, 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 Property free from the Liens of the Basic Documents. The Company shall pay all costs and expenses (including counsel fees) incurred in transferring title to and releasing from the Liens of the Basic Documents any item of Property removed pursuant to this Section 9.3.

## ARTICLE X EVENTS OF DEFAULT AND REMEDIES

**SECTION 10.1. EVENTS OF DEFAULT DEFINED.** (A) The following shall be "Events of Default" under this Lease Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

(1) A default by the Company in the due and punctual payment of the amounts specified to be paid pursuant to Section 5.3 or Section 6.6 hereof, and the continuance thereof for a period of ten (10) days after written notice thereof is given by the Agency to the Company.

(2) A default in the performance or observance of any other of the covenants, conditions or agreements on the part of the Company in this Lease Agreement and the continuance thereof for a period of thirty (30) days after written notice thereof is given by the Agency to the Company, provided that, if such default is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Company to commence to cure within such thirty (30) day period and to prosecute the same with due diligence.

(3) The occurrence of an "Event of Default" under any other Basic Document.

(4) The Company shall generally not pay its debts as such debts become due or admits its inability to pay its debts as they become due.

(5) The Company shall conceal, remove or permit to be concealed or removed any part of its Property, with intent to hinder, delay or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance or similar law; or shall make any transfer of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall suffer or permit, while insolvent, any creditor to obtain a Lien upon any of its Property through legal proceedings or distress which is not vacated within thirty (30) days from the date thereof.

(6) (a) The filing by the Company (as debtor) of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy statute, (b) the failure by the Company within sixty (60) days to lift any execution, garnishment or attachment of such consequence as will impair the Company's ability to carry out its obligations hereunder, (c) the commencement of a case under Title 11 of the United States Code against the Company as the debtor or commencement under any other federal or state bankruptcy statute of a case, action or proceeding against the Company and continuation of such case, action or proceeding without dismissal for a period of sixty (60) days, (d) the entry of an order for relief by a court of competent jurisdiction under Title 11 of the United States Code or any other federal or state

bankruptcy statute with respect to the debts of the Company, or (e) in connection with any insolvency or bankruptcy case, action or proceeding, appointment by final order, judgment or decree of a court of competent jurisdiction of a receiver or trustee of the whole or a substantial portion of the Property of the Company, unless such order, judgment or decree is vacated, dismissed or dissolved within sixty (60) days of such appointment.

(7) The imposition of a Lien on the Project Facility other than a Permitted Encumbrance.

(8) The removal of the Project Facility, or any portion thereof, outside Cortland County, New York, without the prior written consent of the Agency, other than in connection with a removal under Section 9.3(B) hereof.

(B) Notwithstanding the provisions of Section 10.1(A) hereof, if by reason of force majeure (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this Lease Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Agency within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Lease Agreement of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The suspension of such obligations for such period pursuant to this subsection (B) shall not be deemed an Event of Default under this Section 10.1. Notwithstanding anything to the contrary in this subsection (B), an event of force majeure shall not excuse, delay or in any way diminish the obligations of the Company to make the payments required by Sections 4.1(H), 5.3, 6.2 and 6.6 hereof, to obtain and continue in full force and effect the insurance required by Article VI hereof, to provide the indemnity required by Sections 3.3 and 8.2 hereof and to comply with the provisions of Sections 2.2(G), 6.6, 8.2, 8.4, 8.5 and 8.7(C) hereof. The term "force majeure" as used herein shall include acts outside of the control of the Agency and the Company, including but not limited to acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of any Governmental Authority or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, partial or entire failure of utilities, or any other cause or event not reasonably within the control of the party claiming such inability. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout or other industrial disturbances by acceding to the demands of the opposing party or parties.

**SECTION 10.2. REMEDIES ON DEFAULT.** (A) Whenever any Event of Default hereunder shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, (a) all amounts payable pursuant to Section 5.3 hereof, and (b) all other payments due under this Lease Agreement or any of the other Basic Documents; or

(2) terminate this Lease Agreement and convey to the Company all the Agency's right, title and interest in and to the Project Facility (The conveyance of the Agency's right, title and interest in and to the Project Facility shall be effected by the recording by the Agency of the Termination of Lease Agreement and the Bill of Sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from any such transfer of title.); or

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

(B) No action taken pursuant to this Section 10.2 (including repossession of the Project Facility) shall relieve the Company from its obligations to make all payments required by this Lease Agreement and the other Basic Documents.

**SECTION 10.3. 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 Lease 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 X, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**SECTION 10.4. AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.** In the event the Company should default under any of the provisions of this Lease 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 reasonable fees of such attorneys and such other expenses so incurred, whether an action is commenced or not.

**SECTION 10.5. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## ARTICLE XI OPTIONS AND OBLIGATION TO PURCHASE

**SECTION 11.1. EARLY TERMINATION OF THE LEASE AGREEMENT.** The Company shall have the option to terminate this Lease Agreement prior to the termination date specified in Section 5.2 hereof by 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 11.1.

**SECTION 11.2. OBLIGATION TO SELL AND PURCHASE THE PROJECT FACILITY.** (A) Contemporaneously with the termination of this Lease Agreement in accordance with Section 5.2 or Section 11.1 hereof, the Agency shall sell and the Company shall purchase all the Agency's right, title and interest in and to the Project Facility for the purchase price of One Dollar (\$1.00) plus payment of all sums due and payable to the Agency or any other Person pursuant to this Lease Agreement and the other Basic Documents. The obligation of the Agency under this Section 11.2 to convey the Project Facility to the Company will be subject to there being no Event of Default existing hereunder or under any other Basic Document, or any other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default.

(B) The sale and conveyance of the Agency's right, title and interest in and to the Equipment shall be effected by the execution and delivery by the Agency to the Company of the Bill of Sale to Company (an unexecuted copy of which is attached hereto as Exhibit "C" and by this reference made a part hereof). The termination of this Lease Agreement shall be effected by the execution and delivery by the Company and the Agency of the termination of Lease Agreement (an unexecuted copy of which is attached hereto as Exhibit "I" and by this reference made a part hereof). The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such transfers of title.

(C) The Facility Parcel and the Facility shall not be conveyed by the Agency to the Company until the earlier to occur of (1) the date requested by the Company, or (2) the expiration of the lease term. The sale and conveyance of the Agency's right, title and interest in and to the Facility Parcel and the Facility shall be affected by delivery by the Agency to the Company of the Termination of Underlying Lease (in substantially the form attached hereto as Exhibit "J" and by this reference made a part hereof).

(D) The Company agrees to prepare the Bill of Sale to Company and/or the Termination of Lease Agreement and all schedules thereto, together with all tax affidavits, equalization and assessment forms and other necessary documentation, and to forward same to the Agency at least thirty (30) days prior to the date that the Project Facility or any portion thereof is to be conveyed to the Company.

(E) The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from the transfers contemplated by this Section 11.2.

IF TO THE COMPANY:

Hope Lake Holdings, LLC  
Greek Peak Adventures, LLC  
Ski Greek Peak, LLC  
c/o Greek Peak Holdings, LLC  
2000 NYS Route 392  
Cortland, New York 13045  
Attn: General Partner

WITH A COPY TO:

Keyser, Maloney & Winner, LLP  
150 Lake Street  
Elmira, New York 14901  
Attn: John W. Maloney, Esq.

IF TO THE AGENCY:

Cortland County Industrial Development Agency  
37 Church Street  
Cortland, New York 13045  
Attn: Executive Director

WITH A COPY TO:

Menter, Rudin & Trivelpiece, P.C.  
308 Maltbie Street  
Suite 200  
Syracuse, New York 13204  
Attn: John P. Sidd, Esq.

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

**SECTION 12.2. BINDING EFFECT.** This Lease Agreement shall inure to the benefit of the Agency and the Company and shall be binding upon the Agency, the Company and, as permitted by this Lease Agreement, their respective successors and assigns.

**SECTION 12.3. SEVERABILITY.** If any one or more of the covenants or agreements provided herein on the part of the Agency or the Company to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be

contrary to law, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Lease Agreement.

**SECTION 12.4. AMENDMENT.** This Lease Agreement may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto.

**SECTION 12.5. EXECUTION OF COUNTERPARTS.** This Lease 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 12.6. APPLICABLE LAW.** This Lease Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**SECTION 12.7. RECORDING AND FILING.** The Underlying Lease (or a memorandum thereof) and this Lease Agreement (or a memorandum hereof) shall be recorded by the Agency in the office of the County Clerk of Cortland County, New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

**SECTION 12.8. SURVIVAL OF OBLIGATIONS.** (A) The obligations of the Company to make the payments required by Sections 5.3 and 6.6 hereof and to provide the indemnity required by Section 8.2 hereof shall survive the termination of this Lease Agreement, and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

(B) The obligations of the Company with respect to the Unassigned Rights shall survive the termination of this Lease 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 Unassigned Rights may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents or employees, relating thereto.

**SECTION 12.9. TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING.** The Table of Contents and the headings of the several Sections in this Lease Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Lease Agreement.

**SECTION 12.10. NO RE COURSE; SPECIAL OBLIGATION.** (A) The obligations and agreements of the Agency contained herein and in the other Basic Documents and any other instrument or document executed in connection herewith or therewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other

than the Company) or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company) and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(B) The obligations and agreements of the Agency contained herein and therein shall not constitute or give rise to an obligation of the State of New York or Cortland County, New York, and neither the State of New York nor Cortland County, New York shall be liable hereon or thereon and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights).

(C) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (1) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten day period) or failed to respond within such notice period, (2) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Agency and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company) and employees against all liability expected to be incurred as a result of compliance with such request.

IN WITNESS WHEREOF, the Agency and the Company have caused this Lease Agreement to be executed in their respective names by their respective duly authorized officers, all as of the day and year first above written.

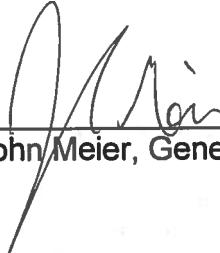
CORTLAND COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:

  
Garry VanGorder, Executive Director

HOPE LAKE HOLDINGS, LLC  
GREEK PEAK ADVENTURES, LLC  
SKI GREEK PEAK, LLC  
By: Greek Peak Holdings, LLC, Sole Member

By:

  
John Meier, General Partner

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

On the 26<sup>th</sup> day of September, 2013 before me, the undersigned, a notary public in and for said State, personally appeared **Garry VanGorder**, 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**

JOHN P. SIDD  
Notary Public, State of New York  
Qualified in Onondaga Co. No. 4993688  
Commission Expires March 23, 20 19

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

On the 26<sup>th</sup> day of September, 2013 before me, the undersigned, a notary public in and for said State, personally appeared **John Meier**, 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**

JOHN P. SIDD  
Notary Public, State of New York  
Qualified in Onondaga Co. No. 4993688  
Commission Expires March 23, 20 19

## EXHIBIT "A"

### Parcels A-1 and A-2: (PRI)

Deed Reference:	2013-01985	Tax Parcel #	137.00-01-09.000
			127.00-07-12.000
			127.00-07-11.000
			127.00-07-02.000
			127.00-07-07.200

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland and State of New York, BEGINNING at a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the easterly line of a strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner, in the southwesterly corner of a portion of the lands of Town of Virgil Sewer District #1, reputed owner per deed filed as Document #'s 1999-2794, 1999-2805, and 1999-2806, and as shown on a filed map #3983; thence running easterly along the southerly line of said lands of Town of Virgil Sewer District #1 as described by the following four (4) courses:

1. S 89° 42' 38" E a distance of 150.00 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012";
2. N 72° 10' 08" E a distance of 164.57 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012";
3. S 56° 57' 11" E a distance of 450.83 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012";
4. S 79° 17' 37" E a distance of 382.14 feet to a point marked by an iron pipe found in the southerly line of NYS Route 392;

Thence running S 30° 17' 48" E along said southerly line of New York State Route 392 a distance of 491.98 feet to a point marked by an iron rod with survey cap found in the westerly line of lands of Withington, reputed owner per deed filed as Document #2001-3689 (and shown on filed map #4250); thence running S 51° 25' 29" W along said westerly line of lands of Withington, reputed owner, a distance of 375.24 feet to a point marked by an iron rod with survey cap; thence running S 48° 26' 00" E along the southerly line of said lands of Withington, reputed owner, a distance of 259.20 feet to a point marked by an iron rod with survey cap; thence running S 19° 36' 00" E along the southerly line of said lands of Withington, reputed owner, a distance of 327.60 feet to a point marked by an iron rod with survey cap; thence running south 59° 57' 01" E along the southerly line of said lands of Withington, reputed owner, a distance of 326.45 feet to a point marked by an iron pipe found in the westerly line of lands of Wood, reputed owner per deed filed as Document #2001-3411; thence

running N 17° 27' 41" E a distance of 86.30 feet to the point in the center line of Gridley Creek; thence running S 41° 53' 01" E 489.05 feet to a point; thence running S 50° 11' 06" E southeasterly along said centerline of Gridley Creek and along the southwesterly line of lands of Lefever, reputed owner per deed filed at Liber 537, Page 345 a distance of 492.04 feet to a point; thence running south 46° 04' 28" E southeasterly along said centerline of Gridley Creek and along the southwesterly line of lands of Sherman, reputed owner per deed filed as Document #2001-0050 a distance of 582.55 feet to a point; thence running S 38° 26' 18" E southeasterly along the centerline of Gridley Creek and along the southwesterly line of lands of Sherman, reputed owner per deed filed at Liber 561, Page 227 a distance of 152.17 feet to a point; thence running S 61° 16' 05" E southeasterly along said centerline of Gridley Creek and along the southwesterly line of lands of Sherman, reputed owner per deed filed at Liber 561, Page 225 and a distance of 361.92 feet to a point, said point being the centerline of the bridge at the intersection of the centerline of Tone Road and said centerline of Gridley Creek; thence running S 65° 58' 25" E southeasterly along the centerline of Gridley Creek and along the southwesterly line of lands of Kirkland, reputed owner per deed filed as Document #2001-2036 a distance of 235.48 feet to a point; thence running N 30° 52' 22" E along the easterly line of said lands of Kirkland, reputed owner, a distance of 186.96 feet to a point in the southwesterly boundary line of New York State Route 392; thence running southeasterly and southerly along said highway boundary of New York State Route 392 as defined by several appropriations maps filed for the Virgil-Messengerville (Part 2) County Highway, Cortland County (now known as State Highway #8369 and New York State Route 392) as more particularly described by the following thirteen (13) courses:

1. S 59° 07' 38" E a distance of 412.62 feet to a point;
2. S 43° 15' 59" E a distance of 285.35 feet to a point;
3. S 19° 45' 12" E a distance of 244.06 feet to a point;
4. S 10° 35' 07" E a distance of 174.29 feet to a point;
5. S 01° 35' 08" E a distance of 351.75 feet to a point;
6. S 28° 47' 01" E a distance of 107.37 feet to a point;
7. S 06° 44' 43" E a distance of 348.64 feet to a point;
8. S 01° 31' 19" W a distance of 302.03 feet to a point;
9. S 17° 48' 46" E a distance of 133.00 feet to a point;
10. S 19° 02' 51" E a distance of 232.05 feet to a point;
11. S 33° 27' 18" E a distance of 259.62 feet to a point;
12. S 17° 48' 46" E a distance of 350.00 feet to a point;
13. S 01° 06' 49" E a distance of 104.40 feet to a point;

thence running S 49° 13' 21" W a distance of 33.63 feet to a point in the centerline of Tone Road; thence running northwesterly along said centerline of Tone Road as more particularly described by the following four (4) courses:

Schedule "A" (cont.)

