

CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY

APPLICATION FOR FINANCIAL ASSISTANCE

IMPORTANT NOTICE: The answers to the questions contained in this application are necessary to determine the applicant's eligibility for financial assistance from the Cortland County Industrial Development Agency. The answers will also be used in the preparation of papers in this transaction. Accordingly, an officer or other employee of the applicant who is thoroughly familiar with the business and affairs of the applicant and who is also thoroughly familiar with the proposed project should answer all questions accurately and completely. This application is subject to acceptance by the Agency.

TO: CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY
37 CHURCH STREET
CORTLAND, NEW YORK 13045

APPLICANT: SEPP, INC.

APPLICANT'S STREET ADDRESS: 53 FRONT STREET

CITY: BINGHAMTON **STATE:** NY **PHONE NO.:** 13905

E-MAIL ADDRESS: jbernardo@seppmanagement.com

NAME OF PERSON(S) AUTHORIZED TO SPEAK FOR APPLICANT WITH RESPECT TO THIS APPLICATION: JOHN M. BERNARDO

IF APPLICANT IS REPRESENTED BY AN ATTORNEY, COMPLETE THE FOLLOWING:

NAME OF FIRM: HINMAN, HOWARD + KATZELL, LLP

NAME OF ATTORNEY: JOHN JONES

ATTORNEY'S STREET ADDRESS: 80 EXCHANGE STREET

CITY: BINGHAMTON **STATE:** NY **PHONE NO.:** 607-731-6738

E-MAIL ADDRESS: jjones@hkk.com

NOTE: PLEASE READ THE INSTRUCTIONS ON PAGE 2 BEFORE FILLING OUT THIS APPLICATION

INSTRUCTIONS

1. The Agency will not approve any applications unless, in the judgment of the Agency, said application contains sufficient information upon which to base a decision whether to approve or tentatively approve an action.
2. Fill in all blanks, using "none" or "not applicable" or "N/A" where the question is not appropriate to the project which is the subject of this application (the "Project").
3. If an estimate is given as the answer to a question, put "(est)" after the figure or answer, which is estimated.
4. If more space is needed to answer any specific question, attach a separate sheet.
5. When completed, return two (2) copies of this application to the Agency at the address indicated on the first page of this application.
6. The Agency will not give final approval to this application until the Agency receives a completed environmental assessment form concerning the Project, which is the subject of this application.
7. Please note that Article 6 of the Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the applicant feels that there are elements of the Project which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the applicant's competitive position, the applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of Public Officers Law.
8. The applicant will be required to pay to the Agency all actual costs incurred in connection with this application and the Project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Agency's bonds issued to finance the project). The applicant will also be expected to pay all costs incurred by general counsel and bond counsel to the Agency. The costs incurred by the Agency, including the Agency's general counsel and bond counsel, may be considered as a part of the project and included as a part of the resultant bond issue.
9. The Agency has established an application fee of Five Hundred Dollars (\$500) to cover the anticipated costs of the Agency in processing this application. A check or money order made payable to the Agency must accompany each application. THIS APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS ACCOMPANIED BY THE APPLICATION FEE.
10. The Agency has established a project fee of 1 percent of the proposed capital investment for each project in which the Agency participates. UNLESS THE AGENCY AGREES IN WRITING TO THE CONTRARY, THIS PROJECT FEE IS REQUIRED TO BE PAID BY THE APPLICANT AT OR PRIOR TO THE GRANTING OF ANY FINANCIAL ASSISTANCE BY THE AGENCY.

FOR AGENCY USE ONLY

1.	Project Name or Number	_____
2.	Date Application Received by Agency	_____, 20__
3.	Date Application Referred to Attorney for Review	_____, 20__
4.	Date Copy of Application Mailed to Members	_____, 20__
5.	Date Notice of Agency Meeting on Application Posted	_____, 20__
6.	Date Notice of Agency Meeting on Application Mailed	_____, 20__
7.	Date of Agency Meeting on Application	_____, 20__
8.	Date Agency Conditionally Approved Application	_____, 20__
9.	Date Scheduled for Public Hearing	_____, 20__
10.	Date Environmental Assessment Form ("EAF") Received	_____, 20__
11.	Date Agency Completed Environmental Review	_____, 20__
12.	Date of Final Approval of Application	_____, 20__

I. APPLICANT INFORMATION-COMPANY TO RECEIVE BENEFITS (the "COMPANY")

A. Identity of Company:

1. Company Name: CREAMERY HILLS, L.P.
 Present Address: 53 FRONT STREET BINGHAMTON, NY
 Zip Code: 13905 Employer ID No.: 16-150548

2. Indicate type of business organization of Company:

- a. ☐ Corporation. Incorporated in what country? _____;
 State: _____; Date Incorporated: _____;
 Authorized to do business in New York State? Yes _____ No _____
 N/A i. Is the Corporation Publicly Held? Yes _____ No _____. If yes, please list
 exchanges where stock is traded: _____
 ii. If no, list all Stockholders having a 5% or more interest in the
 Company:

Name	Address	Percentage of Holding

- b. ☒ Partnership. General or Limited partnership? LIMITED
 Name all partners below:

Name	Address	General Partner	Limited Partner
CREAMERY HILLS, INC.	53 FRONT ST. BINGHAMTON, NY 13905	X	
SGM, INC.	53 FRONT ST. BINGHAMTON, NY 13905		X

N/A

- c. ☐ Limited Liability Company. Formed in what country _____;
 State: _____; Date of Formation: _____;
 Authorized to do business in New York State? Yes _____ No _____;
 Name all members below:

Name	Address	Membership Percentage

- d. ☐ Sole proprietorship. Name of Sole Proprietor: _____

N/A

3. Is the Company a subsidiary or direct or indirect affiliate of any other organization(s)? If so, indicate name of related organization(s) and relationship: _____

B. Management of Company:

List all officers/directors/managers (complete all columns for each person):

Name and Home Address	Office Held
D'EN BASSO 3011 COUNTRY CLUB ROAD ENDWELL NY 13760	CHAIRPERSON
DAN SENFELD 19 CORNELL AVE ENDICOTT, NY 13760	VICE CHAIRPERSON
TOM O'CONNOR 819 PLACER DR. JOHNSON CITY NY 13790	SECRETARY
TOM AUGUSTINI 70 MARTIN AVE JOHNSON CITY, NY 13790	TREASURER
JOHN BERNARD 69 GOVERNORS LANE ENDICOTT, NY 13760	EXEC. DIRECTOR
(SEE ATTACHED COMPANY BOARD LISTING)	(EXHIBIT H)

C. Company/Management History:

- Is the Company or management of the Company now a plaintiff or a defendant in any civil or criminal litigation? Yes _____ No X.
- Has any person listed above ever been convicted of a criminal offense (other than a minor traffic violation)? Yes _____ No X.
- Has any person listed above or any concern with whom such person has been connected ever been in receivership or been adjudicated a bankrupt? Yes _____ No X.

If the answer to any of questions 1 through 3 is yes, please furnish details in a separate attachment.

II. PROPOSED PROJECT DATA

A. Description of the Project:

1. Please provide a narrative of the Project and the purpose of the Project (acquisition, construction, renovations and/or equipment purchases). Identify specific uses occurring with the Project. Describe any and all tenants and any/all end users (attach additional pages):

SEE ATTACHED (EXHIBIT A)

2. Describe the reasons why the Agency's Financial Assistance is necessary and the effect the Project will have on the Company's business or operations and any corresponding benefit to the Cortland County community (attach additional pages):

SEE ATTACHED (EXHIBIT B)

3. Is there a likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency:

☒ Yes

☐ No

4. If the Project could be undertaken without the Financial Assistance provided by the Agency, then provide a statement indicating why the Project should be undertaken by the Agency (attach additional pages):

N/A

B. Location of Project:

1. Street Address: 355 CREAMERY ROAD
2. City: _____
3. Town: HARFORD
4. Village: _____
5. Is any portion of the Project located outside of Cortland County? If so, identify the other county: No
6. School District: DRYDEN CENTRAL S. A.
7. Tax Parcel Nos.: 162.00-07-06.000-2

C. **Description of the Project site:**

1. Approximate size (in acres or square feet) of the Project site: 6.98 acres
Attach a map, survey or sketch of the Project site. (SEE ATTACHED) (EXHIBIT C)
2. Are there existing buildings on the Project Site?
Yes X No _____. If yes,
 - a. Indicate each existing building and indicate the approximate size (in square feet) of each building:
ONE TWO-STORY BUILDING - 304,049 sq. ft.
 - b. Are the existing buildings in operation? Yes X No _____.
If yes, describe the present use of each building in operation:
TWENTY-FOUR UNIT APARTMENT BUILDING WITH COMMUNITY ROOM, LAUNDRY ROOM(S), OFFICE, MAINTENANCE, WORK-OUT FACILITIES
 - c. Are the existing buildings abandoned? Yes _____ No X;
About to be abandoned? Yes _____ No X. If yes, describe:

 - d. Attach photographs of existing buildings. (SEE ATTACHED) (EXHIBIT D)
3. Utilities Serving the Project Site:
Water: Municipal _____, Other X. If other, describe WELL
Sewer: Municipal _____, Other X. If other, describe SEPTIC
Electric Utility Co.: NYSEG
Natural Gas Utility Co.: _____
Other Utility Sources: _____
4. Present Legal Owner of the Project Site:
 - a. If the Company owns the Project site, indicate:
Date of Purchase: _____
Purchase Price: _____

N/A

- b. If the Company does not own the Project site, does the Company have the contractual right to purchase the Project site?

Yes _____ No X. If yes, indicate:

Date Contract Signed: _____

Date Ability to Purchase Expires: _____

- c. If the Company does not own the Project site, is there a relationship legally or by common control between the Company and present owner of the Project site?

Yes X No _____. If yes, describe:

- STATE UNIVERSITY OF NY (CORNELL) - OWNER / LANDLORD
- COALITION OF CENTRAL COLLEGES OF CATTARAUGUS COUNTY - SUBLANDLORD
- CREAMERY HILLS, L.P. - TENANT (EXHIBIT I)

5. Zoning District in which the Project is located: AG

6. Are there any variances or special permits affecting the Project site now or which need to be obtained to complete the Project?

Yes _____ No X. If yes, list below and attach copies of all variances or special permits:

D. Description of the Proposed Construction:

1. Does part of the Project consist of the acquisition or construction of a new building or buildings? Yes _____ No X. If yes, indicate number of and size of new buildings:

2. Does part of the Project consist of additions and/or renovations to existing buildings located on the Project site? Yes X No _____. If yes, indicate:

a. The number of buildings to be expanded or renovated: ONE

b. The size of any expansions: N/A

c. The nature of expansion and/or renovation:

COMPLETE RENOVATION OF INTERIOR + EXTERIOR OF FACILITY.

3. Describe the principal uses to be made by the Company of the building or buildings to be acquired, constructed or expanded:

N/A

E. Description of the Equipment:

1. Does part of the Project consist of the acquisition or installation of machinery, equipment or other personal property (the "Equipment")?

Yes X No _____. If yes, describe the Equipment:

HEATING SYSTEM

2. With respect to the Equipment to be acquired, will any of the Equipment be previously used Equipment?

Yes _____ No X. If yes, please provide detail below:

3. Describe the principal uses to be made by the Company of the Equipment to be acquired or installed:

REPLACEMENT OF HEATING SYSTEM

F. Project Use:

1. What are the principal products to be produced at the Project site?

N/A

2. What are the principal activities to be conducted at the Project?

LOW-INCOME SENIOR HOUSING

3. Does the Project include facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities?

Yes _____ No X. If yes please provide detail:

4. *N/A* If the answer to question 3 is yes, what percentage of the cost of the Project will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project? _____%

5. If the answer to question 3 is yes, and the answer to question 4 is more than 33.33%, indicate whether any of the following apply to the Project:

- a. Will the Project be operated by a not-for-profit corporation?
Yes _____ No _____. If yes, please explain:

N/A

- b. *N/A* Is the Project likely to attract a significant number of visitors from outside the economic development region (as established by Section 230 of the Economic Development Law) in which the Project will be located?

Yes _____ No _____. If yes, please explain:

- c. *N/A* Would the Project occupant, but for the contemplated Financial Assistance from the Agency, locate the related jobs outside of New York State?

Yes _____ No _____. If yes, please explain:

- d. *N/A* Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or

N/A

village within which the Project will be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

Yes____ No____. If yes, please provide detail:

N/A

e.

Will the Project be located in one of the following: (i) an area which was designed as an empire zone pursuant to Article 18-B of the General Municipal Law; or (ii) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (a) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of households receiving public assistance, and (b) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates?

Yes____; No____. If yes, please explain:

6.

If the answers to any of subdivisions c. through e. of question 5 are yes, will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?

N/A

Yes ____ No____. If yes, please explain:

7.

Will the completion of the Project result in the removal of an industrial or manufacturing plant of the Company or another proposed occupant of the Project (a "Project Occupant") from one area of the State of New York to another area of the State of New York?

Yes____ No X. If yes, please explain:

8. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Company or a Project Occupant located in the State of York?

Yes_____ No X. If yes, provide detail:

9. If the answer to either question 7 or question 8 is yes, indicate whether any of the following apply to the Project:

- a. Is the Project reasonably necessary to preserve the competitive position of the Company or such Project Occupant in its industry?

N/A

Yes_____ No_____. If yes, please provide detail:

- b. Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York?