1. N 40° 46' 39" W a distance of 207.74 feet to a point;
2. N 53° 57' 35" W a distance of 106.09 feet to a point;
3. N 41° 03' 38" W a distance of 193.83 feet to a point;
4. N 20° 42' 05" W a distance of 442.85 feet to a point;

thence running S 83° 38' 09" W along the northerly line of lands of Gorski, reputed owner per deed filed as Document #2001-5955 (and shown on a file map #4298), and passing through an iron pipe found at 22.14 feet, a total distance of 554.00 feet to a point marked by an iron pipe; thence running S 11° 56' 46" W a westerly line of said lands of Gorski, reputed owner, a distance of 1046.98 feet to a point marked by an iron pipe; thence running N 75° 11' 56" W along a northerly line of lands of Gorski, reputed owner, a distance of 890.91 feet to a point marked by an iron pipe; thence running S 76° 01' 29" W along a northerly line of lands of The People of the State of New York, reputed owner per deed filed at Liber 341, Page 311, a distance of 2507.50 feet to a point marked by an iron pipe; thence running N 81° 32' 39" W along said lands of The People of the State of New York, reputed owner, a distance of 415.46 feet to a point in the easterly line of the aforementioned strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner; thence running N 00° 03' 31" E along said easterly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2519.34 feet to a point; thence running N 79° 41' 02" W along a southerly line of said lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 50.81 feet to a point; thence running N 00° 03' 31" E along said easterly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2943.38 feet to a point; thence running N 26° 44' 05" E along said easterly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 992.91 feet to the place of beginning.

ALSO, ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland and State of New York, BEGINNING at a point marked by #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the westerly line of a strip of lands in use for an electricity transmission line (150 feet in width at this point) by Niagara Mohawk Power Corporation, reputed owner, in the southeasterly corner of a portion of the lands of Town of Virgil Sewer District #1, reputed owner, per deeds filed as Document #'s 1999-2794, 1999-2805, and 1999-2806, and as

Schedule "A" (cont.)

shown on filed map #3983 said point being located S 26° 44' 00" W as measured along said easterly line of Niagara Mohawk Power Corporation, reputed owner, a distance of 170.51 feet from the intersection of said line and the southerly line of New York State Route 392; thence running S 26° 43' 57" W along the said westerly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 1123.77 feet to a point; thence running S 00° 03' 31" W along said westerly line of said lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2951.70 feet to a point; thence running N 79° 41' 02" W along a southerly line of Niagara Mohawk Power Corporation, reputed owner, a distance of 50.81 feet to a point; thence running S 00° 03' 31" W along said westerly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2527.68 feet to a point; thence running N 81° 32' 39" W along a northerly line of lands of The People of the State of New York, reputed owner per deed filed at Liber 341, page 311, a distance of 551.25 feet to a point; thence running S 11° 32' 21" W along the westerly line of land of The People Of The State of New York, reputed owner, a distance of 490.06 feet to a point in the center line of Valentine Hill Road; thence running northwesterly along said centerline of Valentine Hill Road as more particularly described by the following seven (7) courses:

1. N 35° 11' 20" W a distance of 545.41 feet to a point;
2. N 30° 22' 17" W a distance of 1000.10 feet to a point;
3. N 31° 29' 11" W a distance of 486.67 feet to a point;
4. N 24° 15' 54" W a distance of 392.86 feet to a point;
5. N 15° 27' 55" E a distance of 164.37 feet to a point;
6. N 00° 33' 31" W a distance of 130.49 feet to a point;
7. N 01° 25' 11" W a distance of 277.77 feet to a point;

thence running N 78° 24' 34" W along the northerly line of said lands of The People of the State of New York, reputed owner, a distance of 1296.91 feet to a point; thence running N 11° 16' 35" E along easterly line of said lands of The People of the State of New York, reputed owner, a distance of 1214.00 feet to a point in the centerline of Van Donsel Road (abandoned); thence running N 79° 20' 45" W along said centerline of Van Donsel Road (abandoned); a distance of 419.18 feet to a point; thence running N 12° 17' 34"E along an easterly line of said lands of The People Of The State of New York, reputed owner, a distance of 853.00 feet to a point marked by an iron pipe;

Schedule "A" cont.

running N 80° 15' 13" W along a northerly line of said lands of The People of the State of New York, reputed owner, a distance of 217.14 feet to a point marked by an iron pipe; thence running N 09° 21' 46" E along an easterly line of said lands of The People of the State of New York, reputed owner, a distance of 1229.99 feet to a point marked by an iron pipe; thence running N 74° 27' 53" W along a northerly line of said lands of The People of the State of New York, reputed owner, a distance of 34.23 feet to a point marked by an iron rod found in the southeasterly corner of lands of Rosenthal, reputed owner per deed filed as Document #1997-0436; thence running N 55° 21' 23" E along the easterly line of said lands of Rosenthal, reputed owner, and along the easterly line of lands of Van Dyke, reputed owner per deed filed as Instrument #105527-002, a distance of 879.81 feet to a point in the centerline of South Hill Road; thence running N 53° 47' 04" W along said centerline of South Hill Road a distance of 114.20 feet to a point thence in the remaining lands of Davenport (Liber 564 of Deeds Page 066); thence running N 42° 56' 05" E 689.86 feet to a point set in a new rod cap; S 58° 01' 52" E 250 feet to a found iron rod; thence running N 58° 47' 17" E along said easterly line of lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, a distance of 847.60 feet to a point marked by an iron rod with survey cap; thence running N 14° 14' 00" E along the easterly line of REDI, LLC, reputed owner, a distance of 448.24 feet to a point marked by an iron rod with survey cap; thence continuing N 14° 14' 00" E a distance of 130.18 feet to a point; thence running S 72° 56' 40" E a distance of 82.00 feet to a point; thence running N 21° 38' 20" E a distance of 151.79 feet to a point in the southerly line of New York State Route 392; thence running southeasterly along said southerly line of New York State Route 392 along the arc of a circle to the right, having a radius of 834.97 feet, a central angle of 08° 09' 01" and an arc length of 118.78 feet to a point of tangency, said arc having a chord length of 118.68 feet at S 50° 04' 28" E; thence running S 46° 00' 24" E along said southerly line of New York State Route 392, a distance of 325.05 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the northwest corner of lands of Town of Virgil Water District #1, reputed owner per deed filed as Document # 1999-3293 (and shown on filed map #3992); thence running S 44° 01' 32" W along the westerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 141.40 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running S 46° 00' 40" E along the southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 200.12 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS

Schedule "A" (cont.)

049012; thence running N 43° 54' 54" E along said easterly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 141.22 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" founded in said southerly line of New York State Route 392; thence running S 46° 00' 23" E along said southerly line of New York State Route 392 a distance of 865.46 feet to a point of curvature in said line; thence running southeasterly along said southerly line of New York State Route 392, along the arc of a circle to the left, having a radius of 1556.65 feet, a central angle of 10° 38' 43" and an arc length of 289.22 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" found in the northwesterly corner of lands of Town of Virgil Sewer District #1, reputed owner per deeds filed as Document #'s 1999-2794, 1999-2805 and 1999-2806, and shown on a filed map #3983, said arc having a chord length of 288.81 feet at S 51° 19' 20" E; thence running S 74° 11' 22" W along a westerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 48.20 feet to a point marked by #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running S 33° 26' 00" E along a southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 68.86 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running S 28° 58' 00" E along a southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 160.96 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012; thence running S 50° 30' 00" E along a southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 97.84 feet to the place of beginning.

Schedule "A" (cont.)

**Parcel A-3: PRI**

Deed 2013-01985

Tax Parcel # 127.09-12

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, Cortland County, New York, being a part of Military Lot 36 in said town, bounded and described as follows: BEGINNING at a point marked by a #5 rebar with survey cap set in the northerly line of New York State Route 392, said point being located northwesterly as measured along said line a distance of 24.72 feet from the intersection of said northerly line of New York State Route 392 and the westerly line of Clute Road (as relocated), see map filed as Instrument # 1065617-001; thence running N 45 degrees, 59 minutes, 58 seconds W along said northerly line of New York State Route 392 a distance of 215.47 feet to a point of curvature; thence running northwesterly along said northerly line of New York State Route 392, along the arc of a circle to the left, having a radius of 900.97 feet, a certain angle of 12 degrees, 55 minutes, 56 seconds and an arc length of 203.36 feet to a point marked by #5 rear with survey cap set in the former location of the right-of-way of Clute Road, said arc having a chord length of 202.92 feet at N 52 degrees, 27 minutes, 56 seconds W; thence running S 82 degrees, 09 minutes, 35 seconds E along the southerly line of lands of REDI, LLC, reputed owner per deed filed as Instrument #1067471-006 and along the former location of the right-of-way of Clute Road a distance of 203.10 feet to a point of curvature; thence running easterly along said former location of the right-of-way for Clute Road, along the arc of a circle to the left, having a radius of 237.75 feet, a central angle of 12 degrees, 46 minutes, 41 seconds and an arc length of 53.02 feet to a point marked by a #5 rear with survey cap set in the westerly line of lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, said arc having a chord length of 52.91 feet at S 88 degrees, 32 minutes, 55 seconds E; thence running S 14 degrees, 12 minutes, 03 seconds E along the westerly line of the lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, a distance of 251.96 feet to the place of beginning.

Schedule "A" (cont.)

**Parcel A-4: Peak Resorts Inc.**

Deed: 2013-01985	Tax ID #:	127.00-06-14.000
		127.00-06-16.000
		127.00-06-17.000
		127.00-06-29.000

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland and State of New York, being known and described as Lots, 54, 63, 65 & 74 as shown on a map of Arcadia Subdivision, Section I dated November 12, 1990 and filed in the Cortland County Clerk's Office on August 12, 1996 as Map No. 3635A.

**Parcel A-5: Peak Resorts Inc.**

Deed: 2013-01985	Tax ID #	127.11-01-02.000
		127.11-01-03.000
		127.11-01-04.000
		127.11-01-05.000
		127.11-01-06.000
		127.11-01-10.000
		127.11-01-11.000
		127.11-01-21.000

ALSO ALL THAT TRACT OR PARCEL OF LAND situate in the town of Virgil, County of Cortland, and State of New York on great lots 26 and 27 of said town and described as lots 2, 3, 4, 5, 6, 7, 8, and 20 in the Arcadia Subdivision Section 4 as shown on a map of a portion of land of Greek Peak Development Corporation, said map having been prepared by Rowell and Associates on September 17, 1975 and having been revised on September 26, 1975, September 30, 1975 and October 8, 1975 and filed in the office of the Cortland County Clerk on November 18, 1975 as map no. 2087 (Drawer 10)

**Parcel A-6: Peak Resorts Inc.**

Deed: 2013-01978

Tax ID#: 127.00-09-08

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland and State of New York, being a part of Lot 36 in said Town, bounded and described as follows:

Beginning at a point in the south line of New York State Route 392 at the northwest corner of Stavlos Condominiums (Tax ID # 127.00-09-09.000). Running thence S 29° 11' W 206.72' feet to a point on the southeast corner of the premises herein described. Thence running N 75° 17' 00" W a distance of 250' to a found rod cap on the south west corner of premises herein described. Thence running N 12° 22' 27" E 208.07 feet to the south line of New York State Route 392, thence S 77° 34' 56" E 127.20 feet to a point to the south line of New York State Route 392; thence running along New York State Route 392 having a radius of 834.97 feet a central angle of 12° 37' 02" and an arc length of 183.87 feet, said arc having a chord length of 183.50 feet at N 71° 16' 23" W to the point and place of beginning.

**Parcel A-7: Peak Resorts Inc.**

Deed: 2013-01986

Tax ID#: 127.15-01-49.000

All That Tract or Parcel of Land situate in the Town of Virgil, County of Cortland and State of New York being a part of Lots 36 & 37 in said Town of Virgil, bounded and described as follows:

Beginning at a point in the east line of Alpha Circle and the south west corner of the premises herein described; running thence easterly a distance of 327+- feet to a point in the west line of Niagara Mohawk, thence running north along the west line of Niagara Mohawk a distance of 55 feet more or less, thence running westerly a distance of 345 feet more or less to a point in the east line of Alpha Circle, thence running, south 50 feet more or less to the point and place of beginning.

**Parcel B-1 REDI**

Deeds: 2013-01984

Tax ID# 127.00-09-03.1  
127.00-09-05  
127.00-09-06

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, Cortland County, New York, being a part of Military Lot 26 in said town, bounded and described as follows: BEGINNING at a point in the easterly line of Page Green Road, said point being marked by an iron rod found at 1.56 feet easterly from said point, said point also being located N 11° 51' 56" E as measured along said easterly line of Page Green Road, a distance of 166.26 feet from the intersection of said line and the northerly line of New York State Route 392; thence running N 11° 51' 56" E along said easterly line of Page Green Road a distance of 50.81 feet to a point; thence N 19° 26' 29" E along the easterly line of Page Green Road a distance of 252.20 feet to an angle point in said line; thence running N 11° 51' 56" E along said easterly line of Page Green Road a distance of 500.00 feet to an angle point in said line; thence running N 11° 17' 33" E along said easterly line of Page Green Road a distance of 500.02 feet to an angle point in said line; thence running N 06° 29' 10" E along said easterly line of Page Green Road a distance of 301.33 feet to an angle point in said line; thence running N 11° 51' 56" E along the easterly line of Page Green Road a distance of 270.30 feet to a point in the southerly line of lands of Waffner, reputed owner per deed filed at Liber 481, Page 149; thence running S 78° 36' 29" E along said southerly line of Waffner, reputed owner, a distance of 554.09 feet to a point marked by an iron rod and cap; thence running N 11° 43' 25" E along the easterly line of said Waffner; reputed owner, a distance of 386.67 feet to a point marked by an iron rod and cap found in the southerly line of lands of Truman, reputed owner per deed filed as Document #2000-4545; thence running S 78° 45' 50" E along said southerly line of Truman, reputed owner, a distance of 1148.49 feet to a point marked by an iron pipe; thence running N 12° 51' 33" E along the westerly line of said lands of Truman, reputed owner, a distance of 1236.58 feet to a point in the southerly line of lands of The People of the State of New York, reputed owner as marked by a painted and blazed tree row; thence running S 78° 09' 58" E along said southerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 2474.74 feet to a point marked by an iron pipe found at an angle point in said line; thence running N 11° 57' 38" E along an easterly line of said lands of The People of the State of New York, reputed owner a distance of 754.70 feet to a point marked by an iron pipe found at an angle point in said line; thence running S 79° 11' 38" E along a southerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row a distance of 1146.14 feet to a point marked by an iron pipe found at an angle point in said line; thence running N 12° 09' 38" E along an easterly line of said lands of The People of the State of New York, reputed owner, a distance of 825.12 feet to a point in the division line of Military Lot 17 on the north and Military Lot 27 on the

Schedule "A" cont.

south; thence running S 78° 30' 25" E along a southerly line of lands of The People of the State of New York, reputed owner, said point also being the division line of Military Lot 17 on the north and Military Lot 27 on the south a distance of 728.27 feet to a point in the westerly line of a strip of lands in use for an electricity transmission line of Niagara Mohawk Power Corporation, reputed owner; thence running S 14° 15' 04" W along said westerly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 1989.43 feet to a point in the centerline of Clute Road; thence running S 57° 28' 29" W along said centerline of Clute Road a distance of 185.57 feet to a point; thence running S 59° 35' 26" E along a portion of the westerly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 132.31 feet to a point; thence running S 14° 15' 04" W along said westerly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 301.68 feet to a point in the northwesterly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row; thence running S 54° 41' 04" W along said northwesterly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 280.52 feet to a point; thence running N 79° 48' 21" W along the northerly line of said lands of Allen, reputed owner per deed filed at Liber 308, Page 687, a distance of 414.44 feet to a point in the centerline of Clute Road; thence running S 49° 10' 25" W along said centerline of Clute Road a distance of 47.11 feet to a point; thence running S 45° 39' 32" W along said centerline of Clute Road a distance of 719.84 feet to a point; thence running S 45° 48' 20" W along said centerline of Clute Road a distance of 500.90 feet to a point in the northeasterly corner of lands of the Town of Virgil (around Lake Hope), reputed owner per deed filed as Document #1999-3996; thence running N 44° 46' 20" W along the northeasterly line of lands of the Town of Virgil (around Lake Hope), reputed owner, and passing through a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set at 25.00 feet, a total distance of 128.84 feet to a point of curvature as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running northwesterly and northerly along said northeasterly line of the lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the right, having a radius of 250.00 feet, a central angle of 81° 14' 54" and an arc length of 354.51 feet (said arc having a chord length of 325.55 feet at N 04° 08' 53" W), to a point of tangency as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running N 36° 28' 34" E along the northeasterly line of lands of the Town of Virgil (around Lake Hope); reputed owner, a distance of 310.00 feet to a point of curvature as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running northerly and northeasterly along the northeasterly line of lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the left, having a radius of 975.00 feet, a central angle of 26° 37' 24" and an arc length of 453.05 feet (said arc having a chord length of 448.98 feet at N 23° 09' 52" E) to a point of compound curvature as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running northerly and northeasterly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the left, having a radius of 375.00 feet, a central angle

Schedule "A" cont.

thence running N 90° 00' 00" W along a northerly line of said lands of Hope Lake Investors, LLC, reputed owner, a distance of 615.17 feet to a point; thence running S 12° 52' 54" W along a westerly line of said lands of Hope Lake Investors, LLS, reputed owner a distance of 630.00 feet to a point in the northerly line of New York State Route 392; thence running N 77° 29' 31" W along said northerly line of New York State Route 392 a distance of 441.12 feet to a point in the southeasterly corner of lands of ARK Enterprises, Inc., reputed owner per deed filed as Instrument No. 2008-7436, said point being marked by an iron pipe found 5.69 feet south of said point; thence running N 10° 56' 06" E along an easterly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 119.02 feet to a point; thence running S 77° 53' 52" E along a southerly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 274.86 feet to a point marked by an existing iron pipe; thence running N 10° 56' 06" E along an easterly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 256.39 feet to a point; thence running N 77° 29' 26" W along a fence and tree row marking the northerly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 1025.13 feet to a point; thence running S 12° 30' 34" W along the westerly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 377.32 feet to a point in said northerly line of New York State Route 392; thence running N 79° 10' 54" W along said northerly line of New York State Route 392, a distance of 1074.86 feet to a point marked by an existing concrete monument found at the easterly end of a portion of the northerly line of New York State Route 392 as shown on Appropriations Map 34 as Parcel 46 of the appropriations for the improvements of State Highway #1558 (Virgil-Messengerville, Pt. 1); thence running N 56° 10' 56" W along a northerly line of said appropriation, a distance of 54.95 feet to a point marked by an existing concrete monument found at an angle point in said line; thence running N 78° 11' 57" W along a northerly line of said appropriation a distance of 498.51 feet to a point marked by an existing concrete monument found at an angle point in said line; thence running S 66° 50' 19" W along a northerly line of said appropriation, a distance of 48.68 feet to a point marked by an existing concrete monument found in the southeasterly corner of lands of lands of Carr, reputed owner per deed filed as Instrument No. 1026371-001; thence running N 10° 19' 29" E along the easterly line of said lands of Carr, reputed owner, a distance of 165.42 feet to a point marked an iron rod; thence running N 78° 28' 04" W along the northerly line of said lands of Carr, reputed owner and along the northerly line of lands of Place, reputed owner per deed filed at Liber 351 at Page 446, a distance of 185.88 feet to the place of beginning.

**Parcel B-2; REDI**

Deed 2013-01983

Tax ID # 127-09-03.100

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland, State of New York, being part of Military Lot 36 in said town, bounded and described as follows: BEGINNING at a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southerly line of New York State Route 392, said point being located S 11° 31' 10" W a distance of 33.00 feet from a point in the centerline of said New York State Route 392, said point in the centerline of New York State Route 392 being located easterly as measured along said centerline a distance of 1131.35 feet from the intersection of said centerline of New York State Route 392 and the centerline of South Hill Road; thence running S 11° 31' 10" W along the easterly line of Stramba & Kryger, reputed owner per deed filed as Document No. 2001-5737 and along the easterly line of other lands of said Stramba & Kryger, reputed owner per deed filed as Document No. 2001-5712, and passing through an iron pipe found 166.94 feet, a total distance of 798.49 feet to a point marked by an iron pipe found in the northeasterly corner of lands of Dale, reputed owner per deed filed as Document No. 2008-4036; thence running S 12° 16' 14" W along the easterly line of said lands of Dale, reputed owner, and along the easterly line of lands of Markoff, reputed owner per deed filed as Document No. 2000-2617, a distance of 273.08 feet to a point marked by an iron rod; thence running S 64° 49' 43" E along a northerly line of lands of Davenport, reputed owner per deed filed at Liber 564 at Page 066, a distance of 465.27 feet to a point marked by a found iron rod found at an angle point in said line; thence running S 58° 01' 52" E along a northerly line of said lands of Davenport, reputed owner, (including lands now or formerly of Davenport to be conveyed to Peak Resorts, Inc.) a distance of 599.20 feet to a point marked by an iron rod found in the northwesterly line of lands of Peak Resorts, Inc., reputed owner per deed filed at Liber 540 at Page 109; thence running N 58° 47' 17" E along said northwesterly line of lands of Peak Resorts, Inc., reputed owner, a distance of 847.60 feet to a point marked by an iron rod with survey cap found at an angle point in said line; thence running N 14° 14' 00" E along the westerly line of said lands of Peak Resorts, Inc., reputed owner, a distance of 448.24 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southeasterly corner of lands designated as the Stavlos Condominiums"; thence running N 75° 17' 00" W along a southerly line of said lands of Stavlos Condominiums, a distance of 141.00 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in a southwesterly corner of said Stavlos Condominium; thence running N 14° 43' 00" E along a westerly line of said lands of Stavlos Condominium, a distance of 120.00 feet to a

Schedule "A" cont.

point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southerly line of lands of Peak Resorts, Inc., reputed owner per deed filed at Liber 540 at Page 86 and to be used as the Accommodations Office for Creek Peak; thence running N 75° 17' 00" W along said southerly line of Peak Resorts, Inc.; reputed owner, a distance of 213.00 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southwesterly corner of said lands; thence running N 12° 22' 27" E along a westerly line of said lands of Peak Resorts, Inc., reputed owner, a distance of 208.07 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southerly line of New York State Route 392; thence running westerly along said southerly line of New York State Route 392 as described by the following four (4) courses:

- 1) N 77° 11' 47" W a distance of 199.25 feet to a point;
- 2) N 77° 43' 01" W a distance of 274.52 feet to a point;
- 3) N 77° 29' 53" W a distance of 759.88 feet to a point; and
- 4) N 79° 10' 54" W a distance of 76.69 feet to the place of beginning.

**Parcel B-3; REDI**

Deed 2013-01984

Tax ID # 127-09-03.100

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland, State of New York, being part of Military Lot 26 in said town, bounded and described as follows: BEGINNING at a point in the centerline of Clute Road at its intersection with the northerly line of Military Lot No. 27; thence running S 56° 13' 31" W along said centerline of Clute Road a distance of 827.40 feet to a point in the southeasterly corner of lands of Kryger, reputed owner per deed filed as Document No. 1999-2967; thence running N 52° 10' 39" W along the northeasterly line of said lands of Kryger, reputed owner, and passing through a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set at 26.40 feet, a total distance of 1320.93 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set at the intersection of said northerly line of Military Lot No. 27 and the easterly line of a strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner; thence running S 78° 34' 08" E along said northerly line of Military Lot No. 27 and passing through an iron rod found at 1695.15 feet, a total distance of 1766.22 feet to the place of beginning.

**Parcel B-4; REDI**

Deed 2013-01984

Tax ID # 127-09-16.000

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland, State of New York, being part of Military Lot 26 in said town, bounded and described as follows: BEGINNING at a point in the centerline of Clute Road at the intersection of said line and the easterly line of a strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner; thence running N 14° 15' 04" E along said easterly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 381.38 feet to a point in the southwesterly corner of a parcel of land of Resort Real Estate Partners, reputed owner by deed filed in the Cortland County Clerk's Office as Instrument No. 1054482-006, designated and reserved for a management facility; thence running S 75° 44' 56" E along the southerly line of said management lot a distance of 361.47 feet to a point in said centerline of Clute Road;

Schedule "A" cont.

thence running N 57° 42' 58" E along said centerline of Clute Road a distance of 120.00 feet to a point in a southerly line of lands of the People of the State of New York, reputed owner, as marked by a painted and blazed tree row; thence running S 78° 53' 02" E along the southerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 366.30 feet to a point marked by an iron pipe; thence running S 54° 54' 58" W along a westerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 1160.67 feet to a point; thence running N 59° 35' 26" W along a northerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 55.64 feet to a point in the easterly line of lands of Niagara Mohawk Power Corporation, reputed owner; thence running N 14° 15' 04" E along said easterly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 376.41 feet to the place of beginning.

**Parcel B-5: (REDI, LLC)**

Deed: 2013-01984

Tax Parcel #: 127.00-09-13.100  
127.00-09-21.000  
127.00-09-11.000  
127.14-01-02.000

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and desctried as follows: BEGINNING at a point at the intersection of the north line of New York State Route 392 and the South line of Hope Lake Investors (1065184-001); thence running S 82° 09' 35" E along the south line of Hope Lake Investors a distance of 56.82 feet to a point in the southeast corner of Hope Lake Investors; thence running N 12° 03' 08" E a distance of 221.14 feet to a point in a corner of Hope Lake Investors; thence running S 79° 16' 21" E a distance of 229.15 feet to a point in a corner in Hope Lake Investors; thence running N 10° 43' 39" E a distance of 88.66 feet to a point in a corner of Hope Lake Investors; thence running S 53° 08' 57" E a distance of 277.07 feet to a point in a corner of Hope Lake Investors; thence running N 29° 57' 36" E a distance of 148.02 feet to a point in the west line of Clute Road; thence running south and southeasterly along Clute Road having a

Schedule "A" cont.

radius of 342.00 feet, a central angle of  $96^{\circ} 18' 27''$  and an arc length of 574.86 feet to a point, said arc having a chord length of 509.54 feet at S  $28^{\circ} 23' 29''$  E; thence running south and west along Clute Road having a radius of 112.00 feet, a central angle of  $204^{\circ} 03' 11''$  and an arc length of 398.88 feet to a point, said arc having a chord length of 219.09 feet at S  $25^{\circ} 28' 52''$  W; thence running N  $52^{\circ} 29' 32''$  W a distance of 131.88 feet along Clute Road to a point; thence running westerly and southerly along Clute Road having a radius of 130.00 feet, a central angle of  $81^{\circ} 48' 59''$  and an arc length of 185.64 feet to a point, said arc having a chord length of 170.26 feet at S  $86^{\circ} 35' 58''$  W; thence running south and west along Clute Road having a radius of 25.00 feet a central angle of  $88^{\circ} 18' 34''$  and an arc length of 38.53 feet to a point, said arc having a chord length of 34.83 feet at S  $89^{\circ} 50' 45''$  W to a point in the north line of New York State Route 392; running thence N  $45^{\circ} 59' 58''$  W along the north line of New York State Route 392 a distance of 240.19 feet a point; running thence north and west along New York State Route 392 having a radius of 900.97 feet, a central angle of  $23^{\circ} 10' 37''$  and an arc length of 364.45 feet to a point, said arc having a chord length of 361.97 feet at N  $57^{\circ} 35' 15''$  W to the point and place of beginning.