N/A

Yes_____ No_____. If yes, please provide detail:

G. Project Status:

1. If the Project includes the acquisition of any land or buildings, have any steps been taken toward acquiring same?

N/A

Yes_____ No_____. If yes, please discuss in detail the approximate stage of such acquisition:

2. If the Project includes the acquisition of any Equipment, have any steps been taken toward acquiring same?

Yes_____ No X. If yes, please discuss in detail the approximate stage of such acquisition:

3. If the Project involves the construction or reconstruction of any building or other improvement, has construction work on any such building or improvement begun? Yes _____ No X. If yes, please discuss in detail the approximate extent of construction and the extent of completion. Indicate in your answer whether such specific steps have been completed as site clearance and preparation; completion of foundations; installation of footings; etc.:

4. Please indicate the amount of funds expended on the Project by the Applicant in the past three (3) years and the purpose of such expenditures:

\$68,500 - CAPITAL ITEMS
- OPERATING DEFICITS

III. INFORMATION CONCERNING LEASES OR SUBLEASES OF THE PROJECT
(PLEASE COMPLETE THE FOLLOWING SECTION IF THE APPLICANT INTENDS TO LEASE OR SUBLEASE ANY PORTION OF THE PROJECT)

- A. Does the Company intend to lease or sublease more than 10% (by area or fair market value) of the Project? Yes X No _____. If yes, please complete the following for each existing or proposed tenant or subtenant:

(SEE ATTACHED) (EXHIBIT E)

Sublessee Name: _____

Present Address: _____

City: _____ State: _____ Zip: _____

Employer's ID No.: _____

Sublessee is: _____ Corporation; _____ Partnership; _____; Limited Liability

Company; _____ Sole Proprietor

Relationship to Company: _____

Percentage of Project to be leased or subleased: _____

Use of Project intended by Sublessee: _____

Date of lease or sublease to Sublessee: _____

Term of lease or sublease to Sublessee: _____

Will any portion of the space leased by this sublessee be primarily used in making retail sales of goods or services to customers who personally visit the Project?

Yes _____ No _____.

If yes, please provide on a separate attachment

a. details; and

b. the answers to questions II (F) (4) through (6) with respect to such sublessee.

B. What percentage of the space intended to be leased or subleased is now subject to a binding written lease or sublease? 100 %

IV. EMPLOYMENT IMPACT

A. Indicate below the number of people presently employed at the Project Site and the number that will be employed at the Project site at the end of the first and second years after the Project has been completed (Do not include construction workers). Also indicate below the number of workers employed at the Project site representing newly created positions as opposed to positions relocated from other project sites of the Applicant.

	Current # of Jobs at proposed Project location or to be relocated to Project location	If Financial Assistance is granted, estimate the number of FTE and PTE jobs to be Retained	If Financial Assistance is granted, estimate the number of FTE and PTE jobs to be Created by Two years after Project completion	Estimate number of residents of the Labor Market Area in which the Project is located that will fill the retained and created FTE and PTE jobs Two years after Project completion**
Present Full Time				
Present Part Time	2	2	2	2
First Year Full Time				
First Year Part Time				
Second Year Full Time				
Second Year Part Time				
Total:	2	2	2	2

**For purposes of the question, please estimate in the fourth column the number of FTE and PTE jobs, as indicated in the second and third columns, that will be filled by residents of the Labor Market Area. The Labor Market Area includes Cortland County as well as the counties of Cayuga, Onondaga, Tompkins, Broome and Chenango.

Category of Jobs to be Retained and Created	Estimated Average Salary or Range of Salary	Estimated Average Fringe Benefits or Range of Fringe Benefits
Management	30,000 (1)	8,000 (2)
Professional		
Administrative		
Production (Maintenance)	27,000 (1)	8,000 (2)
Independent Contractors		
Other		

(1) ANNUAL SALARY OF SHARED EMPLOYEE

(2) ANNUAL BENEFITS OF SHARED EMPLOYEE

- B. Please state the anticipated date of completion of the Project site and the anticipated date of occupancy of the Project site:

Project Site Completion Date:

7/1/2020

Project Site Occupancy Date:

7/1/2020 (RECENTLY OCCUPIED)

V. PROJECT COST

- A. State the costs reasonably necessary for the acquisition of the Project site, the construction of the proposed buildings and the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads or appurtenant facilities, using the following categories:

Description of Cost:

Amount:

(SEE ATTACHED)
(EXHIBIT F)

Land Acquisition

\$ _____

Building Construction

\$ _____

Building Renovation

\$ _____

Machinery and equipment costs

\$ _____

Utilities, roads and appurtenant costs

\$ _____

Architects and engineering fees

\$ _____

Costs of Bond issue (legal, financial and printing)

\$ _____

Construction loan fees and interest (if applicable)

\$ _____

Other (specify)

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

TOTAL PROJECT COSTS:

\$ 1,690,906

- B. Have any of the above expenditures already been made by the Applicant?
Yes _____ No X. If yes, indicate particulars:

VI. FINANCIAL ASSISTANCE EXPECTED FROM THE AGENCY

A. Tax Benefits:

1. Is the Applicant requesting a real property tax exemption in connection with the Project from the Agency? Yes X No _____.

2. Is the Applicant expecting to be appointed agent of the Agency for purposes of receiving an exemption from N.Y.S. Sales Tax or Compensating Use Tax? Yes X No _____.

3. Is the Applicant requesting a mortgage recording tax exemption in connection with the Project from the Agency? Yes X No _____.

4. What is the estimated value of each type of tax exemption being sought in connection with the Project? Please detail the type of tax exemption and value of each exemption:

a. N.Y.S. Sales and Compensating Use Taxes: \$ 75,300

b. Mortgage Recording Taxes: \$ 16,882

c. Real Property Taxes: \$ 135,000

(Please consult with the Agency in calculating the estimated value of the real property tax exemption)

(See Attached) (Exhibit G)

d. Other (please specify):

\$ _____

\$ _____

\$ _____

5. Are any of the tax-exemptions being sought in connection with the Project inconsistent with the Agency's Uniform Tax-exemption Policy? Yes X No _____. If yes, please explain how the request of the Applicant differs from the Agency's Uniform Tax-Exemption Policy:

• Agency's UTEP (Standard) is for a period of 11 years
AND THIS REQUEST IS FOR 15 YEARS.

B. Financing:

1. Is the Applicant requesting that the Agency issue bonds to assist in financing the Project? Yes _____ No X. If yes, indicate:

a. Principal Amount of Bonds Requested \$ _____

b. Maturity Requested _____ Years

c. Is the Interest on such bonds intended to be exempt from federal income taxation? Yes _____ No _____.

N/A

2. What is the approximate amount of private sector financing to be obtained? \$ 405,500. Is the Applicant expecting that the private sector financing of the Project will be secured by one or more mortgages? Yes X No ____.
If yes, what is the approximate amount of private sector financing to be secured? \$ 405,500.
3. Is the Applicant expecting that any of the financing of the Project will come from public sector sources? Yes X No ____.
What is the approximate amount of public sector financing to be obtained? \$ 1,285,406.
If yes, is the Company expecting that the public sector financing of the Project will be secured by one or more mortgages or grant agreements? Yes X No ____.
If yes, what is the approximate amount of public sector financing to be secured? \$ 1,285,406.
4. Please state the approximate amount to be invested in the Project (not borrowed or the subject of a grant) by the Applicant
\$ 58,000.
5. Please state the approximate total amount of borrowed funds to be invested in the Project \$ 1,690,906.

VII. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

- A. **Job Listings:** In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the Federal Job Training Partnership Act (Public Law 97-300) ("JTPA") in which the Project is located.
- B. **First Consideration for Employment:** In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.

C. **Local Workforce Development:** The Applicant understands and agrees that if the Project receives Financial Assistance from the Agency, except as provided by collective bargaining where practicable, the Applicant will increase the skill base of the local workforce through training, opportunities for professional development and career track advancement.

D. **Annual Sales Tax Filings:** In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.

E. **Annual Employment Reports:** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant will file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the Project site.

F. **Absence of Conflicts of Interest:** The Applicant has received from the Agency a list of the members, officers and employees of the Agency. No member, officer or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:

N/A

G. **Federal, State and Local Laws:** The Applicant/Owner/Occupant/Operator receiving the Financial Assistance understands and agrees that it must be, at all times, in compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

H. **Environmental Matters:** The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. The Agency may require the Company and/or Owner of the Premises to prepare and submit an environmental assessment and audit report including, but not limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the Owner and/or the Applicant.

All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-13, and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made with reports required herein.

- I. **Release:** The Applicant and/or Owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys', consultants' and experts' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or Owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations and audits.
- J. **Hold Harmless Provision:** The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed Project described herein; and (iii) any further action taken by the Agency with respect to the proposed Project including, without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suit or actions which may arise as a result of any of the foregoing. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency, any mortgage recording tax exemption claimed by the Applicant and approved by the Agency, and/or any real property tax abatement claimed by the Applicant and approved by the Agency in connection with the Project, may be subject to recapture and/or termination by the Agency under such

terms and conditions as will be established by the Agency and set forth in transaction documents to be entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this Application including, without limitation, information regarding the amount of the New York State and local sales and use tax exemption benefit, the amount of the mortgage recording tax exemption benefit, and the amount of the real property tax abatement, if and as applicable, to the best of the Applicant's knowledge, is true, accurate and complete.

- K. **False or Misleading Information.** The submission of any knowingly false or misleading information by the applicant may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of Agency involvement in the Project.

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VERIFICATION

(If Applicant is a Corporation, Limited Liability Company, General or Limited Partnership)

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

JOHN M. BERNARDO deposes and says, under the penalties of perjury, that he/she is the CHIEF EXECUTIVE OFFICER (must be the chief executive officer, member, manager, general partner or such other individual duly authorized to bind the applicant) of SEAP, Inc. (name of applicant); that he/she has read the foregoing application and knows the contents thereof; and that the same is true, complete and accurate to the best of his/her knowledge; that the reason this verification is made by the deponent and not by the applicant is the applicant is a CORPORATION (Corporation, Limited Liability Company, General or Limited Partnership). The grounds of deponent's belief relative to all matters in the application which are not stated upon his/her own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his/her duties as CHIEF EXECUTIVE OFFICER of the applicant and from the books and records of the applicant.

Signature: _____

Print Name: JOHN M. BERNARDO

Sworn to before me this 24
day of July, 20 19

Brandy L Jackson
Notary Public

BRANDY L JACKSON
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01JA6367975
Qualified in Broome County
Commission Expires December 4, 2021

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Description of the Project

Exhibit A

Creamery Hills Apartments

Cortland County Industrial Development Agency

Application for Financial Assistance

Proposed Project Data

Description of the Project – Item A.1.

Exhibit A

Project Narrative:

Located on Creamery Road in the Town of Harford, Creamery Hills Apartments ("CHA") is a twenty-four (24) unit apartment complex built in 1996 and serving an elderly population with low to moderate incomes. In addition, the project serves as the Harford Senior Center, which is managed by Cortland County Area Agency on Aging, where meals are served and events are held regularly throughout the year. The project is regulated by NYS Division of Housing and Community Renewal ("HCR") and was financed using Low Income Housing Tax Credits as well as bank mortgage debt. CHA is situated on land owned by the State University of New York (NYS College of Agriculture and Life Sciences at Cornell University) and is leased under a 99-year ground lease to Coalition of Center Councils of Cortland County, Inc. ("CCCCC"), a 501(c)(3) and a sublease from CCCCC to CHA. CHA is owned by Creamery Hills, L.P., the partners of which are SEPP, Inc., a not-for-profit Rural Preservation Company and Creamery Hills, Inc.

Creamery Hills Apartments is a two-story, twenty-four (24) unit, single-building complex containing ten (10) one-bedroom units, ten (10) two-bedroom units and four (4) three-bedroom units. The apartment units

and building interior have been maintained in an average manner, with routine repairs and replacements done as necessary. Major replacements have been deferred due to the project's financial limitations.

The exterior of the building and surrounding property has been maintained in an average manner, with improvements made only as necessary. The property is heated by an inefficient (original) furnace utilizing heating oil, served by an underground (original) oil tank, with both at the end of their useful lives. No meaningful capital dollars have been invested in the facility in a number of years, due to financial limitations.

Creamery Hill's occupancy is currently at 100%, with half of the tenant base relying on rental vouchers from the Cortland County Section 8 Program. However, due to (a) high property taxes, (b) high heating and cooling costs, (c) above average maintenance costs relating to the fuel oil and water systems and (d) high mortgage costs, the property has operated at a deficit for some time.

Over the past two years, the following steps have been taken to alleviate a number of these financial challenges, including (a) Reducing the assessment on the property, and (b) enhancing energy efficiency throughout the complex by (i) replacing all tenant and common area light bulbs with LED lamps, (ii) replacing all faucet and shower heads with low flow devices, (iii) installation of blown-in attic insulation, (iv) air sealing of all crevices throughout each apartment, the attic and common areas (v) installation of a Heat Recovery Ventilator System ("HRV") to improve air flow throughout the building and (vi) installation of new Bathroom and Kitchen Exhaust Fans along with ductwork to accommodate the new units. While these steps have improved conditions and created efficiencies, there is still significant work to be done.

Project Plan:

The proposed project includes a complete renovation of the facility, with specifics identified in a Physical Needs Assessment ("PNA"), completed in May 2018 as well as the conversion of underutilized second floor space into one additional one-bedroom apartment.

Creamery Hills, L.P. is seeking construction and permanent financing from HCR in the form of Housing Trust Funds in the amount of \$1,250,000, with a term of thirty years and plans to refinance its current mortgage to a thirty-year term at a lower rate of interest.

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Description of the Project

Exhibit B

Creamery Hills Apartments

Cortland County Industrial Development Agency

Application for Financial Assistance

Proposed Project Data

Description of the Project – Item A.2.

Exhibit B

Statement of Need:

The applicant, SEPP, Inc. is a not-for-profit corporation whose mission is to provide affordable housing to low and moderate income individuals. Rather than increasing rental rates significantly since its purchase of Creamery Hills, SEPP has maintained below market rents and as a result, significant improvements have been deferred. Based on the Physical Needs Assessment (“PNA”) that was completed in 2018, Creamery Hills requires a large infusion of capital to address the required improvements. In order to complete these improvements and continue to maintain below market rental rates, HCR funds are required. HCR looks favorably on projects that (1) include local support in the form of PILOTs and (2) display projected debt service coverage of at least 1.15 to 1 for a minimum period of fifteen (15) years. As a result, the operating projections for this project require a PILOT resulting in an annual reduction in taxes in the approximate amount of \$9,000 in order to make this project feasible.