EXCEPTING AND RESERVING ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, Cortland County, New York, being a part of Military Lot 36 in said town, bounded and described as follows: BEGINNING at a point marked by a #5 rebar with survey cap set in the northerly line of New York State Route 392, said point being located northwesterly as measured along said line a distance of 24.72 feet from the intersection of said northerly line of New York State Route 392 and the westerly line of Clute Road (as relocated), see map filed as Instrument # 1065617-001; thence running N 45 degrees, 59 minutes, 58 seconds W along said northerly line of New York State Route 392 a distance of 215.47 feet to a point of curvature; thence running northwesterly along said northerly line of New York State Route 392, along the arc of a circle to the left, having a radius of 900.97 feet, a certain angle of 12 degrees, 55 minutes, 56 seconds and an arc length of 203.36 feet to a point marked by #5 rear with survey cap set in the former location of the right-of-way of Clute Road, said arc having a chord length of 202.92 feet at N 52 degrees, 27 minutes, 56 seconds W; thence running S 82 degrees, 09 minutes, 35 seconds E along the southerly line of lands of REDI, LLC, reputed owner per deed filed as Instrument #1067471-006 and along the former location of the right-of-way of Clute Road a distance of 203.10 feet to a point of curvature; thence running easterly along said former location of the right-of-way for Clute Road, along the arc of a circle to the left, having a radius of 237.75 feet, a central angle of 12 degrees, 46 minutes, 41 seconds and an arc length of 53.02 feet to a point marked by a #5 rear with survey cap set in the westerly line of lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, said arc having a chord length of 52.91 feet at S 88 degrees, 32 minutes, 55

Schedule "A" cont.

seconds E; thence running S 14 degrees, 12 minutes, 03 seconds E along the westerly line of the lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, a distance of 251.96 feet to the place of beginning.

NOTE: The above exception is Parcel A-3 in Schedule A owned by Peak Resorts, Inc.

**Parcel B-6: (REDI, LLC)**

Deeds: 2013-01984

Tax ID: 127.00-09-11.000

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and described as follows:

BEGINNING at a point in the southwest corner of Rhodian Heights Condominium Owners Association, Inc. (1031793-003); thence running N 45° 59' 58" W a distance of 242.91 feet along the north line of New York State Route 392; thence running northerly along Clute Road having a radius of 25.00 feet, a central angle of 95° 49' 57" and an arc length of 41.81 feet to a point, said arc having a chord length of 37.11 feet at N 01° 55' 01" E; thence running northerly and northeasterly along Clute Road having a radius of 70.00 feet, a central angle of 77° 40' 28" and an arc length of 94.90 feet to a point, said arc having a chord length of 87.80 feet at N 88° 40' 13" E; thence running S 52° 29' 32" E a distance of 131.88 feet; thence running easterly along Clute Road having a radius of 172.00 feet, a central angle of 16° 38' 01" and an arc length of 49.93 feet to a point, said arc having a chord length of 49.76 feet at S 60° 48' 33" E; running thence S 31° 06' 32" W a distance of 120.65 feet to the point and place of beginning.

Schedule "A" cont.

**Parcel B-7: (REDI, LLC)**

Deeds: 2013-01984

Tax ID#: 127.00-09-11.000

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and described as follows:

BEGINNING at a point in the northwest corner of Athenian Heights Homeowners Association (363/808); thence running N 75° 21' 42" W 68.67 feet to the east line of Clute Road; thence running northerly along Clute Road having a radius of 172.00 feet, a central angle of 50° 19' 16" and an arc length of 151.06 feet to a point, said arc having a chord length of 146.25 feet at N 03° 44' 58" E; thence running northerly and northeasterly along Kypriotis Drive having a radius of 27.30 feet, a central angle of 73° 17' 25" and an arc length of 34.93 feet to a point, said arc having a chord length of 32.59 feet at N 15° 14' 02" E; thence running northerly and northeasterly along Kypriotis Drive having a radius of 70.00 feet, a central angle of 50° 00' 21" and an arc length of 61.09 feet to a point, said arc having a chord length of 59.17 feet at N 76° 52' 55" E; thence running S 78° 06' 55" E a distance of 35.34 feet; thence running S 12° 19' 36" W a distance of 205.63 feet to the point and place of beginning.

**Parcel B-8: (REDI, LLC)**

Deeds: 2013-01984  
1067471-002

Tax ID#: 127.14-01-02.000  
127.14-01-03.000

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and described as follows:

BEGINNING at a point in the northeast corner of Lot #38 as shown on a map of Arcadia Subdivision, Section IV, made by Rowell and Associates, in drawer 10 as map #2087; running thence N 78° 58' 49" W a distance of 162.91 feet to a point in the east line of Clute Road Relocated; thence running southerly and southeasterly along Clute Road, having a radius of 282.00 feet, a central angle of 67° 22' 02" and an arc length of 331.57 feet to a point, said arc having a chord length of 312.80 feet at S 19° 28' 01" E; thence running N 11° 54' 58" E 269.49 feet to the point and place of beginning.

**SCHEDULE A (continued)**

**Parcel B-9: (REDI, LLC)**

Deeds: 2013-01984

Tax ID#: 127.11-01-16.200

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland and State of New York, being known and described as a 70 foot wide strip of land shown as "Proposed Extension of Amalia Drive" on a map prepared by R. James Stockwin, PLS, entitled "Lands of Peak Resorts, Inc." dated November 12, 2004 and filed in the Cortland County Clerk's Office on April 11, 2005.

**Parcel B-10: (REDI, LLC)**

Deeds: 2013-01984

Tax ID#: 127.11-01-07.000-4  
127.11-01-07.000-5

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland and State of New York and being known and described as Residence Lot No. 1-3 and 1-4 as shown on a map entitled "Panorama Homes – Units 1-4", prepared by R. James Stockwin; PLS No. 49012, dated November 3, 2000 and filed in the Cortland County Clerk's Office on November 14, 2000 as Map No. 4159.

EXCEPTING from the above premises in Parcel B(s) above the following: Oil and Gas rights as given in a Warranty Deed executed by REDI, LLC to GP Energy Associates, LLC, dated June 7, 2012 and recorded June 12, 2012 in the Cortland County Clerk's Office as Instrument No. 2012-03280.

**Parcel C-1: (ARK Enterprises, Inc.)**

Deeds: 2013-01981

Tax ID#: 127.09-04.000

ALL THAT TRACT OR PARCEL OF LAND located in the Town of Virgil, County of Cortland and State of New York, being more particularly bounded and described as follows:

BEGINNING at a point in the northerly line of New York State Route 392, said point being located easterly as measured along said line a distance of 1854.6 feet from the intersection of said northerly line of New York State Route 392 and the easterly line of Page Green Road; thence S 77° 29' 53" E along said northerly line of New York State Route 392, a distance of 760.59 feet to a point marked by an iron pipe found 5.69 feet south of said corner; thence N 10° 56' 06" E along the westerly line of lands of REDI, LLC, (R.O.) (Instr. No. 1999-1636), a distance of 119.02 feet to a point; thence S 77° 53' 52" E along the northerly line of said lands of REDI, LLC, (R.O.) a distance of 274.86 feet to a point marked by a found iron pipe in the westerly line of lands of REDI, LLC, (R.O.) (Instr. No. 2011-432); thence running N 10° 56' 06" E along said westerly line of REDI, LLC (R.O.), a distance of 256.39 feet to a point; thence N 77° 29' 26" W along a southerly line of lands of REDI, LLC (R.O.) (Instr. No. 1996-2716), as marked by an existing fence and tree row, a distance of 1025.13 feet to a point; thence S 12° 30' 34" W along an easterly line of said lands of REDI, LLC (R.O.) a distance of 377.32 feet to the place of beginning.

EXCEPTING AND RESERVING from the above premises the following:

Appropriation to New York State Department of Transportation vs. Wesley & Irene Hollenbeck and ARK Enterprises, Inc., Map filed Dec. 26, 2008 in File No. 09-557, appropriates 2652 +/- sq. ft of land, as shown on Map No.46, Parcel 61, Virgil-Messengerville, Part I Project. (N.Y.S. Route 392) recorded in the Cortland County Clerk's Office on Sept. 28, 2009 as Instrument No. 2009-05018.

## EXHIBIT "B"

### DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machines, building materials and items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed in connection with the acquisition, construction and installation of the Greek Peak Holdings, LLC Project (the "Project") of Cortland County Industrial Development Agency (the "Agency") located on the real property described as the Facility Parcel on Exhibit A hereto, said Project to be acquired, renovated and installed by Greek Peak Holdings, LLC, Hope Lake Holdings, LLC, Greek Peak Adventures, LLC and Ski Greek Peak, LLC (collectively, the "Company") as agent of the Agency pursuant to a lease agreement dated as of September 1, 2013 (the "Lease Agreement") by and between the Agency and the Company and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to, the following:

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

(2) Together with any and all products of any of the above, all substitutions, replacements, additions or accessories therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

**EXHIBIT "C"**  
**FORM OF BILL OF SALE TO COMPANY**

CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having an office for the transaction of business located at 37 Church Street, Cortland, New York (the "Grantor"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from \_\_\_\_\_, a business corporation/limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at \_\_\_\_\_, New York (the "Grantee"), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee, and its successors and assigns, all those materials, machinery, equipment, fixtures or furnishings which are described in Exhibit "B" attached hereto (the "Equipment") now owned or hereafter acquired by the Grantor, which Equipment is located or intended to be located on land (the "Land") located at \_\_\_\_\_ in the Town/City of \_\_\_\_\_, Cortland County, New York, which Land is more particularly described on Exhibit "A" attached hereto.

TO HAVE AND TO HOLD the same unto the Grantee, and its successors and assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE'S PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE EQUIPMENT "AS IS", WITHOUT RE COURSE OF ANY NATURE AGAINST THE GRANTOR FOR ANY CONDITION NOW OR HERAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the Grantor has caused this bill of sale to be executed in its name by its duly authorized officer described below and dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CORTLAND COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Chairman

STATE OF NEW YORK )  
COUNTY OF ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

---

**Notary Public**

## **EXHIBIT "D"**

## INITIAL EMPLOYMENT PLAN

**COMPANY NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**TYPE OF BUSINESS:** \_\_\_\_\_

**CONTACT PERSON:** \_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_\_

Please complete the following chart describing your projected employment plan following receipt of financial assistance (the "Financial Assistance") from Cortland County Industrial Development Agency (the "Agency"):

Current and Planning Full Time Occupations in Company	Current Number Full Time Jobs <u>Per Occupation</u>	Estimated Number of Full Time Jobs After Completion of the Project
1 year	2 year	3 year

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required.

Are the employees of your firm currently covered by a collective bargaining agreement? Yes No

If yes, Name and Local

In the event that this application for financing is accepted, we agree to schedule a meeting with \_\_\_\_\_ (insert name of Local New York State Job Service Superintendent) and \_\_\_\_\_ (insert name of representative of IDA's area under the Federal Job Training Partnership Act) prior to the closing of the financing for the purpose of supplying such information as may be requested in connection with this Employment Plan and to notify the regional office of the Department of Economic Development, in advance, of the time and place of such meeting.

Prepared by: \_\_\_\_\_

**Title:** \_\_\_\_\_

Signature: \_\_\_\_\_

**EXHIBIT "E"**

**EMPLOYMENT PLAN STATUS REPORT**

**To Be Filled by**

**COMPANY NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**TYPE OF BUSINESS:** \_\_\_\_\_

**CONTACT PERSON:** \_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_\_

<u>Occupation</u>	<u>Number of New Jobs</u>	<u>Number Listed<sup>1</sup></u>	<u>Number Filled</u>	<u>Average Number of Full Time Equivalent Employees During Preceding Twelve Months<sup>2</sup></u>
			Job Service Division Applicants	Job Training Partnership Act eligible persons

<sup>1</sup>With local Jobs Service Division and local service delivery office created pursuant to the Job Training Partnership Act.

<sup>2</sup>Thirty-Five hours worked per week equals one full time equivalent employee.

**EXHIBIT "F"**  
**FORM OF SALE TAX EXEMPTION LETTER**

To Whom It May Concern:

Re: New York State Sales or Use Tax Exemption  
Cortland County Industrial Development Agency  
\_\_\_\_\_  
(Company) \_\_\_\_\_ Project

Pursuant to TSB-M-87(7) issued by the new York State Department of Taxation and Finance on April 1, 1987, (the "Policy Statement"), you have requested a letter from Cortland County Industrial Development Agency (the "Agency"), a public benefit corporation duly established pursuant to Chapter 1030 of 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, (the "Enabling Act") and Chapter 77 of the 1974 Laws of New York, as amended, constituting Section 902 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), containing the information required by the Policy Statement regarding the sales tax exemption with respect to the captioned project (the "Project") located at \_\_\_\_\_, in the Town of \_\_\_\_\_, Cortland County, New York (the "Project Site").

\_\_\_\_\_ (the "Company") has applied to and been approved for financial assistance from the Agency in the matter of completion of the Project on the Project Site. The Project includes the following: (A)(1) the acquisition of an interest in an approximately \_\_\_\_\_ acres of land located at \_\_\_\_\_, in the Town of \_\_\_\_\_, Cortland County, New York (the "Land"), (2) the construction on the Land of a building to contain approximately \_\_\_\_\_ square feet of space (the "Facility"), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment"), all of the foregoing to constitute a \_\_\_\_\_ building to be operated by the Company and occupied in part by the Company and in part by tenants providing related services (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real estate taxes (collectively, the "Financial Assistance"); and (C) the lease of the Project Facility to the Company pursuant to the terms of a lease agreement dated as of \_\_\_\_\_, \_\_\_\_\_ (the "Lease Agreement") by and between the Company and the Agency. Please be advised that on or about the date of this letter, the Agency executed and delivered the Lease Agreement, pursuant to which the Agency appointed the Company as agent of the Agency to acquire, construct and install the Project Facility, said appointment being intended by the Agency to be retroactive to \_\_\_\_\_, \_\_\_\_\_.