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Project Site

Exhibit C



Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Building Pictures

Exhibit D





Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Leases / Subleases

Exhibit E

Tenant Move In/Lease Dates

Creamery Hills

<u>Bldg #</u>	<u>Unit</u>	<u>Unit Type</u>	<u>Move In /Lease date</u>
1	101	1BR	11/01/2016
1	102	1BR	01/01/2004
1	103	2BR	05/07/2019
1	104	2BR	03/01/2008
1	105	1BR	11/01/2015
1	106	1BR	06/01/2013
1	107	3BR	09/01/2009
1	108	3BR	04/01/2014
1	109	1BR	05/01/2018
1	110	1BR	04/01/2016
1	111	1BR	03/01/2019
1	112	1BR	03/15/2003
1	113	3BR	06/01/2005
1	114	3BR	06/01/2015
1	201	2BR	05/01/2018
1	202	2BR	10/01/2011
1	203	2BR	11/01/2003
1	204	2BR	12/01/2012
1	205	2BR	04/01/2019
1	206	1BR	03/01/2014
1	207	2BR	09/01/2018
1	208	2BR	10/01/1997
1	209	2BR	09/01/2009
1	210	1BR	08/02/2018

NOTE: TENANT NAMES OMITTED FOR CONFIDENTIALITY PURPOSES.

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Project Costs

Exhibit F

Creamery Hills Apartments		
Cortland County Industrial Development Agency		
Application for Financial Assistance		
Project Costs		
Exhibit F		
		25
Acquisition Costs:		Project Total
Land		
Existing Mortgage as of 10/16/2019		348,296
Prepayment Penalty		90,000
Structures - Cash to Seller		
Total-Land/Structures		438,296
Hard Costs Residential		
Subtotal Residential		760,000
Subtotal Commercial Hard Costs		
Subtotal Community Facilities Hard Costs		-
Contingent Hard Costs		
General Conditions	3.00%	22,800
Bond Premium	1.75%	13,300
Builder's Overhead	2.00%	15,200
Builder's Profit	5.00%	45,600
Subtotal Contingent hard costs		96,900
Subtotal Residential (from above)		856,900
Contingency	10.00%	84,360
Total Hard Construction Costs		941,260
Soft Costs Tax Credit Eligible		
Architect/Engineer	4.75%	40,703
Builder's risk / and Permit	0.50%	24,706
Civil Engineer - Site Plan/Survey/Stm Wtr		
Appraisal/Market Study		
Environmental Survey and Report-Phase I		3,500
Physical Needs Assessment		2,500
Green Design		35,000
Construction Monitoring / Plan and Cost Review	12 mnths	10,200
Developer, Sponsor, Lender Legal Fees		40,000
Real Estate Taxes - One Year		
Perm Construction Interest	4.75%	
Short Term Construction Interest	2.30%	
HFA New Construction Capital Program	0.50%	6,971
Bank Commitment Fee	1.000%	4,055
LC Origination Fee		
Bank Admin Fee		
Bank Legal Fees		15,000
Office Furniture/ Maintenance Equipment		
Community Room and Décor		
Marketing of Vacant Units		
Soft Cost Contingency		
Cost Certification Audit		7,500
Subtotal Soft Costs		210,135
Soft Costs-Non-Tax Credit Eligible		
Title and Recording Fees	0.7%	2,757
Prefunded Reserve for Replacement	\$ 1,000	25,000
SONYMA 1 Months P + I		
Tax and Insurance Escrow		
Operating Reserve		
Subtotal non-Eligible Soft Costs		27,757
Bond Issuance & Closing non-Eligible		
Mortgage Origination Fee	2.00%	
NYS Bond Issuance fee	0.84%	
SONYMA MIP	0.50%	
HFA Application fee	0.50%	15,000
SONYMA Application fee	0.10%	
Bond Issuance and Closing Costs		15,000
Developers Fee		
Developers Fee-Acquisition	10%	
Developers Fee-Rehab	5%	58,458
Total Developers Fee	15%	58,458
	8%	
Syndication Costs		
Total Project Costs		1,690,906

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Estimated Value of Real Property Tax Exemption Request

Exhibit G

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Financial Assistance Expected From the Agency
Tax Benefits – Item 4c.

As indicated in the “Description of the Project”, Creamery Hills is requesting a tax reduction of \$9,000 per year for a period of fifteen (15) years (total request of \$135,000) in order to make this project financially feasible.

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Board Member Listing

Exhibit H

<u>NAME</u>	<u>ADDRESS</u>	<u>POSITION</u>	<u>TELEPHONE</u>
David Harder	Home: 263 State Line Rd Binghamton, NY 13903	Member	(H) 607-722-8529
			(F) 607-778-2100
Thomas E. O'Connor	Home: 819 Placek Drive Johnson City, NY 13790	Secretary	(H) 607-770-4573
Sara Liu	Home: 157 Ridge Road Vestal, NY 13850	Member	(H) 607-972-1198
David Hughes	Home: 2750 Hickory Street Whitney Point, NY 13862	Member	(H) 607-692-3263
			(C) 607-222-4400
Peter Maciak	Home: 125 Krager Road Binghamton, NY 13904	Member	(W) 607-798-6311
Stacey Duncan	Home: 2725 Robins Street, Endwell, NY 13760	Member	(H) 607-427-6155
Julle Sweet	Home: 92 Riverside Drive Binghamton, NY 13905	Member	(H) 607-722-9151
William Gibson Jr	Home: 4 Oak St. Unit 22 Binghamton, NY 13905	Member	(H) 607-797-6614
Pat Ticknor	Home: Whitney Point Apartments 10 Strongs Place Apt 211 Whitney Point, NY 13862	Member	(H) 607-692-4613
Daniel Schofield	19 Cornell Avenue Endicott, NY 13760	Vice Chair	(H) 607-754-4645
			(W) 607-778-2190
Len Basso	Home: 3011 Country Club Road, Endwell, NY 13760	Chairperson	(C) 607-343-3353
Thomas Augustini	70 Martin Avenue Johnson City, NY 13790	Treasurer	(C) 607-206-0929
Susan Brown	22 Genesee Avenue Binghamton, NY 13903	Member	(C) 607-237-3673
			(w) 607-778-2228
Thomas Gray	161 Blueberry Drive Deposit, NY 13754	Member	(C) 607-821-9975
			(w) 607-584-9000
Arthur Johnson	95 Phelps Street Binghamton, NY 13901	Member	(C) 607-222-9740
Ronald Kelbel	PO Box 395 Whitney Point, NY 13862	Member	(C) 607-201-6584
			(H) 607-692-4461
Dorollo Nixon	1500 East Main Street Endicott, NY 13760	Member	(C) 607-768-9033
Jennifer Yonkoski	309 Brookcrest Drive Endwell, NY 13760	Member	(C) 607-624-6373
			(w) 607-778-2443
David Alamo	825 Catalina Boulevard Endwell, NY 13760	Member	(C) 607-222-6685
			(H) 607-754-6348
Benjamin Federman	2349 Oswego Street Binghamton, NY 13903	Member	(C) 518-466-8662
John Bernardo	69 Gouverneurs Lane Endicott, NY 13760	Member	(C) 607-349-0712

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Underlying Lease Between NYS and CCCCC

Exhibit I

MEMORANDUM OF LEASE

STATE UNIVERSITY OF NEW YORK, a corporation established by the New York Education Law, with an office and place of business at State University Plaza, Albany, New York 12246, for and on behalf of New York State College of Agriculture and Life Sciences at Cornell, University, hereinafter referred to as "Landlord" and COALITION OF CENTER COUNCILS OF CORTLAND COUNTY, INC., a corporation organized under the New York Not-For-Profit Corporation Law, with an office and place of business at 66 Clinton Ave., Cortland, NY herein referred to as "Tenant", entered into a certain lease of real property dated ^{13th} ~~April~~ 30, 1996.

That said lease covers real property described on Schedule A attached hereto.

Under the terms of the aforesaid lease, said real property was leased by Landlord to Tenant for a term commencing upon the date of approval of the lease by the comptroller of the State of New York and said lease terminates at 11:59 p.m. on the date which is the ~~ninety~~ ^{ninth (99th)} anniversary of the commencement date. There is no right of extension or renewal.

This Memorandum of Lease is specifically authorized by Section 19 of said lease referred to above.

IN WITNESS WHEREOF, Landlord and Tenant have respectively signed and sealed this Lease as of the 30 day of May, Nineteen Hundred Ninety-Six.

COALITION OF CENTER COUNCILS OF
CORTLAND COUNTY, INC.

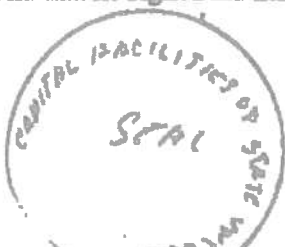
STATE UNIVERSITY OF NEW YORK

By: [Signature]

By: [Signature]

STATE OF NEW YORK)
COUNTY OF COR'TLAND) ss:

On this 11 day of June, 1996, before me personally came Irving H. Freedman, to me known, who being duly sworn, did depose and say that he resides in Loudonville, New York, that he is the Vice Chancellor for Capital Facilities of the State University of New York, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by the order of the Board of Trustees of said corporation, and that he signed his name thereto by like order.



STATE OF NEW YORK)
COUNTY OF CORTLAND) ss:

On this 30th day of MAY, 1996, before me personally came Carolyn BURKE, to me known, who being duly sworn, did depose and say that he/she resides in CORTLAND COUNTY, that he/she is the PRESIDENT of COALITION OF CENTER COUNCILS OF CORTLAND COUNTY, INC. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by the order of the Board of Trustees of said corporation, and that he signed his name thereto by like order.



Just M. Thayer
NOTARY PUBLIC

JUST M. THAYER
Notary Public, State of New York
Qualified in Albany County
No. 4847488
Commission Expires Feb. 21, 1997

Carol A. Deloff
NOTARY PUBLIC

CAROL A. DELOFF
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN CORTLAND CO. #477783
MY COMMISSION EXPIRES NOV. 30, 1996

Schedule A

All that tract, piece or parcel of land situate in the State of New York, County of Cortland, Town of Harford and lying along the northern right-of-way of Creamery Road west of the Hamlet of Harford which is located on NYS Route 38 and is more specifically described as follows:

Beginning at a point lying in the northern line of the Creamery Road right-of-way, said point being approximately 310.0 feet southwest of the western boundary of NYS Route 38, said point also being the southwest corner of Tax Parcel 162.11-1-07, THENCE running in a southwesterly direction along the northern right-of-way of Creamery Road a distance of 772.14 feet to a point, said point also being the southeast property corner of Tax Parcel 162-1-39.2; THENCE running northwesterly a distance of 218.7 feet to a point in the centerline of an unnamed creek, THENCE running first northeasterly and then northerly along the centerline of the aforementioned unnamed creek a distance of 850.0 feet to a point; THENCE northeasterly a distance of 170.0 feet to a point, said point also being the south westernmost corner of Tax Parcel 162.11-1-02; THENCE running southeasterly along the southwest boundary of Tax Parcel 162.11-1-02 a distance of 210.0 feet to a point, said point also being the westernmost corner of Tax Parcel 162.11-1-03; THENCE running southeasterly a distance of 435.5 feet along the southwest boundaries of Tax Parcels 162.11-1-03, 04, 05, and 07 to the point of the beginning, containing 6.98 acres of land, more or less.

X 600 006

28436

STATE UNIVERSITY OF NEW YORK,

Landlord,

to

COALITION OF CENTER COUNCILS OF CORTLAND COUNTY, INC.

Tenant,

GROUND LEASE

Dated: April 29, 1996

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Ground Lease

THIS LEASE, made and entered into this 29th day of April, 1996, by and between STATE UNIVERSITY OF NEW YORK, a corporation established by the New York Education Law, with an office and place of business at State University Plaza, Albany, New York 12246, for and on behalf of New York State College of Agriculture and Life Sciences at Cornell University, hereinafter referred to as "Landlord", and Coalition of Center Councils Office, Cortland County, Inc., a corporation organized under the New York Not for Profit Corporation Law, with an office and place of business c/o the Cortland County Office for the Aging, 60 Central Avenue, Cortland, New York 13845, hereinafter referred to as "Tenant";

WITNESSETH

WHEREAS, the New York State Legislature enacted certain legislation to enable the Trustees of the State University of New York to enter into a lease with the Tenant for a parcel of land in the town of Harford, Cortland County, New York (the "Demised Premises") described more fully in Schedule A to be used for the development and operation of Senior Citizen housing, said enabling legislation being hereinafter referred to as the "Enabling Act"; and

WHEREAS, the Enabling Act has become Chapter 366 of the Laws of 1994; and

WHEREAS, Tenant is a not-for-profit Type A Corporation and is desirous of leasing the Premises in order to cause to be constructed and operated, upon said Demised Premises senior citizen housing.

WHEREAS, Landlord is willing to lease to Tenant the Demised Premises for purposes of the construction, operation, subleasing or other development of the Demised Premises for such senior citizen housing.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, the parties hereby covenant, promise and agree as follows:

1. DESCRIPTION OF PREMISES. Landlord does hereby lease to Tenant, and Tenant does hereby take and hire from Landlord, the real property described in Schedule "A", attached hereto and made a part hereof, and outlined in red upon a print of

survey marked Schedule "B" attached hereto and made a part hereof.

RESERVING to Landlord the right to place, maintain, repair and replace any utility lines and related appurtenances under and above the Demised Premises as provided in Section 5 of this Lease.