Under the Policy Statement, a copy of this letter received by any vendor or seller to the Company as agent for the Agency, may be accepted by such vendor or seller as a "statement and additional documentary evidence of such exemption" as provided by New York State Tax Law Section 1132(c)(2), thereby relieving such vendor or seller from the obligation to collect sales and use tax on purchases or rentals of such materials, supplies, tools, equipment, or services by the Agency through its agent, the Company.

THIS LETTER SHALL BE IN EFFECT UNTIL \_\_\_\_\_, \_\_\_\_\_.

In the event you have any questions with respect to the above, please do not hesitate to call Garry VanGorder, Executive Director of the Agency, at (607) 756-5005.

Very truly yours,

CORTLAND COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Chairman

## EXHIBIT "G"

New York State Department of Taxation and Finance



ST-340

(3/11)

**Annual Report of Sales and Use Tax Exemptions  
Claimed by Agent/Project Operator of  
Industrial Development Agency/Authority (IDA)**

For Period Ending December 31, \_\_\_\_\_ (enter year)

**Project information**

Name of IDA agent/project operator	Federal employer identification number (FEIN)	
------------------------------------	---	--

Street address	Telephone number (        )	
----------------	--------------------------------	--

City	State	ZIP code
------	-------	----------

Name of IDA agent/project operator's authorized representative, if any	Title	
--	-------	--

Street address	Telephone number (        )	
----------------	--------------------------------	--

City	State	ZIP code
------	-------	----------

Name of IDA
-------------

Name of project
-----------------

Street address of project site
--------------------------------

City	State	ZIP code
------	-------	----------

**1 Project purpose (mark an X in the appropriate box):**

<input type="checkbox"/> Services	<input type="checkbox"/> Construction	<input type="checkbox"/> Agriculture, forestry, fishing
<input type="checkbox"/> Wholesale trade	<input type="checkbox"/> Retail trade	<input type="checkbox"/> Finance, insurance or real estate
<input type="checkbox"/> Transportation, communication, electric, gas, or sanitary services		
<input type="checkbox"/> Manufacturing	<input type="checkbox"/> Other (specify) _____	

**2 Date project began (mm/dd/yy):** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**3 Beginning date of construction or installation (mm/dd/yy; see instructions):** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ ;  actual  expected

**4 Completion date of construction phase of project (mm/dd/yy; see instructions):** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ ;  actual  expected

**5 Completion date of project (mm/dd/yy; see instructions):** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ ;  actual  expected

**6 Duration of project (actual or expected; years/months):** \_\_\_\_\_ / \_\_\_\_\_

<b>7 Total sales and use tax exemptions (actual tax savings; NOT total purchases) .....</b>	7	\$	
---	---	----	--

**Certification:** I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer, employee, or authorized representative signing for the IDA agent/project operator | Title of person signing

Signature	Date
-----------	------

**Failure to annually file a complete report may result in the removal of authority to act as an IDA agent/project operator.**

Mail completed report to: NYS Tax Department, IDA Unit, W A Harriman Campus, Albany NY 12227.

## Instructions

### General information

#### Who must file?

General Municipal Law (GML) and the Public Authorities Law require the agent/project operator (also known as the *project occupant*) of an Industrial Development Agency or Authority (IDA) to file an annual report with the Tax Department. The agent/project operator required to file this report is the person **directly appointed** by the IDA to act for and to represent the IDA for the project. The agent/project operator is ordinarily the one for whom the IDA project was created.

There is usually only one agent/project operator directly appointed by the IDA for an IDA project. However, if the IDA directly appoints multiple agents/project operators, each agent/project operator must file this form (unless they are related corporations).

Only the agent/project operator(s) directly appointed by the IDA must file Form ST-340. Contractors, subcontractors, consultants, or agents appointed by the agent/project operator(s) should **not** themselves file Form ST-340. However, the agent/project operator(s) must include on Form ST-340 information obtained from such contractors, subcontractors, consultants, and agents, as described below.

#### What must be reported?

The report must show the **total value of all state and local sales and use taxes exempted** during the calendar year, as a result of the project's designation as an IDA project. This includes:

- the value of the exemptions obtained by the agent/project operator; and
- the value of the exemptions obtained by your contractors, subcontractors, consultants, and others, whether or not appointed as agents of the IDA.

The report requires only the **total combined exemptions** obtained by the above people. A break down of the total is not required. However, since the report must include the value of the exemptions they obtained, the agent/project operator must keep records of the amounts others report to the agent/project operator.

It is important that the agent/project operator make it clear to the contractors, subcontractors, consultants, and others that they must keep accurate tax information and have it available so that the agent/project operator can comply with the annual reporting requirements.

Do not include in this report the amount of any sales and use tax exemptions arising out of other provisions of the Tax Law (for example, manufacturer's production equipment exemption, research and development exemption, or contractor's exemption for tangible personal property incorporated into a project of an exempt organization).

See instructions below for additional information required.

#### When is the report due?

You must file Form ST-340 on a calendar-year basis. It is due by the last day of February of the following year. The reporting requirement applies to IDA projects started on or after July 21, 1993.

#### Project information

At the top of the form, identify the reporting period by entering the year in the space provided. If an address is required, always include the ZIP code.

#### Name of IDA agent/project operator

Enter the name, address, federal employer identification number (FEIN), and telephone number of the IDA agent/project operator.

#### Name of IDA agent/project operator's authorized representative

Enter the name, address, title (for example, attorney or accountant), and telephone number of the individual authorized by the IDA agent/project operator to submit this report.

#### Name of IDA

Enter the name and address of the IDA. If more than one IDA is involved in a particular project, the IDA agent/project operator must file a separate report for the tax exemptions attributable to each IDA.

#### Name of project

Enter the name of the project and the address of the project site. If the IDA agent is involved in more than one project, a separate report must be filed by the IDA agent/project operator for each project, even if authorized by the same IDA.

#### Line instructions

**Line 1 — Project purpose** — Mark an **X** in the box that identifies the purpose of the project. If you mark *Other*, please be specific in identifying its purpose.

**Line 2 —** Enter the date the project started (this means the earliest of the date of any bond or inducement resolution, the execution of any lease, or any bond issuance). Include month, day, and year.

**Line 3 —** Enter the date you, or your general contractor or subcontractor, actually began, or expect to begin, construction or installation on the project. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected. If the project does not involve any construction, enter *Does not apply*.

**Line 4 —** Enter the date the construction phase of the project was completed or is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

**Line 5 —** Enter the date installation, lease, or rental of property (for example, machinery or computers) on the project ended or the date the project is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

**Line 6 —** Enter the total number of years and months from the project's inception to its completion or expected completion.

**Line 7 —** Enter the total amount of New York State and local sales and use taxes exempted during the reporting period (if none, enter 0) as a result of the project's receipt of IDA financial assistance. This includes exemptions obtained at the time of purchase as well as through a refund or credit of tax paid. Include the sales and use taxes exempted on purchases of property or services incorporated into or used on the exempt project. This includes the taxes exempted on purchases made by or on behalf of the agent/project operator, the general contractor for the project, and any subcontractors, consultants, or others. Do not enter total purchases on line 7.

#### Signature area

Enter the name and title of the person signing on behalf of the IDA agent/project operator (for example, the IDA agent/project operator's officer, employee, or other authorized representative). The IDA agent/project operator's officer, employee, or authorized representative must sign the report. Enter the date signed.

Mail completed report to: **NYS Tax Department, IDA Unit, W A Harriman Campus, Albany NY 12227.**

#### Need help?



**Internet access:** [www.tax.ny.gov](http://www.tax.ny.gov)  
(for information, forms, and publications)



**Sales Tax Information Center:** (518) 485-2889  
To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline**  
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

#### Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

## EXHIBIT "H"

New York State Department of Taxation and Finance



# IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60

(4/13)

Industrial development agency or authority (IDA) must submit this form within 30 days of the appointment of a project operator or agent, either appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

Name of IDA		IDA project number (use OSC numbering system for projects after 1998)	
Street address		Telephone number ( )	
City		State	ZIP code
Name of IDA project operator or agent		Mark an X in the box if directly appointed by the IDA: <input type="checkbox"/>	Employer identification or social security number
Street address		Telephone number ( )	Primary operator or agent? <input type="checkbox"/> Yes <input type="checkbox"/> No
City		State	ZIP code
Name of project		Purpose of project (see instructions)	
Street address of project site			
City		State	ZIP code
Description of goods and services intended to be exempted from New York State and local sales and use taxes			
Date project operator or agent appointed (mm/dd/yy)		Date project operator or agent status ends (mm/dd/yy)	
Estimated value of goods and services that will be exempt from New York State and local sales and use tax:		Estimated value of New York State and local sales and use tax exemption provided:	
<p><b>Certification:</b> I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.</p>			
Print name of officer or employee signing on behalf of the IDA		Print title	
Signature		Date	Telephone number ( )

## Instructions

### Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

### Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

### Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT  
IDA UNIT  
W A HARRIMAN CAMPUS  
ALBANY NY 12227**

### Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1098, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

### Need help?



**Internet access: [www.tax.ny.gov](http://www.tax.ny.gov)**  
(for information, forms, and publications)



**Sales Tax Information Center:** (518) 485-2889

To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline**  
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

**EXHIBIT "I"**  
**FORM OF TERMINATION OF LEASE AGREEMENT**

WHEREAS, \_\_\_\_\_ (the "Company"), as tenant, and Cortland County Industrial Development Agency (the "Agency"), as landlord, entered into a lease agreement dated as of \_\_\_\_\_, \_\_\_\_\_ (the "Lease Agreement") pursuant to which, among other things, the Agency leased the Project Facility (as defined in the Lease Agreement) to the Company; and

WHEREAS, pursuant to the Lease Agreement, the Company and the Agency agreed that the Lease Agreement would terminate on the earlier to occur of (1) \_\_\_\_\_, \_\_\_\_\_ or (2) the date the Lease Agreement shall be terminated pursuant to Article X or Article XI of the Lease Agreement; and

WHEREAS, the Company and the Agency now desire to evidence the termination of the Lease Agreement;

NOW, THEREFORE, it is hereby agreed that the Lease Agreement has terminated as of the dated date hereof; provided, however, that, as provided in Section 12.8 of the Lease Agreement, certain obligations of the Company shall survive the termination of the Lease Agreement, and the execution of this termination of lease agreement by the Agency is not intended, and shall not be construed, as a waiver or alteration by the Agency or the Company of the provisions of Section 12.8 of the Lease Agreement.

IN WITNESS WHEREOF, the Company and the Agency have signed this termination of lease agreement and caused same to be dated as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

(COMPANY)

By: \_\_\_\_\_  
Authorized Officer

CORTLAND COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Chairman

STATE OF NEW YORK )  
COUNTY OF ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

---

**Notary Public**

STATE OF NEW YORK )  
COUNTY OF ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

---

**Notary Public**

**EXHIBIT "J"**  
**FORM OF TERMINATION OF UNDERLYING LEASE**

WHEREAS, \_\_\_\_\_ (the "Company"), as landlord, and Cortland County Industrial Development Agency (the "Agency"), as tenant, entered into a lease to the Agency dated as of \_\_\_\_\_, \_\_\_\_\_ (the "Underlying Lease") pursuant to which the Agency was granted a leasehold estate in the parcel of land described on Exhibit "A" attached hereto (the "Facility Parcel"), together with all improvements located thereon (collectively with the Facility Parcel, the "Facility Premises") for the purposes of granting certain real property tax relief to the Facility Premises, all in connection with the Project (as defined in the Underlying Lease); and

WHEREAS, pursuant to a lease agreement dated as of \_\_\_\_\_, \_\_\_\_\_ (the "Lease Agreement") between the Company and the Agency, the Company and the Agency further agreed that the Underlying Lease would be terminated upon expiration of the Lease Agreement; and

WHEREAS, the Lease Agreement has expired;

NOW, THEREFORE, it is hereby agreed that the Underlying Lease is terminated as of the dated date hereof.