FURTHER RESERVING to Landlord the mineral, gas and petroleum rights situated beneath the surface of the Demised Premises; provided that, such mineral, gas and petroleum rights shall only be taken from beneath the surface of the Demised Premises by access from lands other than the Demised Premises and that any such use shall not create any failure of support, subsidence, noise, vibrations, dangerous conditions, noxious odor, smoke or any other subsidence or condition which would interfere with the full use and enjoyment of the Demised Premises by Tenant. Such taking shall not in any event be commenced without at least one hundred eighty (180) days prior notice to Tenant. No equipment necessary for the extraction of minerals, gas and petroleum and no meters or other tabulating equipment related thereto may be placed upon the Demised Premises without prior written consent of Tenant.

2. CONSTRUCTION AND MAINTENANCE.

2.1 Subject to the terms and conditions hereinafter set forth, Tenant shall construct and maintain, or at its option sublease, the Demised Premises and cause to be constructed and maintained, thereon housing for senior citizens ("the Center") to be used for purposes consonant with the Enabling Act and with the mission and programs of the State University of New York. Consistent with the provision of the Enabling Act, the Demised Premises shall be used by Tenant, or any sublessee, exclusively for the purposes of the development, construction and operation of senior citizen housing.

2.2 Landlord agrees to cooperate with Tenant, at Tenant's expense, in obtaining all permits, licenses and other governmental approvals (collectively "Permits") required for construction and furnishing of the Center and the subsequent operation thereof.

2.3 Tenant shall have the right from time to time, and at any time, to alter, add to and change any buildings, other structures or improvements (collectively

"Improvements") constructed upon the Demised Premises, including, without limitation, the construction, removal and demolition of Improvements; provided that, any material new alteration, addition or change be for the exclusive purpose of senior citizen housing.

2.4 Throughout the Term of this Lease and during any period of construction alteration or rehabilitation, Tenant shall, at Tenant's sole cost and expense, be responsible for assuring compliance with the New York State building code and with the Life Safety Code of the National Fire Protection Association, to the extent applicable. Except to the extent set forth in Section 31.1, nothing contained in this Lease shall be deemed to subject Tenant to the jurisdiction of any municipal government, or any other body exercising similar functions.

3. TERM.

3.1 The Term of the Lease shall commence upon the date of the approval of this Lease by the Comptroller of the State of New York (the "Commencement Date") and shall terminate at 11:59 p.m. on the date which is the ninety-ninth (99th) anniversary of the commencement Date (the "Term"). Upon the expiration or termination of the Lease, the premises shall revert to the Landlord.

4. RENT.

4.1 Except as otherwise provided in this Section 4.2, Tenant shall pay to Landlord as "Base Rent" for the Demised Premises, annually within ninety (90) days following the end of each Lease Year during the Term hereof, the sum of one dollar (\$1.00) per annum.

4.2 Landlord and Tenant understand that Tenant intends to effect the initial construction of the Center by subletting the Demised Premises to a developer, the Creamery Hills, L.P. Corp., (the "Sublessee") which will be responsible for the full development, management and operation, at its sole cost, of the Center under a separate sublease agreement (the "Sublease") between the Tenant and the Sublessee.

4.3 The parties disclaim any intention to create a joint venture or partnership relationship between Landlord and Tenant it being agreed that the provision of

the payment of Base Rent by Tenant is a reservation of rent to Landlord for Tenant's use and occupation of the Demised Premises.

5. EASEMENTS, UTILITIES AND PAYMENT IN LIEU OF TAXES.

5.1 Landlord hereby reserves the right to place, maintain, repair and replace such utility lines, pipes, ducts, conduits and wires (collectively the "facilities") under and above the Demised Premises as may be reasonably necessary (other than for the Demised Premises). The rights reserved to Landlord pursuant to this paragraph shall be subject to the following conditions precedent:

5.1.1 if Landlord shall place, maintain, repair and replace any such facilities beneath existing Improvements or beneath the site of proposed Improvements of which plans have been submitted to Landlord, then Landlord shall, except in an emergency, in each instance:

5.1.1.1 deliver to Tenant at least sixty (60) days prior to such placement, maintenance, repair and replacement, notice of the proposed work together with complete plans and specifications related to the facilities and the placement, maintenance, repair and replacement thereof.

5.1.1.2 if reasonably requested by Tenant at the time, deliver to Tenant prior to such placement, maintenance, repair and replacement, public liability, Worker's Compensation, casualty and other insurance coverage which shall be reasonably satisfactory to Tenant and, if necessary, any subtenants and managers occupying space within the Improvements beneath which such placement, maintenance, repair or replacement shall be contemplated.

5.1.2.3 deliver to Tenant and any subleasehold mortgagee prior to such placement, maintenance, repair and replacement, plans and specifications relative to the physical support and maintenance of the Improvements which shall be reasonably satisfactory to Tenant and, if necessary, to any subtenants and managers occupying space therein.

5.1.2.4 if reasonably requested by Tenant at the time, deliver to Tenant prior to any such placement, maintenance, repair and replacement above the

Demised Premises evidence reasonably satisfactory to Tenant that the facilities and the placement, maintenance, repair and replacement thereof will not interfere with the use of the Demised Premises, except temporarily and to the extent reasonably required during such placement, maintenance, repair and replacement.

5.1.2.5 prior to such placement, maintenance, repair and replacement, (a) provide insurance reasonably satisfactory to Tenant and (b) agree in writing to take all action necessary to repair, maintain and preserve the Improvements to the extent affected by Landlord's placement, maintenance, repair and replacement of the facilities.

5.2 Tenant will pay, or cause to be paid, all charges for electricity, gas, heat, water, telephone and other utility services used by Tenant upon the Demised Premises and apportionable to the period this Lease is in effect.

5.3 Tenant shall also pay, or cause to be paid, any real property taxes lawfully assessed against the Demised Premises or an amount equal to and in lieu of any and all such real property taxes, as well as special district assessments. Under no circumstances shall Landlord be required to make any such payments in lieu of taxes, which shall be the obligation of Tenant hereunder. Any agreements executed by Landlord, Tenant, Sublessee or Sublessor for payments in lieu of any and all real property or school taxes, as well as special district assessments shall be subject and subordinate to any Leasehold Mortgage or Subleasehold Mortgage on the Demised Premises.

5.4 Tenant shall have the right to review or protest or cause to be reviewed or protested, by legal proceedings, any taxes, assessments and other charges and payments in lieu of taxes, assessments, or other charges imposed upon or against the Demised Premises or Improvements. In case any such payments shall, as a result of such proceedings or otherwise, be reduced, canceled, set aside, or to any extent discharged, Tenant shall pay, or cause to be paid, the amount that shall be finally imposed against the Demised Premises or Improvements, as finally determined to be due and payable on any such disputed or contested items. All expenses of such litigation, including court costs, shall be paid by Tenant and shall be free of all expense to Landlord. If, as a result of any legal proceedings pursuant to the provisions of this Section 5.8, there is any reduction, cancellation, setting

aside or discharge of any such payment, the refund therefor shall be payable to Tenant, and if such refund is made to Landlord, then Landlord shall hold such refund as a trust fund and shall immediately pay over the same to Tenant. The term "legal proceeding", as used herein, shall be construed as including appropriate appeals from any judgments, decrees or orders and certiorari proceedings and appeals from others therein. Landlord agrees at Tenant's expense to cooperate in any such proceedings, in any way reasonably requested.

5.5 Tenant's obligation to make, or cause to be paid, payment of taxes and assessments or payments in lieu of taxes and assessments, shall apply only to real property taxes and assessments, or installments thereof, or payments in lieu thereof, which are apportionable to the Term of this Lease. Tenant shall have the right to exercise the benefit of any provision of any statute or ordinance permitting any such taxes or assessments or payments in lieu thereof to be paid in installments over a period of time. Tenant shall indemnify and save and hold harmless Landlord from and against all taxes and assessments, and all payments in lieu thereof, which are apportionable to the Term of this Lease if the same are assessed against the Demised Premises or the Improvements by reason of the activities of the Tenant.

6. FIRE INSURANCE AND FIRE DAMAGE

6.1 Tenant shall, during the Term of the Lease, keep the Improvements insured against loss by fire and extended coverage perils, in insurance companies authorized to do business in the State of New York, with Landlord named as an insured, in an amount not less than the full replacement cost (excluding excavation and foundation and footing costs and costs of underground tanks, conduits, pipes, pilings and other similar underground items). Tenant shall pay, when due, all premiums thereon, but shall not at any time be required to pay premiums more than one (1) year in advance. Memoranda of such policies of insurance (noncancelable, except upon thirty (30) days' notice to Landlord) and renewals thereof from time to time will be deposited with Landlord with reasonable promptness. Tenant at its expense shall on request of Landlord cause the insurable value to be redetermined but not more frequently than once in every period of twenty-four months, by the insurer or other party reasonably acceptable to Landlord.

6.2 Tenant agrees that Landlord shall not be liable to Tenant or to any insurance company insuring Tenant for damage which was or could have been insured pursuant to Section 6.1 hereof.

6.3 If the Improvements shall be damaged or totally destroyed by fire or by extended coverage perils, they shall be repaired or restored according to the provisions contained in Section 6.4 hereof at the cost and expense of Tenant. Landlord shall not be required to contribute in any way toward such repair, and the Improvements involved shall be repaired to a condition which is comparable as nearly as possible to their condition just prior to the damage, subject to applicable law at the time.

6.4 In the event of a partial or total destruction of the Improvements on the Demised Premises by fire or extended coverage perils, Tenant shall repair, restore or reconstruct the affected Improvements, within one hundred eighty (180) days after the receipt by Tenant of fire insurance proceeds, subject to Force Majeure, or within a reasonable additional extension which may be required, to a condition comparable to their condition at the time of such destruction, subject to applicable law at the time. Landlord shall promptly endorse any checks payable to Landlord in connection with such proceeds and shall deliver the same to any subtenant mortgagee to the extent of its outstanding mortgage balance, and any remainder thereof to Tenant or the Insurance Trustee, as the case may be. The proceeds of any such insurance shall be payable as follows:

(a) to Tenant to the extent of proceeds not exceeding \$100,000, which proceeds Tenant agrees shall be received in trust to pay the costs of restoration or shall be payable to Tenant, if it so elects, to the Sublessee in trust to pay the cost of restoration.

(b) the entire proceeds, in the event the proceeds exceed \$100,000, to the Insurance Trustee. Any proceeds distributed by the Insurance Trustee shall be distributed upon the same terms and conditions as the construction loan proceeds pursuant to a certain building loan agreement wherein the borrower is Creamery Hills, L.P. The term "Insurance Trustee" shall mean the most senior Subleasehold Mortgagee which shall require under the terms

of its Subleasehold mortgage that it act as Insurance Trustee or, in the event no Sublease hold Mortgagee so elected, a bank or trust company selected by Tenant with its principal office in the State of New York and having capital of not less than \$200,000,000.

6.5 Upon receipt of the Insurance Trustee of:

6.5.1 A certificate of Tenant (a "Repair Certificate") dated not more than 20 days prior to the same of such receipt (i) requesting the payment of a specified amount of such insurance monies; (ii) describing in reasonable detail the work and materials applied to the restoration or replacement of the damages or destroyed Improvements since the date of the last Repair Certificate of Tenant; (iii) stating that such specified amount does not exceed the cost of such work and materials; and (iv) stating that such work and materials have not previously been made the basis of any request for or any withdrawal of money;

6.5.2 A certificate of an independent engineer or an independent architect designated by Tenant, who in either case shall be duly licensed and shall be approved by Landlord (which approval shall not be unreasonably withheld or delayed) stating (i) that the work and materials described in the accompanying certificate of Tenant were satisfactorily performed and furnished and were necessary, appropriate or desirable to the restoration or replacement of the damaged or destroyed Improvements, in accordance with the plans and specifications therefor; (ii) that the amount specified in such Tenant's Repair Certificate is not excess of the cost of such work and materials; and (iii) the estimated additional amount, if any, required to complete the restoration or replacement of the damage or destroyed Improvements;

6.5.3 A written opinion of counsel, who may be counsel for Tenant reasonably satisfactory to Landlord, dated not earlier than Tenant's Repair Certificate or, at the option of Tenant, a certification of or updated title insurance policy from a title insurance company acceptable to Landlord, to the effect that, as of the date thereof, neither the Center nor any portion thereof is subject to any filed or recorded mechanic's, laborer's, materialmen's or other similar lien, encumbrance or charge which has not been

bonded (except for those which will immediately be discharged by application of the amount requested by Tenant in its Repair Certificate and for permitted encumbrances); the Insurance Trustee shall pay to Tenant the amount of such insurance monies specified in Tenant's Repair Certificate; provided, however, that the balance of insurance monies deposited with the Insurance Trustee shall not be reduced below the amount specified in such certificate of the independent engineer or the independent architect as the amount required to complete the restoration or replacement of the damaged or destroyed Improvements. Each such payment shall be held by Tenant in a trust and shall be used solely for the payment of the costs described in Tenant's Repair Certificate (or to reimbursement Tenant for any portion of such costs which Tenant has advanced from its own funds). If there shall remain on deposit with the Insurance Trustee any balance of insurance monies after any damaged or destroyed portions of the Center shall have been completely restored or replaced, as evidenced by a certificate of such independent engineer or independent architect delivered to the Insurance Trustee, such balance of insurance monies shall be paid to sublesseehold mortgagee to the extent of its outstanding mortgage balance, otherwise to the Tenant, provided no Event of Default shall then exist hereunder. Concurrently with Tenant's delivery to the Insurance Trustee of each of the foregoing certificates and/or legal opinions, Tenant shall deliver duplicate copies thereof to Landlord. Notwithstanding anything to the contrary set forth in this Section 6.5, the Insurance Trustee shall make no further payment of insurance proceeds to Tenant or Sublessee following receipt of a notice from Landlord that an Event of Default exists under this Lease until and unless instructed by Landlord that such Event of Default has been rectified. Landlord shall promptly endorse any checks payable to the order of Landlord in connection with such insurance proceeds and shall deliver the same to Tenant or to the Insurance Trustee, as the case may be.

6.6 Anything contained in this Section 6 to the contrary notwithstanding, in the event that either (i) a total or substantial destruction of the Center shall occur at any time during the last five years of the Term of this Lease, or (ii) at any time during the Term a total or substantial destruction occurs but, by reason of a change in law, the Tenant is

unable to build as large a Center as existed formerly and Tenant shall notify Landlord that Tenant's Board of Directors has determined in good faith that the leasable area after reconstruction will not be sufficient to make the operation of the Center economically viable, Tenant may elect not to repair, restore or reconstruct the Center or other Improvements by sending written notice of such election to landlord within ninety (90) days after the destruction shall have occurred. In the event that Tenant shall so elect not to repair, restore or reconstruct, the tenancy hereby created shall cease as of the date of said destruction and there shall be not further liability of either party except for earned or accrued Base Rent, additional rent and interest, as provided in Section 4 hereof. In such event, the fire insurance proceeds shall be applied in the following order of priority:

6.6.1 To payment of the first Leasehold Mortgage, as defined in Section 2 16;

6.6.2 To payment of the cost of removing debris and other costs caused by or left by the destruction, including the demolition and removal of any Improvements and foundations; and

6.6.3 To payment of the remainder in the proportion of 25% to Landlord and 75% to Tenant and Sublessee.

6.7 In the event any restoration contemplated in this Section 6 is required during the term of any sublease and the Sublessee is obligated therefor and is not entitled under the terms of the sublease to terminate the sublease, then Landlord and the Insurance Trustee shall accept certifications and requests for funds with respect to the insurance proceeds from Sublessee rather than Tenant and will release funds when required under this Section 6 to Sublessee rather than Tenant for the costs of restoration. References to Tenant in Section 6.5 and Section 6.6 shall be deemed in such circumstances, unless the context otherwise requires, to refer to Sublessee and references to the first Leasehold Mortgagee to refer to a first Subleasehold Mortgages.

6.8 Without limiting any other provisions of this Section 6, if any insurance additional to that required of Tenant hereunder is carried by Sublessee for the benefit of Tenant, then, whenever possible, Landlord shall be named an additional insured,

as its interest may appear, and duplicates or certificates of such policies shall also be delivered to Landlord.

7. USE OF PREMISES

The Demised Premises shall be used for the exclusive purpose of development, construction, and operation of senior citizen housing.

8. INDEMNIFICATION

8.1 Tenant hereby agrees to indemnify and save harmless Landlord from and against any and all fines, claims, suits, actions, damages and/or causes of action arising upon entry on the Demised Premises by Tenant prior to the Term hereof and, during the Term of this Lease, for any personal injury, loss of life, and/or damages to property sustained in or about the Demised Premises or the appurtenances thereto, so far as the same arises out of the use and operation of the Demised Premises, and does not arise from the negligent or intentional acts of Landlord, and from and against all reasonable costs, counsel fees, expenses and liabilities incurred in and about any such claim, the investigation thereof, or the defense of any action or proceeding brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein. Landlord agrees to notify Tenant promptly in writing of any such claim presented to Landlord or action commenced against Landlord and permit Tenant to defend or settle the same. Any claim by Landlord under this Section shall be reduced by any insurance payable to Landlord as the result of the activity in question. Landlord agrees to cooperate with Tenant in any way reasonably required by Tenant, but at Tenant's expense, to defend against any such claims.

8.2 Tenant shall, during the possession by Tenant prior to the Term hereof and during the Term of this Lease maintain a general liability policy (non-cancelable except upon thirty (30) days' notice to Landlord) in any company authorized to do business in the State of New York, insuring both Landlord and Tenant, affording protection to the limit of \$10,000,000 in the event of death or injury in any one occurrence and to the limit of \$1,000,000 in the event of damage to any property; provided however, that if the Sublessee shall at any time maintain higher insurance limits for the benefit of Tenant, Tenant shall cause Landlord to be included as an insured. Policies subject to

\$100,000 deductible shall be deemed satisfactory. Such limits shall be reviewed at reasonable intervals and adjusted to conform to limits maintained for similar types of properties, similarly situated. Tenant shall pay all premiums for said policies. Upon failure at any time on the part of the Tenant to pay the premiums for the insurance required by this Lease, Landlord shall, upon written notice to Tenant, be at liberty from time to time, as often as such failure shall occur, to pay the premiums therefor, and any and all sums so paid by Landlord shall be and become and are hereby declared to be additional rent under this Lease in addition to all other rentals due and payable on the next rent day. Any failure to pay the same within ten (10) days after demand shall, at the option of Landlord, become an Event of Default under this Lease. In the event liability insurance is no longer generally available or is no longer available in the required amounts, Tenant and Landlord shall confer to obtain the best coverage for Landlord and Tenant reasonably available and Tenant shall not be deemed in default under this Section if it provides only such coverage.

9. EMINENT DOMAIN.

9.1 If at any time during the Term of this Lease, title to the whole or materially all of the Demised Premises shall be taken by the exercise of any right of condemnation or eminent domain or, in lieu or anticipation thereof, by agreement between Landlord and those authorized to exercise such right, or by Landlord pursuant to its authority under law to do so, Tenant, at its option may cancel this Lease by notice to Landlord and Tenant's liability to pay Base Rent and Additional rent or otherwise to perform the terms and conditions of this Lease shall cease, and the aggregate of awards collected, after the payment of fees and expenses incurred in the establishment and collection of such awards, shall be paid and applied in the following order of priority:

9.1.1 To payment to Landlord of the value of the land so taken, subject to this Lease and subject to the limitation on use of the land for Center's purposes;

9.1.2 To payment to subleasehold mortgagee to the extent of its outstanding mortgage, otherwise to the Tenant of the remaining award; provided that, if the date of taking is subsequent to the twentieth (20th) anniversary of the Commencement Date, Landlord shall be entitled to three and one-third (3-1/3%) percent of the remainder

for each full period of twelve (12) consecutive months elapsed after the twentieth (20th) anniversary of the commencement date through the end of the term.

9.2 For purposes of this Section 9, "materially all of the Demised Premises" shall be deemed to have been taken if more than fifty percent (50%) of net leasable space of the Center shall be so taken or if Tenant shall notify Landlord that Tenant's Board of Directors has determined in good faith that the remaining leasable area of the Center is not sufficient to make the continued operation of the Center economically viable.

9.3 Subject to the provisions of any Leasehold Mortgage, if at any time during the Term of this Lease, title to less than materially all of the Demised Premises shall be taken as aforesaid, all of the award or awards or other proceeds shall be paid over to Tenant, or, at Tenant's request, to Sublessee, provided the amount of the award does not exceed \$100,000, or, if it does exceed \$100,000, then to the Insurance Trustee, for release during restoration in the same manner as the proceeds of casualty insurance are to be released for repair and rebuilding under the provisions of Section 6.4. Landlord shall promptly endorse any checks payable to the order of Landlord in connection such awards and shall deliver the same to Tenant or to Tenant's first Leasehold Mortgagee, as the case may be. Any excess award or awards attributable to the loss of Improvements shall be paid to Tenant or the first Leasehold Mortgagee, as the case may be, and the balance of the award attributable to the value of the land shall be paid to Landlord. Any balance remaining shall be divided fifty percent (50%) to Landlord and fifty percent (50%) to Tenant. If title to less than materially all of the Demised Premises shall be taken as aforesaid, this Lease shall continue in full force and effect, but the Base Rent payable hereunder shall be reduced upon an acreage basis in accordance with the procedures by which the Base Rent shall have originally been calculated.

10. DEFAULT

An Event of Default shall be deemed to have occurred if (a) Tenant be adjudicated a bankrupt or makes a general assignment for the benefit of creditors or takes the benefit of any insolvency act, or if a permanent receiver or trustee or custodian be appointed for Tenant's property, and such proceeding shall not be dismissed or stayed or

such receivership or trusteeship or custodianship vacated or stayed within one hundred twenty (120) days after such institution or appointment, or (b) Tenant shall default in fulfilling any of the covenants or agreements of this Lease beyond the grace period permitted herein, including, but not limited to, failing to cause to be constructed, developed and operated exclusively senior citizens housing. If any such default shall be outstanding, for thirty (30) days after notice from Landlord specifying the default (provided that, if such default cannot with reasonable diligence be cured within such thirty (30) day period, then Tenant's time to cure shall be extended as long as Tenant commences to cure within such thirty (30) day period and continues to cure with due diligence), it shall constitute an Event of Default and Landlord may then give to Tenant a second five (5) day notice of Landlord's intention to terminate this Lease and thereupon at the expiration of said five (5) days, except as provided in Section 16, if such Event of Default shall still exist or, in the case of Event of Default under subdivision (b), if Tenant shall not have commenced to cure within the period specified and continued with due diligence, this Lease shall expire as fully and completely as if that day were the date herein definitely fixed for the expiration of the Term hereof and Tenant will then quit and surrender the Demised Premises to Landlord, but Tenant shall remain liable as hereinafter provided, subject to the provisions of Section 23. In the event of default, the Demised Premises shall revert to Landlord.

11. CERTAIN REMEDIES OF LANDLORD

If Tenant shall default in the payment of the rent reserved hereunder or in making any other payment herein provided for under this Lease, and the first and second notices provided for in Article 10 shall have been given to Tenant and any Leasehold Mortgagee and the grace periods shall have elapsed (said periods to be increased by the number of days between the time Landlord notifies Tenant and the time Landlord notifies the Leasehold Mortgagees), Landlord may immediately, or at any time thereafter, subject to the limitations in Section 16 of this Lease, terminate this Lease, reenter the Demised Premises and remove all persons and all or any property therefrom, either by summary dispossession proceedings or by any suitable action or proceeding at law, or by force or

otherwise, without being liable to indictment, prosecution or damages therefor, and repossess and enjoy and Demised Premises, together with all Improvements. Upon such termination, the Demised Premises shall revert to the Landlord."

12. OTHER REMEDIES OF LANDLORD

In addition to the legal remedies of Landlord herein referred to, Landlord shall have all other legal and equitable remedies for the enforcement of the provisions of this Lease which the law affords, including, without limitation, the right upon reasonable advance notice to Tenant and the Leasehold Mortgagee to enter the Demised Premises and cure any default by Tenant, at Tenant's expense, subject, however, to the rights of the Leasehold Mortgagee and others provided for in Section 16 and the rights of occupants of the Demised Premises, which shall have priority.

13. MECHANIC'S LIEN

If any mechanic's lien or other lien or orders for the payment of money shall be filed against the Demised Premises or any part thereof by reason of or arising out of any labor or material furnished or alleged to have been furnished or to be furnished to or for the account of Tenant or any subtenant or operator at the Demised Premises or for or by reason of any change, alteration or addition or the cost or expense thereof, or any contract relating thereto, or against Landlord as owner thereof, Tenant shall, within forty-five (45) days after written notice from Landlord, either pay or bond the same or procure the discharge thereof in such manner as may be provided by law. Tenant shall also defend on behalf of Landlord, at Tenant's sole cost and expense, any action, suit or proceeding which may be brought thereon or for the enforcement of such lien or orders. Tenant shall pay any damage or discharge any judgment entered therein and save harmless Landlord from any claim or damage resulting therefrom. Landlord shall also have the right to bond the lien itself at Tenant's expense after reasonable notice to Tenant.

14. **TITLE TO BUILDINGS, OTHER STRUCTURES AND IMPROVEMENTS**

It is agreed by and between Landlord and Tenant that while this Lease is in effect, all Improvements and fixtures erected upon the Demised Premises shall remain the property of Tenant or a subtenant, as the case may be, but upon termination of this Lease, by passage of time or for any reason other than condemnation, as provided in Section 9 hereof, all such Improvements and fixtures shall become the absolute property of Landlord without payment by Landlord except that, if Landlord grants a new lease to a Leasehold Mortgagee, or its designee pursuant to the provisions of Section 16 of this Lease or Tenant grants a new sublease on similar terms to an Institutional Subleasehold Mortgagee or its designee pursuant to the comparable terms of such sublease, as contemplated by Section 16.17 of this Lease, then, at the option of such Lessee or sublessee, title shall remain in the Lessee or sublessee while the new Lease or new sublease is in effect.

15. **EXTENSIONS OF TIME**

The period of time given to Tenant to perform any act or obligation of Tenant required hereunder shall be extended by delays occasioned by fires, strikes, embargoes, material shortages, governmental restrictions or other causes beyond the reasonable control of Tenant (such events being herein collectively called "Force majeure").

16. **RIGHTS OF TENANT TO MORTGAGE TENANT'S INTEREST UNDER THIS LEASE AND RIGHTS OF LEASEHOLD MORTGAGEE THEREUNDER.**

16.1 Tenant shall have the right, without obtaining the prior consent of Landlord, to mortgage Tenant's interest under this Lease to a lending institution authorized to make Leasehold and Subleasehold Mortgage loans in the State of New York, subject, however, to the other terms and conditions of this Lease.

16.2 If Tenant shall mortgage Tenant's leasehold interest hereunder and if the holder of said mortgage shall forward to Landlord a duplicate original or said mortgage in form proper for recording, or a copy of said mortgage certified as a true copy by the

Office of the Clerk of Cortland County, together with a written notice setting forth the name and address of said holder, then, until the time that such Leasehold Mortgage (a "Leasehold Mortgage") shall be satisfied of record, the following provisions of this Section 16 apply.

16.3 When giving notice to Tenant with respect to any default under the provisions of this Lease or of termination of this Lease, Landlord will also serve a copy of such notice upon the holder (the "Leasehold Mortgage") and upon any sublessee or manager of all or substantially all the Demised Premises which has given similar notice to Landlord (a "Qualified Sublessee"). No such notice to Tenant shall be deemed to have been effectively given unless a copy of such notice has been so given to such Leasehold Mortgagee and any Qualified Sublessee and unless such notice shall specify the nature of each such default.

16.4 The Leasehold Mortgagee or, as the case may be, the Subleasehold Mortgagee or Qualified Sublessee, upon receipt of the notice referred to in Section 16.3 shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, an additional period of thirty (30) days for remedying the default or causing the same to be remedied or commencing the remedying of any such default with diligence and continuity provided it shall continue thereafter to remedy the same with due diligence.