IN WITNESS WHEREOF, the Company and the Agency have signed this termination of underlying lease as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

(COMPANY)

By: \_\_\_\_\_  
Authorized Officer

CORTLAND COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Chairman

STATE OF NEW YORK )  
COUNTY OF ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

---

**Notary Public**

STATE OF NEW YORK )  
COUNTY OF ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

---

**Notary Public**

**EXHIBIT "A" to EXHIBIT "J"**

**Parcels A-1 and A-2: (PRI)**

Deed Reference:	2013-01985	Tax Parcel #	137.00-01-09.000
			127.00-07-12.000
			127.00-07-11.000
			127.00-07-02.000
			127.00-07-07.200

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland and State of New York, BEGINNING at a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the easterly line of a strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner, in the southwesterly corner of a portion of the lands of Town of Virgil Sewer District #1, reputed owner per deed filed as Document #'s 1999-2794, 1999-2805, and 1999-2806, and as shown on a filed map #3983; thence running easterly along the southerly line of said lands of Town of Virgil Sewer District #1 as described by the following four (4) courses:

1. S 89° 42' 38" E a distance of 150.00 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012";
2. N 72° 10' 08" E a distance of 164.57 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012";
3. S 56° 57' 11" E a distance of 450.83 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012";
4. S 79° 17' 37" E a distance of 382.14 feet to a point marked by an iron pipe found in the southerly line of NYS Route 392;

Thence running S 30° 17' 48" E along said southerly line of New York State Route 392 a distance of 491.98 feet to a point marked by an iron rod with survey cap found in the westerly line of lands of Withington, reputed owner per deed filed as Document #2001-3689 (and shown on filed map #4250); thence running S 51° 25' 29" W along said westerly line of lands of Withington, reputed owner, a distance of 375.24 feet to a point marked by an iron rod with survey cap; thence running S 48° 26' 00" E along the southerly line of said lands of Withington, reputed owner, a distance of 259.20 feet to a point marked by an iron rod with survey cap; thence running S 19° 36' 00" E along the southerly line of said lands of Withington, reputed owner, a distance of 327.60 feet to a point marked by an iron rod with survey cap; thence running south 59° 57' 01" E along the southerly line of said lands of Withington, reputed owner, a distance of 326.45 feet to a point marked by an iron pipe found in the westerly line of lands of Wood, reputed owner per deed filed as Document #2001-3411; thence

running N 17° 27' 41" E a distance of 86.30 feet to the point in the center line of Gridley Creek; thence running S 41° 53' 01" E 489.05 feet to a point; thence running S 50° 11' 06" E southeasterly along said centerline of Gridley Creek and along the southwesterly line of lands of Lefever, reputed owner per deed filed at Liber 537, Page 345 a distance of 492.04 feet to a point; thence running south 46° 04' 28" E southeasterly along said centerline of Gridley Creek and along the southwesterly line of lands of Sherman, reputed owner per deed filed as Document #2001-0050 a distance of 582.55 feet to a point; thence running S 38° 26' 18" E southeasterly along the centerline of Gridley Creek and along the southwesterly line of lands of Sherman, reputed owner per deed filed at Liber 561, Page 227 a distance of 152.17 feet to a point; thence running S 61° 16' 05" E southeasterly along said centerline of Gridley Creek and along the southwesterly line of lands of Sherman, reputed owner per deed filed at Liber 561, Page 225 and a distance of 361.92 feet to a point, said point being the centerline of the bridge at the intersection of the centerline of Tone Road and said centerline of Gridley Creek; thence running S 65° 58' 25" E southeasterly along the centerline of Gridley Creek and along the southwesterly line of lands of Kirkland, reputed owner per deed filed as Document #2001-2036 a distance of 235.48 feet to a point; thence running N 30° 52' 22" E along the easterly line of said lands of Kirkland, reputed owner, a distance of 186.96 feet to a point in the southwesterly boundary line of New York State Route 392; thence running southeasterly and southerly along said highway boundary of New York State Route 392 as defined by several appropriations maps filed for the Virgil-Messengerville (Part 2) County Highway, Cortland County (now known as State Highway #8369 and New York State Route 392) as more particularly described by the following thirteen (13) courses:

1. S 59° 07' 38" E a distance of 412.62 feet to a point;
2. S 43° 15' 59" E a distance of 285.35 feet to a point;
3. S 19° 45' 12" E a distance of 244.06 feet to a point;
4. S 10° 35' 07" E a distance of 174.29 feet to a point;
5. S 01° 35' 08" E a distance of 351.75 feet to a point;
6. S 28° 47' 01" E a distance of 107.37 feet to a point;
7. S 06° 44' 43" E a distance of 348.64 feet to a point;
8. S 01° 31' 19" W a distance of 302.03 feet to a point;
9. S 17° 48' 46" E a distance of 133.00 feet to a point;
10. S 19° 02' 51" E a distance of 232.05 feet to a point;
11. S 33° 27' 18" E a distance of 259.62 feet to a point;
12. S 17° 48' 46" E a distance of 350.00 feet to a point;
13. S 01° 06' 49" E a distance of 104.40 feet to a point;

thence running S 49° 13' 21" W a distance of 33.63 feet to a point in the centerline of Tone Road; thence running northwesterly along said centerline of Tone Road as more particularly described by the following four (4) courses:

Schedule "A" (cont.)

1. N 40° 46' 39" W a distance of 207.74 feet to a point;
2. N 53° 57' 35" W a distance of 106.09 feet to a point;
3. N 41° 03' 38" W a distance of 193.83 feet to a point;
4. N 20° 42' 05" W a distance of 442.85 feet to a point;

thence running S 83° 38' 09" W along the northerly line of lands of Gorski, reputed owner per deed filed as Document #2001-5955 (and shown on a file map #4298), and passing through an iron pipe found at 22.14 feet, a total distance of 554.00 feet to a point marked by an iron pipe; thence running S 11° 56' 46" W a westerly line of said lands of Gorski, reputed owner, a distance of 1046.98 feet to a point marked by an iron pipe; thence running N 75° 11' 56" W along a northerly line of lands of Gorski, reputed owner, a distance of 890.91 feet to a point marked by an iron pipe; thence running S 76° 01' 29" W along a northerly line of lands of The People of the State of New York, reputed owner per deed filed at Liber 341, Page 311, a distance of 2507.50 feet to a point marked by an iron pipe; thence running N 81° 32' 39" W along said lands of The People of the State of New York, reputed owner, a distance of 415.46 feet to a point in the easterly line of the aforementioned strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner; thence running N 00° 03' 31" E along said easterly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2519.34 feet to a point; thence running N 79° 41' 02" W along a southerly line of said lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 50.81 feet to a point; thence running N 00° 03' 31" E along said easterly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2943.38 feet to a point; thence running N 26° 44' 05" E along said easterly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 992.91 feet to the place of beginning.

ALSO, ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland and State of New York, BEGINNING at a point marked by #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the westerly line of a strip of lands in use for an electricity transmission line (150 feet in width at this point) by Niagara Mohawk Power Corporation, reputed owner, in the southeasterly corner of a portion of the lands of Town of Virgil Sewer District #1, reputed owner, per deeds filed as Document #'s 1999-2794, 1999-2805, and 1999-2806, and as

Schedule "A" (cont.)

shown on filed map #3983 said point being located S 26° 44' 00" W as measured along said easterly line of Niagara Mohawk Power Corporation, reputed owner, a distance of 170.51 feet from the intersection of said line and the southerly line of New York State Route 392; thence running S 26° 43' 57" W along the said westerly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 1123.77 feet to a point; thence running S 00° 03' 31" W along said westerly line of said lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2951.70 feet to a point; thence running N 79° 41' 02" W along a southerly line of Niagara Mohawk Power Corporation, reputed owner, a distance of 50.81 feet to a point; thence running S 00° 03' 31" W along said westerly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 2527.68 feet to a point; thence running N 81° 32' 39" W along a northerly line of lands of The People of the State of New York, reputed owner per deed filed at Liber 341, page 311, a distance of 551.25 feet to a point; thence running S 11° 32' 21" W along the westerly line of land of The People Of The State of New York, reputed owner, a distance of 490.06 feet to a point in the center line of Valentine Hill Road; thence running northwesterly along said centerline of Valentine Hill Road as more particularly described by the following seven (7) courses:

1. N 35° 11' 20" W a distance of 545.41 feet to a point;
2. N 30° 22' 17" W a distance of 1000.10 feet to a point;
3. N 31° 29' 11" W a distance of 486.67 feet to a point;
4. N 24° 15' 54" W a distance of 392.86 feet to a point;
5. N 15° 27' 55" E a distance of 164.37 feet to a point;
6. N 00° 33' 31" W a distance of 130.49 feet to a point;
7. N 01° 25' 11" W a distance of 277.77 feet to a point;

thence running N 78° 24' 34" W along the northerly line of said lands of The People of the State of New York, reputed owner, a distance of 1296.91 feet to a point; thence running N 11° 16' 35" E along easterly line of said lands of The People of the State of New York, reputed owner, a distance of 1214.00 feet to a point in the centerline of Van Donsel Road (abandoned); thence running N 79°20'45" W along said centerline of Van Donsel Road (abandoned); a distance of 419.18 feet to a point; thence running N 12° 17' 34"E along an easterly line of said lands of The People Of The State of New York, reputed owner, a distance of 853.00 feet to a point marked by an iron pipe;

Schedule "A" cont.

running N 80° 15' 13" W along a northerly line of said lands of The People of the State of New York, reputed owner, a distance of 217.14 feet to a point marked by an iron pipe; thence running N 09° 21' 46" E along an easterly line of said lands of The People of the State of New York, reputed owner, a distance of 1229.99 feet to a point marked by an iron pipe; thence running N 74° 27' 53" W along a northerly line of said lands of The People of the State of New York, reputed owner, a distance of 34.23 feet to a point marked by an iron rod found in the southeasterly corner of lands of Rosenthal, reputed owner per deed filed as Document #1997-0436; thence running N 55° 21' 23" E along the easterly line of said lands of Rosenthal, reputed owner, and along the easterly line of lands of Van Dyke, reputed owner per deed filed as Instrument #105527-002, a distance of 879.81 feet to a point in the centerline of South Hill Road; thence running N 53° 47' 04" W along said centerline of South Hill Road a distance of 114.20 feet to a point thence in the remaining lands of Davenport (Liber 564 of Deeds Page 066); thence running N 42° 56' 05" E 689.86 feet to a point set in a new rod cap; S 58° 01' 52" E 250 feet to a found iron rod; thence running N 58° 47' 17" E along said easterly line of lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, a distance of 847.60 feet to a point marked by an iron rod with survey cap; thence running N 14° 14' 00' E along the easterly line of REDI, LLC, reputed owner, a distance of 448.24 feet to a point marked by an iron rod with survey cap; thence continuing N 14° 14' 00" E a distance of 130.18 feet to a point; thence running S 72° 56' 40" E a distance of 82.00 feet to a point; thence running N 21° 38' 20' E a distance of 151.79 feet to a point in the southerly line of New York State Route 392; thence running southeasterly along said southerly line of New York State Route 392 along the arc of a circle to the right, having a radius of 834.97 feet, a central angle of 08° 09' 01" and an arc length of 118.78 feet to a point of tangency, said arc having a chord length of 118.68 feet at S 50° 04' 28" E; thence running S 46° 00' 24" E along said southerly line of New York State Route 392, a distance of 325.05 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the northwest corner of lands of Town of Virgil Water District #1, reputed owner per deed filed as Document # 1999-3293 (and shown on filed map #3992); thence running S 44° 01' 32" W along the westerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 141.40 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running S 46° 00' 40" E along the southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 200.12 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS

Schedule "A" (cont.)

049012; thence running N 43° 54' 54" E along said easterly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 141.22 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" founded in said southerly line of New York State Route 392; thence running S 46° 00' 23" E along said southerly line of New York State Route 392 a distance of 865.46 feet to a point of curvature in said line; thence running southeasterly along said southerly line of New York State Route 392, along the arc of a circle to the left, having a radius of 1556.65 feet, a central angle of 10° 38' 43" and an arc length of 289.22 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" found in the northwesterly corner of lands of Town of Virgil Sewer District #1, reputed owner per deeds filed as Document #'s 1999-2794, 1999-2805 and 1999-2806, and shown on a filed map #3983, said arc having a chord length of 288.81 feet at S 51° 19' 20" E; thence running S 74° 11' 22" W along a westerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 48.20 feet to a point marked by #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running S 33° 26' 00" E along a southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 68.86 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running S 28° 58' 00" E along a southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 160.96 feet to a point marked by a #5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012; thence running S 50° 30' 00" E along a southerly line of said lands of Town of Virgil Water District #1, reputed owner, a distance of 97.84 feet to the place of beginning.

Schedule "A" (cont.)

**Parcel A-3: PRI**

Deed 2013-01985

Tax Parcel # 127.09-12

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, Cortland County, New York, being a part of Military Lot 36 in said town, bounded and described as follows: BEGINNING at a point marked by a #5 rebar with survey cap set in the northerly line of New York State Route 392, said point being located northwesterly as measured along said line a distance of 24.72 feet from the intersection of said northerly line of New York State Route 392 and the westerly line of Clute Road (as relocated), see map filed as Instrument # 1065617-001; thence running N 45 degrees, 59 minutes, 58 seconds W along said northerly line of New York State Route 392 a distance of 215.47 feet to a point of curvature; thence running northwesterly along said northerly line of New York State Route 392, along the arc of a circle to the left, having a radius of 900.97 feet, a certain angle of 12 degrees, 55 minutes, 56 seconds and an arc length of 203.36 feet to a point marked by #5 rear with survey cap set in the former location of the right-of-way of Clute Road, said arc having a chord length of 202.92 feet at N 52 degrees, 27 minutes, 56 seconds W; thence running S 82 degrees, 09 minutes, 35 seconds E along the southerly line of lands of REDI, LLC, reputed owner per deed filed as Instrument #1067471-006 and along the former location of the right-of-way of Clute Road a distance of 203.10 feet to a point of curvature; thence running easterly along said former location of the right-of-way for Clute Road, along the arc of a circle to the left, having a radius of 237.75 feet, a central angle of 12 degrees, 46 minutes, 41 seconds and an arc length of 53.02 feet to a point marked by a #5 rear with survey cap set in the westerly line of lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, said arc having a chord length of 52.91 feet at S 88 degrees, 32 minutes, 55 seconds E; thence running S 14 degrees, 12 minutes, 03 seconds E along the westerly line of the lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, a distance of 251.96 feet to the place of beginning.

Schedule "A" (cont.)

**Parcel A-4: Peak Resorts Inc.**

Deed: 2013-01985	Tax ID #:	127.00-06-14.000
		127.00-06-16.000
		127.00-06-17.000
		127.00-06-29.000

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland and State of New York, being known and described as Lots, 54, 63, 65 & 74 as shown on a map of Arcadia Subdivision, Section I dated November 12, 1990 and filed in the Cortland County Clerk's Office on August 12, 1996 as Map No. 3635A.

**Parcel A-5: Peak Resorts Inc.**

Deed: 2013-01985	Tax ID #	127.11-01-02.000
		127.11-01-03.000
		127.11-01-04.000
		127.11-01-05.000
		127.11-01-06.000
		127.11-01-10.000
		127.11-01-11.000
		127.11-01-21.000

ALSO ALL THAT TRACT OR PARCEL OF LAND situate in the town of Virgil, County of Cortland, and State of New York on great lots 26 and 27 of said town and described as lots 2, 3, 4, 5, 6, 7, 8, and 20 in the Arcadia Subdivision Section 4 as shown on a map of a portion of land of Greek Peak Development Corporation, said map having been prepared by Rowell and Associates on September 17, 1975 and having been revised on September 26, 1975, September 30, 1975 and October 8, 1975 and filed in the office of the Cortland County Clerk on November 18, 1975 as map no. 2087 (Drawer 10)

**Parcel A-6: Peak Resorts Inc.**

Deed: 2013-01978

Tax ID#: 127.00-09-08

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland and State of New York, being a part of Lot 36 in said Town, bounded and described as follows:

Beginning at a point in the south line of New York State Route 392 at the northwest corner of Stavlos Condominiums (Tax ID # 127.00-09-09.000). Running thence S 29° 11' W 206.72' feet to a point on the southeast corner of the premises herein described. Thence running N 75° 17' 00" W a distance of 250' to a found rod cap on the south west corner of premises herein described. Thence running N 12° 22' 27" E 208.07 feet to the south line of New York State Route 392, thence S 77° 34' 56" E 127.20 feet to a point to the south line of New York State Route 392; thence running along New York State Route 392 having a radius of 834.97 feet a central angle of 12° 37' 02" and an arc length of 183.87 feet, said arc having a chord length of 183.50 feet at N 71° 16' 23" W to the point and place of beginning.

**Parcel A-7: Peak Resorts Inc.**

Deed: 2013-01986

Tax ID#: 127.15-01-49.000

All That Tract or Parcel of Land situate in the Town of Virgil, County of Cortland and State of New York being a part of Lots 36 & 37 in said Town of Virgil, bounded and described as follows:

Beginning at a point in the east line of Alpha Circle and the south west corner of the premises herein described; running thence easterly a distance of 327+- feet to a point in the west line of Niagara Mohawk, thence running north along the west line of Niagara Mohawk a distance of 55 feet more or less, thence running westerly a distance of 345 feet more or less to a point in the east line of Alpha Circle, thence running, south 50 feet more or less to the point and place of beginning.

**Parcel B-1 REDI**

Deeds: 2013-01984

Tax ID# 127.00-09-03.1

127.00-09-05

127.00-09-06

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, Cortland County, New York, being a part of Military Lot 26 in said town, bounded and described as follows: BEGINNING at a point in the easterly line of Page Green Road, said point being marked by an iron rod found at 1.56 feet easterly from said point, said point also being located N 11° 51' 56" E as measured along said easterly line of Page Green Road, a distance of 166.26 feet from the intersection of said line and the northerly line of New York State Route 392; thence running N 11° 51' 56" E along said easterly line of Page Green Road a distance of 50.81 feet to a point; thence N 19° 26' 29" E along the easterly line of Page Green Road a distance of 252.20 feet to an angle point in said line; thence running N 11° 51' 56" E along said easterly line of Page Green Road a distance of 500.00 feet to an angle point in said line; thence running N 11° 17' 33" E along said easterly line of Page Green Road a distance of 500.02 feet to an angle point in said line; thence running N 06° 29' 10" E along said easterly line of Page Green Road a distance of 301.33 feet to an angle point in said line; thence running N 11° 51' 56" E along the easterly line of Page Green Road a distance of 270.30 feet to a point in the southerly line of lands of Waffner, reputed owner per deed filed at Liber 481, Page 149; thence running S 78° 36' 29" E along said southerly line of Waffner, reputed owner, a distance of 554.09 feet to a point marked by an iron rod and cap; thence running N 11° 43' 25" E along the easterly line of said Waffner; reputed owner, a distance of 386.67 feet to a point marked by an iron rod and cap found in the southerly line of lands of Truman, reputed owner per deed filed as Document #2000-4545; thence running S 78° 45' 50" E along said southerly line of Truman, reputed owner, a distance of 1148.49 feet to a point marked by an iron pipe; thence running N 12° 51' 33" E along the westerly line of said lands of Truman, reputed owner, a distance of 1236.58 feet to a point in the southerly line of lands of The People of the State of New York, reputed owner as marked by a painted and blazed tree row; thence running S 78° 09' 58" E along said southerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 2474.74 feet to a point marked by an iron pipe found at an angle point in said line; thence running N 11° 57' 38" E along an easterly line of said lands of The People of the State of New York, reputed owner a distance of 754.70 feet to a point marked by an iron pipe found at an angle point in said line; thence running S 79° 11' 38" E along a southerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row a distance of 1146.14 feet to a point marked by an iron pipe found at an angle point in said line; thence running N 12° 09' 38" E along an easterly line of said lands of The People of the State of New York, reputed owner, a distance of 825.12 feet to a point in the division line of Military Lot 17 on the north and Military Lot 27 on the

Schedule "A" cont.

south; thence running S 78° 30' 25" E along a southerly line of lands of The People of the State of New York, reputed owner, said point also being the division line of Military Lot 17 on the north and Military Lot 27 on the south a distance of 728.27 feet to a point in the westerly line of a strip of lands in use for an electricity transmission line of Niagara Mohawk Power Corporation, reputed owner; thence running S 14° 15' 04" W along said westerly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 1989.43 feet to a point in the centerline of Clute Road; thence running S 57° 28' 29" W along said centerline of Clute Road a distance of 185.57 feet to a point; thence running S 59° 35' 26" E along a portion of the westerly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 132.31 feet to a point; thence running S 14° 15' 04" W along said westerly line of the lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 301.68 feet to a point in the northwesterly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row; thence running S 54° 41' 04" W along said northwesterly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 280.52 feet to a point; thence running N 79° 48' 21" W along the northerly line of said lands of Allen, reputed owner per deed filed at Liber 308, Page 687, a distance of 414.44 feet to a point in the centerline of Clute Road; thence running S 49° 10' 25" W along said centerline of Clute Road a distance of 47.11 feet to a point; thence running S 45° 39' 32" W along said centerline of Clute Road a distance of 719.84 feet to a point; thence running S 45° 48' 20" W along said centerline of Clute Road a distance of 500.90 feet to a point in the northeasterly corner of lands of the Town of Virgil (around Lake Hope), reputed owner per deed filed as Document #1999-3996; thence running N 44° 46' 20" W along the northeasterly line of lands of the Town of Virgil (around Lake Hope), reputed owner, and passing through a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set at 25.00 feet, a total distance of 128.84 feet to a point of curvature as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running northwesterly and northerly along said northeasterly line of the lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the right, having a radius of 250.00 feet, a central angle of 81° 14' 54" and an arc length of 354.51 feet (said arc having a chord length of 325.55 feet at N 04° 08' 53" W), to a point of tangency as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running N 36° 28' 34" E along the northeasterly line of lands of the Town of Virgil (around Lake Hope), reputed owner, a distance of 310.00 feet to a point of curvature as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running northerly and northeasterly along the northeasterly line of lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the left, having a radius of 975.00 feet, a central angle of 26° 37' 24" and an arc length of 453.05 feet (said arc having a chord length of 448.98 feet at N 23° 09' 52" E) to a point of compound curvature as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running northerly and northeasterly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the left, having a radius of 375.00 feet, a central angle

Schedule "A" cont.

of  $76^{\circ} 47' 29''$  and an arc length of 502.60 feet (said arc having a chord length of 465.82 feet at  $N 28^{\circ} 32' 35''$  W to a point of tangency as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running  $N 66^{\circ} 56' 19''$  W along the northerly line of said lands of Town of Virgil (around Lake Hope), reputed owner, a distance of 205.00 feet to a point of curvature as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" thence running westerly and southwesterly along the northerly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the left, having a radius of 750.00 feet, a central angle of  $32^{\circ} 30' 49''$  and an arc length of 425.60 feet (said arc having a chord length of 419.91 feet at  $N 83^{\circ} 11' 44''$  W to a point of compound curvature as marked by a No. 5 marked with plastic stamped "RJ Stockwin/PLS 049012"; thence running westerly and southwesterly along the northwesterly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the left, having a radius of 425.00 feet, a central angle of  $36^{\circ} 46' 54''$  and an arc length of 272.83 feet (said arc having a chord length of 268.17 feet at  $S 62^{\circ} 09' 25''$  W to a point of tangency as marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running  $S 43^{\circ} 45' 58''$  W along the northwesterly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, a distance of 229.86 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running  $S 36^{\circ} 58' 14''$  E along the northwesterly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, a distance of 227.80 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running southerly and southwesterly along the westerly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the right, having a radius of 6,100.00 feet, a central angle of  $06^{\circ} 40' 34''$  and an arc length of 710.78 feet (said arc having a chord length of 710.38 feet at  $S 40^{\circ} 50' 17''$  W to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set at a point of a compound curvature in said line; thence running southwesterly along the westerly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, along the arc of a circle to the right having a radius of 1,750.00 feet, a central angle of  $16^{\circ} 53' 26''$  and an arc length of 515.89 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012", said arc having a chord length of 514.02 feet at  $S 52^{\circ} 37' 17''$  W; thence running  $S 27^{\circ} 52' 43''$  E along the southerly line of said lands of the Town of Virgil (around Lake Hope), reputed owner a distance of 150.00 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012"; thence running  $S 63^{\circ} 19' 09''$  E along the southerly line of said lands of the Town of Virgil (around Lake Hope), reputed owner, a distance of 910.76 feet to a point in the northerly line of lands of Hope Lake Investors, LLC, reputed owner per deed filed as Document #2003-1479; thence running  $S 70^{\circ} 34' 53''$  W along a northerly line of said lands of Hope Lake Investors, LLC, reputed owner, a distance of 320.26 feet to a point; thence running  $S 00^{\circ} 00' 00''$  W along the westerly line of said lands of Hope Lake Investors, LLC, reputed owner, a distance of 208.01 feet to a point;

Schedule "A" cont.

thence running N 90° 00' 00" W along a northerly line of said lands of Hope Lake Investors, LLC, reputed owner, a distance of 615.17 feet to a point; thence running S 12° 52' 54" W along a westerly line of said lands of Hope Lake Investors, LLS, reputed owner a distance of 630.00 feet to a point in the northerly line of New York State Route 392; thence running N 77° 29' 31" W along said northerly line of New York State Route 392 a distance of 441.12 feet to a point in the southeasterly corner of lands of ARK Enterprises, Inc., reputed owner per deed filed as Instrument No. 2008-7436, said point being marked by an iron pipe found 5.69 feet south of said point; thence running N 10° 56' 06" E along an easterly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 119.02 feet to a point; thence running S 77° 53' 52" E along a southerly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 274.86 feet to a point marked by an existing iron pipe; thence running N 10° 56' 06" E along an easterly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 256.39 feet to a point; thence running N 77° 29' 26" W along a fence and tree row marking the northerly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 1025.13 feet to a point; thence running S 12° 30' 34" W along the westerly line of said lands of ARK Enterprises, Inc., reputed owner, a distance of 377.32 feet to a point in said northerly line of New York State Route 392; thence running N 79° 10' 54" W along said northerly line of New York State Route 392, a distance of 1074.86 feet to a point marked by an existing concrete monument found at the easterly end of a portion of the northerly line of New York State Route 392 as shown on Appropriations Map 34 as Parcel 46 of the appropriations for the improvements of State Highway #1558 (Virgil-Messengerville, Pt. 1); thence running N 56° 10' 56" W along a northerly line of said appropriation, a distance of 54.95 feet to a point marked by an existing concrete monument found at an angle point in said line; thence running N 78° 11' 57" W along a northerly line of said appropriation a distance of 498.51 feet to a point marked by an existing concrete monument found at an angle point in said line; thence running S 66° 50' 19" W along a northerly line of said appropriation, a distance of 48.68 feet to a point marked by an existing concrete monument found in the southeasterly corner of lands of lands of Carr, reputed owner per deed filed as Instrument No. 1026371-001; thence running N 10° 19' 29" E along the easterly line of said lands of Carr, reputed owner, a distance of 165.42 feet to a point marked an iron rod; thence running N 78° 28' 04" W along the northerly line of said lands of Carr, reputed owner and along the northerly line of lands of Place, reputed owner per deed filed at Liber 351 at Page 446, a distance of 185.88 feet to the place of beginning.

**Parcel B-2; REDI**

Deed 2013-01983

Tax ID # 127-09-03.100

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland, State of New York, being part of Military Lot 36 in said town, bounded and described as follows: BEGINNING at a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southerly line of New York State Route 392, said point being located S 11° 31' 10" W a distance of 33.00 feet from a point in the centerline of said New York State Route 392, said point in the centerline of New York State Route 392 being located easterly as measured along said centerline a distance of 1131.35 feet from the intersection of said centerline of New York State Route 392 and the centerline of South Hill Road; thence running S 11° 31' 10" W along the easterly line of Stramba & Kryger, reputed owner per deed filed as Document No. 2001-5737 and along the easterly line of other lands of said Stramba & Kryger, reputed owner per deed filed as Document No. 2001-5712, and passing through an iron pipe found 166.94 feet, a total distance of 798.49 feet to a point marked by an iron pipe found in the northeasterly corner of lands of Dale, reputed owner per deed filed as Document No. 2008-4036; thence running S 12° 16' 14" W along the easterly line of said lands of Dale, reputed owner, and along the easterly line of lands of Markoff, reputed owner per deed filed as Document No. 2000-2617, a distance of 273.08 feet to a point marked by an iron rod; thence running S 64° 49' 43" E along a northerly line of lands of Davenport, reputed owner per deed filed at Liber 564 at Page 066, a distance of 465.27 feet to a point marked by a found iron rod found at an angle point in said line; thence running S 58° 01' 52" E along a northerly line of said lands of Davenport, reputed owner, (including lands now or formerly of Davenport to be conveyed to Peak Resorts, Inc.) a distance of 599.20 feet to a point marked by an iron rod found in the northwesterly line of lands of Peak Resorts, Inc., reputed owner per deed filed at Liber 540 at Page 109; thence running N 58° 47' 17" E along said northwesterly line of lands of Peak Resorts, Inc., reputed owner, a distance of 847.60 feet to a point marked by an iron rod with survey cap found at an angle point in said line; thence running N 14° 14' 00" E along the westerly line of said lands of Peak Resorts, Inc., reputed owner, a distance of 448.24 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southeasterly corner of lands designated as the Stavlos Condominiums"; thence running N 75° 17' 00" W along a southerly line of said lands of Stavlos Condominiums, a distance of 141.00 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in a southwesterly corner of said Stavlos Condominium; thence running N 14° 43' 00" E along a westerly line of said lands of Stavlos Condominium, a distance of 120.00 feet to a

Schedule "A" cont.

point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southerly line of lands of Peak Resorts, Inc., reputed owner per deed filed at Liber 540 at Page 86 and to be used as the Accommodations Office for Creek Peak; thence running N 75° 17' 00" W along said southerly line of Peak Resorts, Inc.; reputed owner, a distance of 213.00 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southwesterly corner of said lands; thence running N 12° 22' 27" E along a westerly line of said lands of Peak Resorts, Inc., reputed owner, a distance of 208.07 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set in the southerly line of New York State Route 392; thence running westerly along said southerly line of New York State Route 392 as described by the following four (4) courses:

- 1) N 77° 11' 47" W a distance of 199.25 feet to a point;
- 2) N 77° 43' 01" W a distance of 274.52 feet to a point;
- 3) N 77° 29' 53" W a distance of 759.88 feet to a point; and
- 4) N 79° 10' 54" W a distance of 76.69 feet to the place of beginning.