16.5 Upon the happening of any default and receipt of notice thereof from Landlord, Tenant will notify the Leasehold Mortgagee or the Subleasehold Mortgagee and any Qualified Sublessee promptly of such happening and shall state in said notice what action has been or will be taken by Tenant to remedy such default.

16.6 In case Tenant shall make default under any of the provisions of this Lease, the Leasehold Mortgagee or, as the case may be, the Subleasehold Mortgagee or Qualified Sublessee shall have the right, at its election, to remedy such default whether the same consists of the failure to pay rent or the failure to perform any other matter or thing which Tenant is hereby required to do or perform. Landlord shall accept such

performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant.

16.7 Any Leasehold Mortgage shall be specifically subject and subordinate to Landlord's rights under the Lease, except as exercise of such rights may be limited by this Section. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon Tenant's interest in this Lease or upon the lien of any Leasehold Mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against Landlord or Landlord's interest in this Lease. The rights of the Tenant shall be subject and subordinate in all respects to the security interest granted by the Leasehold Mortgagee. The subordination shall be automatic without execution of any further subordination agreement by the Landlord or Tenant. Nonetheless, if the Leasehold Mortgagee requires a further written subordination agreement, the Landlord and Tenant agree to execute, acknowledge, and deliver the same.

16.8 In the case of any Event of Default by Tenant, other than in the payment of money hereunder, Landlord, so long as no Event of Default in respect of the payment of Base Rent and additional rental hereunder shall exist, will take no action to effect a termination of the Term of this Lease by the service of a second notice provided for in Sections 10 and 11 hereof by reason of any such Event of Default without first giving to the Leasehold Mortgagee or, as the case may be, the Subleasehold Mortgagee or Qualified Sublessee reasonable time within which either (i) to obtain possession of the Demised Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured only when the Leasehold Mortgagee has obtained possession or (ii) to institute foreclosure proceedings and complete such foreclosure or otherwise acquire Tenant's interest under this Lease with diligence and continuity with the consent and approval of Landlord and thereafter to commence and diligently proceed to cure such default; provided, however, that the Leasehold Mortgagee pays to Landlord, within thirty (30) days of receiving notice of such Event of Default, all Base Rent and additional rent known to the Leasehold Mortgagee to be then due; but

further provided that the Leasehold Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a second notice shall be cured, and provided, further, that nothing herein shall preclude Landlord from exercising any rights or remedies under this Lease with respect to any other default by Tenant during any period of such forbearance, subject again to the Leasehold Mortgagee's rights under this Section. If the Leasehold Mortgagee elects to remedy defaults by the Tenant under this Lease, it shall only be obligated to attempt to cure those defaults which are curable by a third party and all other faults, such as bankruptcy of the Tenant, which cannot be cured, shall be deemed suspended and shall, if the Leasehold Mortgagee pays all unpaid rent and cures all other curable defaults as permitted in this Section, or acquires a new lease as hereafter provided, be deemed of no effect, as if they had never occurred. Notwithstanding any other provision in this Lease, or any Sublease, the Landlord reserves the right to approve in its discretion any sublessee, or any foreclosure, or any curing of a default, in order to ensure compliance with the Enabling Act's requirement that the use of the Demised Premises remain for the exclusive purpose of developing, constructing and operating senior citizen housing.

16.9 In the event of termination of this Lease or of any succeeding lease made pursuant to the following provisions of this Section 16.9 prior to its stated expiration date, and provided that the Leasehold Mortgagee shall have paid or caused to be paid all Base Rent and additional rent known to the Leasehold Mortgagee to be then due and owing and the new lessee agrees, subject to all terms and provisions of the Lease, to commence and diligently proceed to cure all other defaults which are capable of being cured by it, Landlord will enter into a new lease of the Demised Premises with the Leasehold Mortgagee or, at the request of such Leasehold Mortgagee, with a corporation formed by or on behalf of such Leasehold Mortgagee, or by or on behalf of such Leasehold Mortgagee, or by or on behalf of the holder of the note secured by the Leasehold Mortgage held by such Leasehold Mortgagee, for the remainder of the Term, with the same priority as the terminated lease, effective as at the date of such termination, at the Base Rent and additional rent and upon the other covenants, agreements, terms, provisions and limitations

herein contained, provided that such Leasehold Mortgagee makes written request and executes, acknowledges and delivers to Landlord such new lease within thirty (30) days from receiving notice of the date of such termination. In addition, immediately upon execution by Landlord of such new lease as provided in this Section 16.9, Landlord shall be deemed to have executed, acknowledged and delivered to the Leasehold Mortgagee an assignment of all subleases covering the Demised Premises which theretofore may have been assigned and transferred to Landlord and all subleases under which subtenants shall be required to attorn to Landlord pursuant to the terms and conditions of such subleases or this Lease. Such assignment by Landlord shall be deemed to be without recourse as against Landlord. Within ten (10) days after a written request therefor by the Leasehold Mortgagee, such assignment or assignments shall be reduced to a writing in recordable form and executed, acknowledged and delivered by Landlord to the Leasehold Mortgagee.

16.10 The Leasehold Mortgagee or its designee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment of this Lease in lieu of foreclosure, whereupon such Leasehold Mortgagee or such designee shall immediately become and remain liable under this Lease as provided in Section 16.11 hereof, except that such Leasehold Mortgagee or designee may sublease or assign this Lease with Landlord's express consent, such consent not to be unreasonably withheld or delayed, to any sublessee or assignee permitted under Section 18.1 at any time whether prior or subsequent to the construction or completion of the Improvements erected or to be erected upon the Demised Premises.

16.11 In the event that a Leasehold Mortgagee or its designee or a purchaser at a foreclosure sale shall become the owner or holder of Tenant's interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Tenant", as used in this Lease, means only the owner or holder of Tenant's interest for the time being so that, in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by said Leasehold Mortgagee or its designee or a purchaser at foreclosure, said Leasehold Mortgagee or designee or a purchaser at a foreclosure sale and their respective successors as Tenant shall be and hereby is entirely

free and relieved of all covenants and obligations of Tenant hereunder except for obligations accrued to the date of assignment. It shall be deemed and construed, without further agreement between Landlord and said Leasehold Mortgagee or designee or between Landlord, said Leasehold Mortgagee's purchaser or assignee at any such sale or upon assignment of Tenant's interest, that said purchaser or assignee of tenant's interest has assumed and agreed to carry out any and all covenants and obligations of Tenant hereunder accruing during the period of its ownership.

16.12 Within twenty (20) days after request therefor by Tenant or by Tenant's Leasehold Mortgagee, or in the event that upon any sale, assignment or mortgaging of Tenant's interest in this Lease by Tenant or Tenant's Leasehold Mortgagee or designee, an offset statement shall be required from Landlord, Landlord agrees to deliver in recordable form a certificate to any proposed Leasehold Mortgagee, designee, purchaser, assignee or to tenant, certifying (if such be the case) (i) the amount of Base Rent due or accrued hereunder, if any, and the date to which said Base Rent has been paid; (ii) that this Lease is in full force and effect; (iii) that Landlord has no knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iv) that there are not defenses or offsets which may be asserted by Landlord against Tenant in respect of Landlord's obligations pursuant to this Lease.

16.13 So long as Tenant's interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties hereto jointly and severally agree for the benefit of such Leasehold Mortgagee, that they shall not surrender or accept a surrender or voluntary termination of this Lease or any part thereof, nor shall they hereafter cancel, abridge or otherwise modify this Lease or accept prepayments of Base Rent or additional rent to become due hereunder without the prior written consent of such Leasehold Mortgagee in each instance and that any attempt to do so shall be void and of no effect.

16.14 Reference in this Lease to acquisition of Tenant's interest in this Lease by the Leasehold Mortgagee or its designee shall be deemed to refer, where circumstances require, to acquisition of Tenant's interest in this Lease by any purchaser at a sale on foreclosure of the Leasehold Mortgage or by assignment in lieu of foreclosure

and provisions applicable to the Leasehold Mortgagee or its designees in such instance or instances shall also be applicable to any such purchaser and successor owners.

16.15 So long as Tenant's interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties hereto jointly and severally agree for the benefit of such Leasehold Mortgagee that the Landlord shall not sell, grant or convey to Tenant all or any portion of Landlord's fee simple title to the Demised Premises without the prior written consent of such Leasehold Mortgagee. In the event of any such sale, grant or conveyance by Landlord to tenant, Landlord and Tenant agree that no such sale, grant or conveyance shall create a merger of this Lease into the fee simple title to the Demised Premises. This Section 16.15 shall not be construed to prevent a sale, grant or conveyance of Landlord's fee simple title by Landlord to any person, firm or corporation other than Tenant, its successors, legal representatives and assigns.

16.16 Reference in this Lease to a Leasehold Mortgagee shall be deemed to refer, where circumstances require, to any assignee of a Leasehold Mortgagee, provided that such assignee shall forward to landlord a duplicate original of the assignment of said Leasehold Mortgage, in form proper for recording or a copy of such assignment, certified as a true copy by the Office of the Clerk of Cortland County, New York, together with a written notice setting forth the name and address of said assignee.

16.17 If any subtenant of Tenant's leasehold estate under this Lease shall mortgage its subleasehold estate to obtain financing for construction of the Center or any alterations thereof or expansions thereof or otherwise as permitted in the sublease and in accordance with the terms of the sublease, in lieu of leasehold financing by Tenant, and if the subtenant or the holder ("Subleasehold Mortgagee") of such mortgage (a "Subleasehold Mortgage") shall give both Landlord and Tenant a duplicate original of the Subleasehold Mortgage, in form proper for recording, or a copy of the Subleasehold Mortgage, certified as a true copy by the Office of the Clerk of Cortland County, together with a written notice setting forth the name and address of such Subleasehold Mortgagee, then, until such time as the Subleasehold Mortgage shall be satisfied of record, all of the provisions of this Section 16 shall apply as if the Subleasehold Mortgagee were a Leasehold Mortgagee

which had complied with Section 16.2, and other references in this Lease to a Leasehold Mortgage shall be deemed to refer to the Subleasehold Mortgage, except as otherwise provided below in this Section 16.7 and except that the Subleasehold Mortgagee shall have the right to foreclose only on the subleasehold estate of the sublessee rather than on the leasehold estate of the lessee under this Lease and shall only be required to obtain possession under Section 16.8 through foreclosure of the Subleasehold Mortgage. Upon such notification of a Subleasehold Mortgage, Landlord shall give notices of default and termination to the Subleasehold Mortgagee and Qualified Sublessee and shall accept performance of the holder of the Subleasehold Mortgage and Qualified Sublessee on behalf of Tenant with respect to defaults under this Lease, and shall not terminate this Lease for default of Tenant, if the Subleasehold Mortgagee and Qualified Sublessee shall cure all curable defaults as provided in this Section 16. In any instance in which Landlord would be obligated under Section 16.9 to grant a new lease on termination of this Lease, then so long as a Subleasehold Mortgage is outstanding, Landlord agrees to reinstate this Lease with the Tenant at the time or grant a new lease to such Tenant as provided in Section 16.9, upon curing by the holder of the Subleasehold Mortgage of all curable defaults.

16.18 Notwithstanding any other provisions of this Lease, no term loan, intermediate loan or permanent loan (collectively "Permanent Loan") to Tenant or a subtenant may be secured by an interest in the Center or any part thereof or this Lease or the sublease except in compliance with the additional provisions of this Section 16.18 and in no event shall any such interest extend beyond the term of this Lease. Each mortgage securing a Permanent Loan shall be made only with a lender of the type permitted to the Tenant under this Lease or the subtenant under the sublease, as the case may be. The proceeds of each construction loan and of each Permanent Loan for the initial construction of the Center or any material alteration or reconstruction of the Center (but in the latter case only to the extent of the cost of such alteration or material reconstruction) shall be used solely for the costs thereof. Every Permanent Loan utilized in whole or in part to refinance an existing loan, whether for alterations, reconstruction or otherwise, may be

secured by an interest in the Center or a part thereof only if (a) at least thirty (30) days written notice prior to the closing on such refinancing (the "Funding Notice") of the funding is given to both Landlord and Tenant, (b) the Funding Notice is accompanied by copies of substantially final forms of all the financing documentation or by an outline, satisfactory in form and level of detail to Landlord and Tenant, of the terms of the financial and other material new terms of the refinancing, including the estimated dollar amount of excess refinancing proceeds ("Net Proceeds" as defined below in Section 16.19) which will be payable to Landlord under this Lease or to Tenant as sublessor under the sublease, as the case may be, and (c) the final loan documentation, copies of which shall be provided to Landlord, conforms in all material respects to the information required to be provided under subdivision (b) above:

17. LESSOR'S FEE SIMPLE TITLE NOT TO BE SUBORDINATED; NO FEE MORTGAGES.

In the event that Tenant shall mortgage Tenant's leasehold interest in this Lease, it is specifically understood and agreed that Landlord shall not be required to subordinate or subject Landlord's interest in the fee simple title to the Demised Premises to any Leasehold Mortgage contemplated by Section 16 hereof. It is further understood and agreed that during the Term (including the term of any new lease granted pursuant to Section 16) Landlord will not place or permit to remain on the Demised Premises any mortgage on the fee simple of the Demised Premises or the rents or profits thereof. Notwithstanding any provision in this Lease to the contrary, it is specifically understood and agreed that no Leasehold Mortgage shall be placed on the Demised Premises. Any such Leasehold Mortgage shall be void and of no force and effect.

18. SUBLEASE.

18.1 Tenant shall have the right to sublet or assign the Demised Premises, in whole or in part, or to enter into an agreement for management and operation thereof, in whole or in part, with Creamery Hills, L.P., provided that Tenant first delivers to Landlord true copies of any such sublease, assignment, or management agreement and receives written approval thereof by Landlord. Landlord agrees such approval shall not be

unreasonably withheld, delayed or conditioned. Each such agreement shall in all cases contain provisions expressly making the sublease, assignment, or management agreement subject to this Lease, also providing that the rent payable to Tenant shall be one dollar (\$1.00) per annum, and further providing that any sublease, assignment, or management agreement shall not be amended and no modification or waiver of any of its provisions shall be valid unless in writing signed by the parties thereto and subject to the prior approval of Landlord, and further providing that the exclusive purpose of such agreement shall be for the development, construction or operation of senior citizen housing.