**Parcel B-3; REDI**

Deed 2013-01984

Tax ID # 127-09-03.100

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland, State of New York, being part of Military Lot 26 in said town, bounded and described as follows: BEGINNING at a point in the centerline of Clute Road at its intersection with the northerly line of Military Lot No. 27; thence running S 56° 13' 31" W along said centerline of Clute Road a distance of 827.40 feet to a point in the southeasterly corner of lands of Kryger, reputed owner per deed filed as Document No. 1999-2967; thence running N 52° 10' 39" W along the northeasterly line of said lands of Kryger, reputed owner, and passing through a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set at 26.40 feet, a total distance of 1320.93 feet to a point marked by a No. 5 rebar with plastic cap stamped "RJ Stockwin/PLS 049012" set at the intersection of said northerly line of Military Lot No. 27 and the easterly line of a strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner; thence running S 78° 34' 08" E along said northerly line of Military Lot No. 27 and passing through an iron rod found at 1695.15 feet, a total distance of 1766.22 feet to the place of beginning.

**Parcel B-4; REDI**

Deed 2013-01984

Tax ID # 127-09-16.000

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland, State of New York, being part of Military Lot 26 in said town, bounded and described as follows: BEGINNING at a point in the centerline of Clute Road at the intersection of said line and the easterly line of a strip of lands in use for an electricity transmission line by Niagara Mohawk Power Corporation, reputed owner; thence running N 14° 15' 04" E along said easterly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 381.38 feet to a point in the southwesterly corner of a parcel of land of Resort Real Estate Partners, reputed owner by deed filed in the Cortland County Clerk's Office as Instrument No. 1054482-006, designated and reserved for a management facility; thence running S 75° 44' 56" E along the southerly line of said management lot a distance of 361.47 feet to a point in said centerline of Clute Road;

Schedule "A" cont.

thence running N 57° 42' 58" E along said centerline of Clute Road a distance of 120.00 feet to a point in a southerly line of lands of the People of the State of New York, reputed owner, as marked by a painted and blazed tree row; thence running S 78° 53' 02" E along the southerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 366.30 feet to a point marked by an iron pipe; thence running S 54° 54' 58" W along a westerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 1160.67 feet to a point; thence running N 59° 35' 26" W along a northerly line of lands of The People of the State of New York, reputed owner, as marked by a painted and blazed tree row, a distance of 55.64 feet to a point in the easterly line of lands of Niagara Mohawk Power Corporation, reputed owner; thence running N 14° 15' 04" E along said easterly line of lands of Niagara Mohawk Power Corporation, reputed owner, a distance of 376.41 feet to the place of beginning.

**Parcel B-5: (REDI, LLC)**

Deed: 2013-01984

Tax Parcel #: 127.00-09-13.100  
127.00-09-21.000  
127.00-09-11.000  
127.14-01-02.000

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and described as follows: BEGINNING at a point at the intersection of the north line of New York State Route 392 and the South line of Hope Lake Investors (1065184-001); thence running S 82° 09' 35" E along the south line of Hope Lake Investors a distance of 56.82 feet to a point in the southeast corner of Hope Lake Investors; thence running N 12° 03' 08" E a distance of 221.14 feet to a point in a corner of Hope Lake Investors; thence running S 79° 16' 21" E a distance of 229.15 feet to a point in a corner in Hope Lake Investors; thence running N 10° 43' 39" E a distance of 88.66 feet to a point in a corner of Hope Lake Investors; thence running S 53° 08' 57" E a distance of 277.07 feet to a point in a corner of Hope Lake Investors; thence running N 29° 57' 36" E a distance of 148.02 feet to a point in the west line of Clute Road; thence running south and southeasterly along Clute Road having a

Schedule "A" cont.

radius of 342.00 feet, a central angle of  $96^{\circ} 18' 27''$  and an arc length of 574.86 feet to a point, said arc having a chord length of 509.54 feet at S  $28^{\circ} 23' 29''$  E; thence running south and west along Clute Road having a radius of 112.00 feet, a central angle of  $204^{\circ} 03' 11''$  and an arc length of 398.88 feet to a point, said arc having a chord length of 219.09 feet at S  $25^{\circ} 28' 52''$  W; thence running N  $52^{\circ} 29' 32''$  W a distance of 131.88 feet along Clute Road to a point; thence running westerly and southerly along Clute Road having a radius of 130.00 feet, a central angle of  $81^{\circ} 48' 59''$  and an arc length of 185.64 feet to a point, said arc having a chord length of 170.26 feet at S  $86^{\circ} 35' 58''$  W; thence running south and west along Clute Road having a radius of 25.00 feet a central angle of  $88^{\circ} 18' 34''$  and an arc length of 38.53 feet to a point, said arc having a chord length of 34.83 feet at S  $89^{\circ} 50' 45''$  W to a point in the north line of New York State Route 392; running thence N  $45^{\circ} 59' 58''$  W along the north line of New York State Route 392 a distance of 240.19 feet a point; running thence north and west along New York State Route 392 having a radius of 900.97 feet, a central angle of  $23^{\circ} 10' 37''$  and an arc length of 364.45 feet to a point, said arc having a chord length of 361.97 feet at N  $57^{\circ} 35' 15''$  W to the point and place of beginning.

**EXCEPTING AND RESERVING ALL THAT TRACT OR PARCEL OF LAND**  
situated in the Town of Virgil, Cortland County, New York, being a part of Military Lot 36 in said town, bounded and described as follows: BEGINNING at a point marked by a #5 rebar with survey cap set in the northerly line of New York State Route 392, said point being located northwesterly as measured along said line a distance of 24.72 feet from the intersection of said northerly line of New York State Route 392 and the westerly line of Clute Road (as relocated), see map filed as Instrument # 1065617-001; thence running N 45 degrees, 59 minutes, 58 seconds W along said northerly line of New York State Route 392 a distance of 215.47 feet to a point of curvature; thence running northwesterly along said northerly line of New York State Route 392, along the arc of a circle to the left, having a radius of 900.97 feet, a certain angle of 12 degrees, 55 minutes, 56 seconds and an arc length of 203.36 feet to a point marked by #5 rear with survey cap set in the former location of the right-of-way of Clute Road, said arc having a chord length of 202.92 feet at N 52 degrees, 27 minutes, 56 seconds W; thence running S 82 degrees, 09 minutes, 35 seconds E along the southerly line of lands of REDI, LLC, reputed owner per deed filed as Instrument #1067471-006 and along the former location of the right-of-way of Clute Road a distance of 203.10 feet to a point of curvature; thence running easterly along said former location of the right-of-way for Clute Road, along the arc of a circle to the left, having a radius of 237.75 feet, a central angle of 12 degrees, 46 minutes, 41 seconds and an arc length of 53.02 feet to a point marked by a #5 rear with survey cap set in the westerly line of lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, said arc having a chord length of 52.91 feet at S 88 degrees, 32 minutes, 55

## Schedule "A" cont.

seconds E; thence running S 14 degrees, 12 minutes, 03 seconds E along the westerly line of the lands of REDI, LLC, reputed owner per deed filed as Document #1996-2716, a distance of 251.96 feet to the place of beginning.

NOTE: The above exception is Parcel A-3 in Schedule A owned by Peak Resorts, Inc.

**Parcel B-6: (REDI, LLC)**

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and described as follows:  
BEGINNING at a point in the southwest corner of Rhodian Heights Condominium Owners Association, Inc. (1031793-003); thence running N 45° 59' 58" W a distance of 242.91 feet along the north line of New York State Route 392; thence running northerly along Clute Road having a radius of 25.00 feet, a central angle of 95° 49' 57" and an arc length of 41.81 feet to a point, said arc having a chord length of 37.11 feet at N 01° 55' 01" E; thence running northerly and northeasterly along Clute Road having a radius of 70.00 feet, a central angle of 77° 40' 28" and an arc length of 94.90 feet to a point, said arc having a chord length of 87.80 feet at N 88° 40' 13" E; thence running S 52° 29' 32" E a distance of 131.88 feet; thence running easterly along Clute Road having a radius of 172.00 feet, a central angle of 16° 38' 01" and an arc length of 49.93 feet to a point, said arc having a chord length of 49.76 feet at S 60° 48' 33" E; running thence S 31° 06' 32" W a distance of 120.65 feet to the point and place of beginning.

Schedule "A" cont.

**Parcel B-7: (REDI, LLC)**

Deeds: 2013-01984

Tax ID#: 127.00-09-11.000

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and described as follows:  
BEGINNING at a point in the northwest corner of Athenian Heights Homeowners Association (363/808); thence running N 75° 21' 42" W 68.67 feet to the east line of Clute Road; thence running northerly along Clute Road having a radius of 172.00 feet, a central angle of 50° 19' 16" and an arc length of 151.06 feet to a point, said arc having a chord length of 146.25 feet at N 03° 44' 58" E; thence running northerly and northeasterly along Kypriots Drive having a radius of 27.30 feet, a central angle of 73° 17' 25" and an arc length of 34.93 feet to a point, said arc having a chord length of 32.59 feet at N 15° 14' 02" E; thence running northerly and northeasterly along Kypriots Drive having a radius of 70.00 feet, a central angle of 50° 00' 21" and an arc length of 61.09 feet to a point, said arc having a chord length of 59.17 feet at N 76° 52' 55" E; thence running S 78° 06' 55" E a distance of 35.34 feet; thence running S 12° 19' 36" W a distance of 205.63 feet to the point and place of beginning.

**Parcel B-8: (REDI, LLC)**

Deeds: 2013-01984  
1067471-002

Tax ID#: 127.14-01-02.000  
127.14-01-03.000

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Virgil, County of Cortland, and State of New York, being bounded and described as follows:  
BEGINNING at a point in the northeast corner of Lot #38 as shown on a map of Arcadia Subdivision, Section IV, made by Rowell and Associates, in drawer 10 as map #2087; running thence N 78° 58' 49" W a distance of 162.91 feet to a point in the east line of Clute Road Relocated; thence running southerly and southeasterly along Clute Road, having a radius of 282.00 feet, a central angle of 67° 22' 02" and an arc length of 331.57 feet to a point, said arc having a chord length of 312.80 feet at S 19° 28' 01" E; thence running N 11° 54' 58" E 269.49 feet to the point and place of beginning.

## **SCHEDULE A (continued)**

### **Parcel B-9: (REDI, LLC)**

Deeds: 2013-01984

Tax ID#: 127.11-01-16.200

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Virgil, County of Cortland and State of New York, being known and described as a 70 foot wide strip of land shown as "Proposed Extension of Amalia Drive" on a map prepared by R. James Stockwin, PLS, entitled "Lands of Peak Resorts, Inc." dated November 12, 2004 and filed in the Cortland County Clerk's Office on April 11, 2005.

### **Parcel B-10: (REDI, LLC)**

Deeds: 2013-01984

Tax ID#: 127.11-01-07.000-4

127.11-01-07.000-5

ALL THAT TRACT OR PARCEL OF LAND situated in the Town of Virgil, County of Cortland and State of New York and being known and described as Residence Lot No. 1-3 and 1-4 as shown on a map entitled "Panorama Homes – Units 1-4", prepared by R. James Stockwin; PLS No. 49012, dated November 3, 2000 and filed in the Cortland County Clerk's Office on November 14, 2000 as Map No. 4159.

EXCEPTING from the above premises in Parcel B(s) above the following: Oil and Gas rights as given in a Warranty Deed executed by REDI, LLC to GP Energy Associates, LLC, dated June 7, 2012 and recorded June 12, 2012 in the Cortland County Clerk's Office as Instrument No. 2012-03280.

**Parcel C-1: (ARK Enterprises, Inc.)**

Deeds: 2013-01981

Tax ID#: 127.09-04.000

ALL THAT TRACT OR PARCEL OF LAND located in the Town of Virgil, County of Cortland and State of New York, being more particularly bounded and described as follows:

BEGINNING at a point in the northerly line of New York State Route 392, said point being located easterly as measured along said line a distance of 1854.6 feet from the intersection of said northerly line of New York State Route 392 and the easterly line of Page Green Road; thence S 77° 29' 53" E along said northerly line of New York State Route 392, a distance of 760.59 feet to a point marked by an iron pipe found 5.69 feet south of said corner; thence N 10° 56' 06" E along the westerly line of lands of REDI, LLC, (R.O.) (Instr. No. 1999-1636), a distance of 119.02 feet to a point; thence S 77° 53' 52" E along the northerly line of said lands of REDI, LLC, (R.O.) a distance of 274.86 feet to a point marked by a found iron pipe in the westerly line of lands of REDI, LLC, (R.O.) (Instr. No. 2011-432); thence running N 10° 56' 06" E along said westerly line of REDI, LLC (R.O.), a distance of 256.39 feet to a point; thence N 77° 29' 26" W along a southerly line of lands of REDI, LLC (R.O.) (Instr. No. 1996-2716), as marked by an existing fence and tree row, a distance of 1025.13 feet to a point; thence S 12° 30' 34" W along an easterly line of said lands of REDI, LLC (R.O.) a distance of 377.32 feet to the place of beginning.

EXCEPTING AND RESERVING from the above premises the following:

Appropriation to New York State Department of Transportation vs. Wesley & Irene Hollenbeck and ARK Enterprises, Inc., Map filed Dec. 26, 2008 in File No. 09-557, appropriates 2652 +/- sq. ft of land, as shown on Map No.46, Parcel 61, Virgil-Messengerville, Part I Project. (N.Y.S. Route 392) recorded in the Cortland County Clerk's Office on Sept. 28, 2009 as Instrument No. 2009-05018.