18.2 Tenant and any Sublessee or Assignee shall not sell, assign, subsublease, or otherwise transfer or convey its leasehold interest to any other party (other than on the foreclosure of a Leasehold Mortgage or an assignment in lieu thereof), without the express written approval of Landlord.

19. RECORDATION.

Landlord and Tenant agree to execute a Memorandum of Lease in compliance with Section 291-c of the Real Property Law of the State of New York for the purpose of recording this Lease in the Cortland County Clerk's Office.

20. EASEMENTS.

Landlord covenants and agrees that it will execute any and all instruments that may be reasonably required of Landlord in connection with the granting of easements for installation of water, gas, electricity, cable television or telephone to the various utility companies serving any part of the Demised Premises or for any other purpose reasonable requested by Tenant in connection with the proposed Center, without expense to Landlord, so long as this Lease or any new lease executed pursuant to Section 16 is in effect.

21. RECOGNITION AND ATTORNMENT.

Landlord agrees upon request of Tenant to execute and deliver to Tenant for delivery to any sublessee of all or part of the Demised Premises a recognition agreement stating, in effect, in recordable form and otherwise in form reasonably satisfactory to Tenant, that it will not terminate the sublease or evict the subtenant, and will recognize the subtenant's rights under the sublease as if Landlord were the original sublandlord.

thereunder, notwithstanding any default under and termination of this Lease, provided that there is no uncured Event of Default then existing under the sublease which entitles the sublandlord thereunder immediately to terminate the sublease and provided further that the sublessee has agreed in the sublease and, if requested, reconfirms in writing, at the time, its agreement to attorn to Landlord. Any such recognition agreement shall provide at Landlord's request that neither Landlord nor anyone claiming under Landlord shall be:

21.1 liable for any act or omission of any prior sublandlord (including, without limitation, the then defaulting sublandlord), or

21.2 subject to any offsets or defenses which such subtenant may have against any prior sublandlord (including, without limitation, the then defaulting sublandlord), or

21.3 bound by any payment of rent which such subtenant might have paid for more than the current month to any prior sublandlord (including, without limitation, the then defaulting sublandlord) other than security deposits and any other amounts deposited with any prior sublandlord (including, without limitation, the then defaulting sublandlord) or any mortgagee in connection with the payment of insurance premiums, real property taxes and assessments and other similar charges or expenses, or

21.4 bound by any covenant to undertake or complete any construction of the Demised Premises or any portion thereof demised by such sublease, or

21.5 bound by any obligation to make any payment to such subtenant, or

21.6 bound by any sublease or amendment thereto or modification thereof of which Landlord shall not have been provided copies of and approved as set forth in Section 18 hereof.

22. RIGHT OF ENTRY.

Landlord shall have the right to enter upon the Demised Premises during business hours upon reasonable notice to Tenant for purposes of inspecting the Demised Premises and for purposes of determining whether Tenant is performing the terms, covenants and conditions of this Lease to be performed by Tenant. Such right of entry, with respect to portions of the Demised Premises leased to the subtenants of Tenant or operated by a

managing agent shall be limited by the reasonable rules and regulations of Tenant's subtenant or manager.

23. BROKERAGE.

Landlord and Tenant each represents to the other that it has not employed or negotiated with any broker, finder or similar agent with respect to this Lease which might be entitled to a commission.

24. NOTICE OR DEMANDS.

All notices to, elections by or demands upon Landlord, Tenant or any Leasehold Mortgagee (collectively "Notices") required or desired to be given under any of the provisions hereof shall be in writing. Any Notices from Landlord to Tenant shall be deemed to have been duly and sufficient given, if a copy thereof has been mailed by United States Registered Mail in an envelope properly stamped, addressed to and actually received by Tenant at the Cortland County Office for the Aging, 60 Central Avenue, Cortland, New York 13045. Any Notices from Tenant to Landlord shall be deemed to have duly and sufficiently been given, if mailed by United States Registered Mail in an envelope properly stamped and addressed to and actually received by Landlord at: Vice Chancellor for Capital Facilities, State University of New York, State University Plaza, Albany, New York 12246; or at such other address as Landlord may theretofore have furnished by Notice to Tenant. Any Notices from Landlord or Tenant, as the case may be, to any Leasehold Mortgagee shall be deemed to have been duly and sufficiently given, if a copy thereof shall have been mailed by United States Registered Mail in an envelope properly stamped and addressed to and actually received by such Leasehold Mortgagee at such address as shall be given by such Leasehold Mortgagee in the manner provided in Section 16.2 hereof or at such other address as such Leasehold Mortgagee may from time to time have furnished by written Notice to Landlord or tenant, as the case may be. No Notice shall be effective unless given in the manner prescribed in this Section 25. The return receipt of the United States Post Office signed by an officer of the addressee shall be conclusive proof of receipt by the addressee. If requested in writing by Tenant, Notices from Landlord shall also be sent to counsel for Tenant and to any sublessee or manager of

all or substantially all of the Demised Premises, in the same manner specified for Notices to a Leasehold Mortgagee. In the event of a strike or other interruption of mail service, duplicate Notices shall be given by telex, telecopy or other practical mechanical communication system.

26. QUIET ENJOYMENT.

Landlord covenants that Tenant, upon performing the covenants on its part to be performed, shall and may peaceably and quietly have, hold and enjoy the Demised Premises for the Term hereof.

27. OBLIGATIONS AND BENEFITS.

Except as herein specifically provided to the contrary, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and Tenant, and their respective successors and assigns.

28. TITLES.

The titles to Sections are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease.

29. REPRESENTATIONS.

Neither party has made any representation or promises except as herein contained, and non modification of any provision hereof shall be valid unless in writing and signed by the parties hereto.

30. APPORTIONMENT ON TERMINATION.

Upon the termination of this Lease, all Base Rent and other rent and charges paid in advance shall be apportioned as of the date of termination; provided that, Landlord shall not be obligated to refund Tenant's share if Tenant has any remaining financial obligations to Landlord under this Lease until the same are satisfied.

31. COMPLIANCE WITH LAW.

31.1 Tenant shall comply or cause compliance with all applicable laws and regulations of governmental authorities having jurisdiction of the Demised Premises, but nothing contained in this Lease shall be deemed to confer such authority over the Demised

Premises which by reason of the ownership of the Demised Premises by the State University of New York or for any other reason does not otherwise exist. Tenant may defer compliance as long as it is diligently contesting or causing to be contested the applicability or validity of any such law or regulation provided the Demised Premises are not in any imminent danger of forfeiture or becoming subject to a material lien and provided Landlord is not thereby subjected to any criminal liability.

32. ESTOPPEL CERTIFICATES.

32.1 Tenant agrees at any time and from time to time, upon not less than 30 days' prior notice by Landlord, to execute, acknowledge and deliver, without charge, to Landlord, or to any person designated by Landlord, a statement in writing certifying that this Lease is unmodified (or if there have been modifications, identifying the same by the date thereof and specifying the nature thereof), that Tenant has not received any notice of default or termination of this Lease (or if Tenant has received such a notice, that it has been revoked, if such be the case), that no Event of Default exists hereunder (or if any such Event of Default does exist, specifying the same and stating that the same has been cured, if such be the case), that Tenant to its knowledge has no claims against Landlord hereunder (or if Tenant has any such claims, specifying the same), and the dates to which the Base Rent and the other sums and charges payable by Tenant hereunder have been paid.

32.2 Landlord agrees at any time and from time to time, upon not less than 30 days' prior written notice by Tenant, to execute, acknowledge and deliver, without charge, to Tenant, or to any person designated by Tenant, a statement in writing stating that this Lease is unmodified (or if there be modifications, identifying the same by the date thereof and specifying the nature thereof), that no notice of default or termination of this Lease has been served on Tenant (or if Landlord has served such notice, that the same has been revoked, if such be the case), that to Landlord's knowledge no Event of Default exists under this Lease (or if any such Event of Default does exist, specifying the same), and the dates to which the Base Rent and the other sums and charges payable by Tenant hereunder have been paid.

33. MISCELLANEOUS.

Exhibit A is hereby incorporated into and made a part of this agreement to the extent applicable. In addition, each sublease, management agreement or other contract shall contain the provisions of Exhibit A to this Lease, expressly or by incorporation by reference. To the extent of any construction, alteration or rehabilitation performed by personnel of Tenant or a subtenant, Exhibit A shall be applicable to such work.

IN WITNESS WHEREOF, Landlord and Tenant have respectively signed and sealed this Lease as of the day and year first above written.

COALITION OF CENTER COUNCILS
OF CORTLAND COUNTY, INC.

STATE UNIVERSITY OF NEW YORK

By:

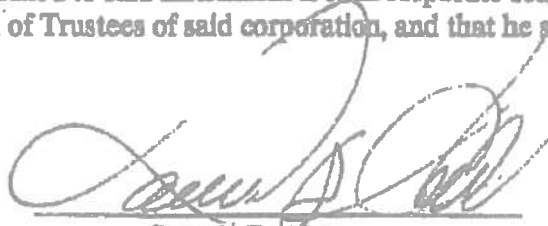
Pauline Byrne, President

By:

J. H. Fisher

STATE OF NEW YORK)
SS.:
COUNTY OF ALBANY)

On this 27th day of April, 1996, before me personally came Irving Freedman, who being duly sworn, did depose and say that he resides in Loudonville, New York, that he is the Vice Chancellor for Capital Facilities of the State University of New York, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by the order of the Board of Trustees of said corporation, and that he signed his name thereto by like order.



Lonnie D. Clar

Notary Public, State of New York
Qualified in Albany County

My commission expires Mar 30, 1998

COALITION OF CENTER COUNCILS OF CORTLAND COUNTY, INC.

By: Carolyn Byrne, President
CAROLYN BYRNE, President

(ACKNOWLEDGMENT BY CORPORATION)

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

On this 29th day of April, 1996 before me personally came CAROLYN BYRNE to me known, who being duly sworn, did depose and say that she/she resides in Cortland, New York; that he/she is the President of the COALITION OF CENTER COUNCILS OF CORTLAND COUNTY, INC., the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

Sabrina M. Clark
Notary Public

TR 91-4

SABRINA M. CLARK
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN CORTLAND CO., 1994/12/31
MY COMMISSION EXPIRES JUNE 30, 2000

Form Revised 3/8/91

APPROVED:

Date: 5/6/96

PATRICIA WOODWORTH
State Director of the Budget

By: Carl McCall

APPROVED AS TO FORM:

APPROVED AS TO FORM
NEW YORK STATE
ATTORNEY GENERAL

Date: _____

DENNIS C. VACCO
Attorney General

MAY 1 1996

Stephen J. Herchel
STEPHEN J. HERCHEL
ASSOCIATE ATTORNEY

By: _____

MAY 14 1996

APPROVED AND FILED:

Date: _____

MAY 14 1996

HL CARL McCALL
Comptroller

Frederic L. Wilcox

By: _____

SCHEDULE A

All that tract, piece or parcel of land situate in the State of New York, County of Cortland, Town of Harford and lying along the northern right-of-way of Creamery Road west of the Hamlet of Harford which is located on NYS Route 38 and is more specifically described as follows:

Beginning at a point lying in the northern line of the Creamery Road right-of-way, said point being approximately 310.0 feet southwest of the western boundary of NYS Route 38, said point also being the southwest corner of Tax Parcel 162.11-1-07, THENCE running in a southwesterly direction along the northern right-of-way of Creamery Road a distance of 772.14 feet to a point, said point also being the southeast property corner of Tax Parcel 162-1-39.2; THENCE running northwesterly a distance of 218.7 feet to a point in the centerline of an unnamed creek, THENCE running first northeasterly and then northerly along the centerline of the aforementioned unnamed creek a distance of 850.0 feet to a point; THENCE northeasterly a distance of 170.0 feet to a point, said point also being the south westernmost corner of Tax Parcel 162.11-1-02; THENCE running southeasterly along the southwest boundary of Tax Parcel 162.11-1-02 a distance of 210.0 feet to a point, said point also being the westernmost corner of Tax Parcel 162.11-1-03; THENCE running southeasterly a distance of 435.5 feet along the southwest boundaries of Tax Parcels 162.11-1-03, 05, 06, and 07 to the point of the beginning, containing 6.98 acres of land, more or less.

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a Contractor, licensee, lessee, or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 136 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempt to assign the contract without the State's written consent is null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law and Section 353 of the State Education Law, if this contract exceeds \$50,000 for commodities, \$35,000 for services or \$10,000 for printing, or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amounts, or if, by this contract, the State agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in the Comptroller's office.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. In accordance with Article 15 of the Executive Law (also known as the Human Rights Law), and all other State and Federal statutory and constitutional non-discrimination provisions, Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Furthermore, in accordance with Section 230-c of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building services contract as defined Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 230-c or Section 239 as well as possible termination of this contract and forfeiture of all money due

hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 139-3 of the State Finance Law, if this contract was awarded based on the submission of competitive bids: (a) By submission of its bid, Contractor (Bidder) certifies, and each person signing on behalf of the Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices, with any other bidder or with any competitor; (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not be knowingly disclosed by the Bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(b) A bid shall not be considered for award nor shall any award be made where (a) (1), (2) and (3) above have not been complied with; provided however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 230-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR 105.4).

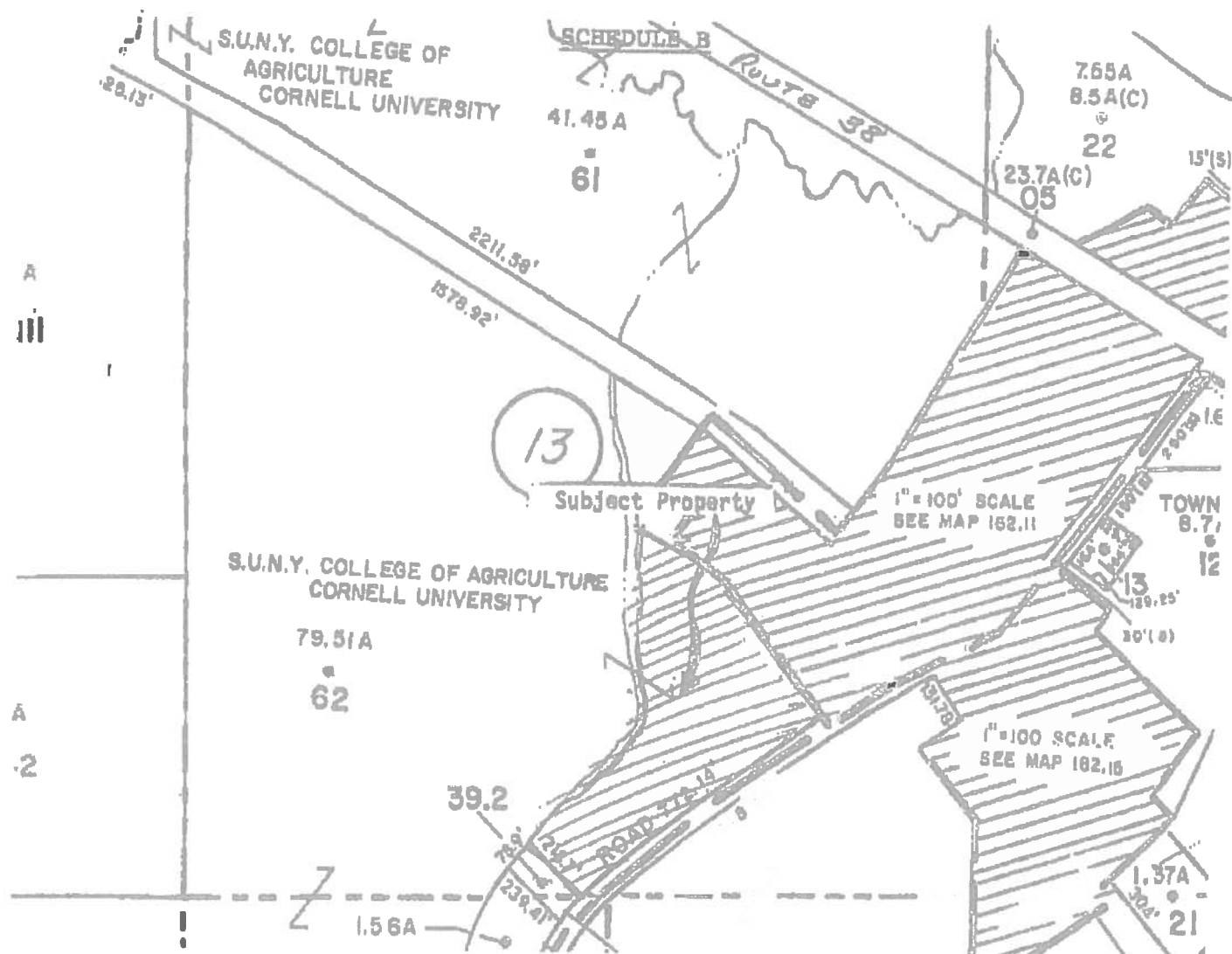
9. SET-OFF RIGHTS. The State shall have

all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purpose of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidences directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Federal Employer Identification Number and/or Federal Social Security Number. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on his invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have



Approved and effective July 20, 1994

AN ACT authorizing the state university of New York to lease certain lands of the New York state college of agriculture and life sciences at Cornell university

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Notwithstanding the provisions of any other law to the contrary, the state university of New York is authorized to enter into a lease in consideration of one dollar on behalf of and in the name of the state of New York of a parcel of land used by the New York state college of agriculture and life sciences at Cornell university in the county of Cortland as more fully described in section two of this act to the Coalition of Center Councils of Cortland County, Inc. Such lease shall be for the exclusive purpose of development, construction and operation of senior citizen housing; and shall be made upon such terms and conditions as determined by the trustees of the state university of New York. The lease shall be subject to the submission of an appraisal acceptable to the state university of New York. No such lease shall provide for a fee simple conveyance of such land. Construction, acquisition, reconstruction, rehabilitation, improvement, operations, management, mortgaging with any lender (including other security or financing arrangements incidental or related thereto or customary in connection therewith; leasehold mortgaging or assignments of rents), providing services for or otherwise assisting, or granting easements, or licenses or other arrangements in regard to, such facilities and underlying land may be provided for from time to time without public bidding or sale by such lease (and replacements, modifications, substitutions or renewals thereof), upon such terms as the state university of New York shall approve, not to exceed in the aggregate, ninety-nine years. Such lease shall provide for termination, in the event of any material default in the terms thereof. Such lease shall not become binding upon the state until approved by the attorney general as to form, the director of the budget and the comptroller of the state of New York.

§ 2. The lands authorized to be leased pursuant to section one of this act are bounded and generally described as follows:

All that tract, piece or parcel of land situate in the State of New York, County of Cortland, Town of Harford and lying along the northern right-of-way of Creamery Road west of the Hamlet of Harford which is located on NYS Route 38 and is more specifically described as follows:

Beginning at a point lying in the northern line of the Creamery Road right-of-way, said point being approximately 810.0 feet southwest of the western boundary of NYS Route 38, said point also being the southwest corner of Tax Parcel 162.11-1-07, THENCE running in a southwesterly direction along the northern right-of-way of Creamery Road a distance of 772.14 feet to a point, said point also being the southeast property corner of Tax Parcel 162.11-38-2, THENCE running northwesterly a distance of 218.7 feet to a point in the centerline of an unnamed creek, THENCE running first northeasterly and then northerly along the centerline of the aforementioned unnamed creek a distance of 850.0 feet to a point; THENCE northeasterly a distance of 170.0 feet to a point, said point also being the southwesternmost corner of Tax Parcel 162.11-1-02; THENCE running southeasterly along the southwest boundary of Tax Parcel 162.11-1-02 a distance of 210.0 feet to a point, said point also being the westernmost corner of Tax Parcel 162.11-1-03; THENCE running southeasterly a distance of 486.5 feet along the southwest boundaries of Tax Parcels 162.11-1-03, 05, 06, and 07 to the point of the beginning, containing 6.98 acres of land, more or less.

§ 3. The description in section two of this act of the lands to be leased is not a legal description, but is intended only to identify the premises to be leased. As a condition of lease

the Coalition of Center Councils of Cortland County, Inc. shall provide an accurate survey and description generally acceptable to the state university of New York.

§ 4. The state university of New York shall not lease the aforementioned lands unless such lease shall be executed within three years of the effective date of this act.

§ 5. This act shall take effect immediately.

STATE HIGHWAY SYSTEM—DESIGNATION OF PORTION AS THE FORT DRUM MILITARY HIGHWAY

CHAPTER 367

S. 7418-A

Approved and effective July 20, 1994

AN ACT to amend the highway law, in relation to designating a portion of the state highway system in Jefferson county as "The Fort Drum Military Highway"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The highway law is amended by adding a new section 342-bb to read as follows:

§ 342-bb. Portion of state highway system to be designated as "The Fort Drum Military Highway"

That portion of state route three in Jefferson county, beginning at route twelve and continuing north to the Jefferson-Lewis county border shall be designated as "The Fort Drum Military Highway".

The commissioner of transportation shall provide for the installation and maintenance of adequate signing of the highway as designated by section one of this act.

This act shall take effect immediately.

ENERGY LAW—ENERGY PERFORMANCE CONTRACTS

CHAPTER 368

S. 7434-A

Approved and effective July 20, 1994

AN ACT to amend the energy law in relation to energy performance contracts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Division 8 of section 9-108 of the energy law, as added by chapter 738 of the laws of 1991, is amended to read as follows:

In the case of a school district or a board of cooperative educational services, an energy performance contract shall be an ordinary contingent expense, and shall in no event be deemed or deemed a lease or lease-purchase of a building or facility, for purposes of twenty hundred twenty-three of the education law.

Additions are indicated by underline; deletions by ~~strikeout~~

Creamery Hills Apartments
Cortland County Industrial Development Agency
Application for Financial Assistance
Sublease between CCCCC and Creamery Hills, L.P.

Exhibit J

NOTE – The applicant is in the process of negotiating an extension on the attached sublease for a minimum term of thirty (30) years.

403A

MEMORANDUM OF LEASE

COALITION OF CENTER COUNCILS OF CORTLAND COUNTY, INC., a corporation organized under the New York Not-For-Profit Corporation Law, with an office and place of business at 66 Cortland Avenue, Cortland, New York hereinafter referred to as "Sublandlord" and CREAMERY HILLS, L.P., A New York limited partnership, which is organized as a redevelopment company pursuant to Article V of the Private Housing Finance Law of the State of New York, having an office and mailing address at 9 Church Street, Cortland, New York, herein referred to as "Subtenant", entered into a certain sublease of real property dated April __, 1996.

That said lease covers real property described on Schedule A attached hereto.

Under the terms of the aforesaid lease, said real property was leased by Landlord to Tenant for a term commencing upon the date of approval of the lease by the comptroller of the State of New York and said lease terminates at 11:59 p.m. on the date which is the thirtieth (30th) anniversary of the commencement date. There is no right of extension or renewal.

This Memorandum of Lease is specifically authorized by Section 19 of said lease referred to above.

IN WITNESS WHEREOF, Landlord and Tenant have respectively signed and sealed this Lease as of the 30 day of May, Nineteen Hundred Ninety-Six.

COALITION OF CENTER COUNCILS OF
CORTLAND COUNTY, INC.

CREAMERY HILLS, L.P.

By: CREAMERY HILLS, INC. - General Partner

By: Barbara Byrnes

By: [Signature]
President

EDWARD A. HOFFMANN, JR., P.C. ATTORNEY AT LAW 6 CORTLAND STREET CORTLAND, NEW YORK 13814

Schedule A

All that tract, piece or parcel of land situate in the State of New York, County of Cortland, Town of Harford and lying along the northern right-of-way of Creamery Road west of the Hamlet of Harford which is located on NYS Route 28 and is more specifically described as follows:

Beginning at a point lying in the northern line of the Creamery Road right-of-way, said point being approximately 310.0 feet southwest of the western boundary of NYS Route 28, said point also being the southwest corner of Tax Parcel 162.11-1-07, THENCE running in a southwesterly direction along the northern right-of-way of Creamery Road a distance of 772.14 feet to a point, said point also being the southeast property corner of Tax Parcel 162-1-39.2; THENCE running northwesterly a distance of 214.7 feet to a point in the centerline of an unnamed creek, THENCE running first northeasterly and then northerly along the centerline of the aforementioned unnamed creek a distance of 610.0 feet to a point; THENCE northeasterly a distance of 170.0 feet to a point, said point also being the south westernmost corner of Tax Parcel 162.11-1-02; THENCE running southeasterly along the southwest boundary of Tax Parcel 162.11-1-02 a distance of 210.0 feet to a point, said point also being the westernmost corner of Tax Parcel 162.11-1-02; THENCE running southeasterly a distance of 435.3 feet along the southwest boundaries of Tax Parcels 162.11-1-02, 03, 06, and 07 to the point of the beginning, containing 6.99 acres of land, more or less.

STATE OF NEW YORK
COUNTY OF CORTLAND) ss:

On this 30 day of MAY, 1996, before me personally came Christopher Calabro, to me known, who being duly sworn, did depose and say that he resides in Cortland, New York, that he is the President of CREAMERY HILLS, INC. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by the order of the Board of Trustees of said corporation, and that he signed his name thereto by this order.



[Signature]
NOTARY PUBLIC
1/31/98

STATE OF NEW YORK
COUNTY OF CORTLAND) ss:

On this 30 day of MAY, 1996, before me personally came Carol A. Ryans, to me known, who being duly sworn, did depose and say that he/she resides in Cortland County, that he/she is the President of COALITION OF CENTER COUNCILS OF CORTLAND COUNTY, INC. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by the order of the Board of Trustees of said corporation, and that he signed his name thereto by this order.



[Signature]
NOTARY PUBLIC
BARBARA A. CILLO
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN CORTLAND CO. 1/31/98
BY COMMISSION EXPIRES NOV. 30, 2000

Receipt # : 22518
 INSTR SUM : 1996 4013
 NUM PAGES : 0004
 TYPE INSTR : MEMO CONTRACT

JUDITH F BIRNBAUM
 CORTLAND COUNTY CLERK
 P.O. BOX 5590
 CORTLAND, N.Y. NY 13045

GRANTOR :
 COALITION OF CHURCH COUNCILS CORTLAND

GRANTEE :
 CREAMERY HILLS LP
 CREAMERY HILLS INC

DEED CONSIDERATION \$ 0.00
 Transfer Tax Amt \$ 0.00
 Transfer Tax \$ 196

LOCATION:
 CITY/TOWN: HANFORD

MORTGAGE AMOUNT \$ 0.00
 Basic Tax \$ 0.00
 Add'l Tax \$ 0.00
 Spec Add'l Tax \$ 0.00
 Total Tax Amt \$ 0.00

State of New York)
 County of Cortland)

Apportionment : NO
 Mortgage Serial # 0000000000

I hereby certify that I have
 received imposed tax paid at time
 of recording. INSTRUMENT
 recorded on AUGUST 30, 1996
 at 04:22 o'clock PM
 INSTR SUM 1996 4013

RETURN TO:
 PIONEER CORPORATION

Judith F. Birnbaum
 CORTLAND COUNTY CLERK

9 CHURCH ST
 CORTLAND NY 13045

This sheet constitutes the Clerk endorsement required by section 216-A (5) for
 the Real Property law of the State of New York. DO NOT DETACH