

PROJECT AND AGENT AGREEMENT

THIS PROJECT AND AGENT AGREEMENT, made the 18th day of December, 2020, is by and between the TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its offices at 6122 South Park Avenue, Hamburg, New York 14075 (the "Agency") and GAAL HOLDINGS, INC., a corporation duly incorporated and validly existing under the laws of the State of New York with offices 5525 Rogers Road, Hamburg, New York 14075 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 784 of the Laws of 1986 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company submitted an application (the "Application") to the Agency on its own behalf and on behalf of a Gaal Holdings, Inc. (the "Lessee") requesting the Agency's assistance with respect to a certain project consisting of the acquisition and equipping by the Agency through a lease only transaction of a commercial facility consisting of the acquisition and equipping by the Lessee as agent for the Agency with a lease only transaction of an office, warehouse and manufacturing facility consisting of the construction of an approximately 12,540 square foot building on a 2 acre parcel of land located in the Lake Erie Commerce Center, Hamburg, New York, by the Lessee, as Agent for the Agency, for lease by the Lessee to the Agency for sublease to the Lessee for sub-sublease to J. Battista Construction, Inc. (the "Sublessee") who will be the main occupant of the facility and the acquisition and installation of machinery, equipment, furnishings and fixtures required in connection therewith by the Sublessee, as agent for the Agency, all for the provision of an office, warehouse and fabricated metal product manufacturing Facility (the "Project") (the real property, the improvements constructed thereon and the equipment acquired and installed in connection with the Project are referred to as the "Facility"); and

WHEREAS, by Resolution adopted on September 24, 2019 and extended on October 22, 2020 (the "Resolutions"), the Agency conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: an exemption from all New York State and local sale and use taxes for purchases of machinery, equipment, furnishings and fixtures used in connection with the equipping of the Facility, (the "Financial Assistance"); and

WHEREAS, it has been estimated and confirmed by the Company as included within its Application for Financial Assistance that the purchase of goods and services related to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$345,000.00, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$30,188.00; and

WHEREAS, the obligations of the Company regarding its ability to utilize the Agency's sales and use tax exemption benefit as agent of the Agency to acquire and equip the Facility and to undertake the Project are hereafter set for in the Project Agreement; and

WHEREAS, the Agency requires as a condition and as an inducement for it to enter into the transactions contemplated by the Resolution, that the Company provide assurances with respect to the terms and conditions herein set forth: and

WHEREAS, this Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Purpose of the Project. It is understood and agreed by the Parties hereto that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Lease Agreement in order to promote, develop, encourage and assist in the acquiring, construction, reconstructing, improving, maintaining, equipping and furnishing of the Project facility to advance job opportunities, health, general prosperity and economic welfare of the people of the Town of Hamburg and to otherwise accomplish the public purpose of the Act.

2. PILOT Agreement. The parties hereto understand and agree that **Exhibit A** to this Agreement contains a draft copy of the PILOT Agreement to be entered into, or entered into, by and between the Company and the Agency.

3. Termination, Modification and/or Recapture of Agency Financial Assistance. It is understood and agreed by the Parties hereto that the Agency is entering into the Lease Agreement in order to provide Financial Assistance to the Company for the Facility and to accomplish the public purposes of the Act. The Company hereby makes the following representations and covenants in order to induce the Agency to proceed with the Project/Facility which are deemed to be material factors (the "Material Factors").

- (i) the Company agrees to expend the sum of \$345,000 towards the acquisition and installation of machinery, equipment, furnishings and fixtures (the "Investment Commitment").

- (ii) the Company agrees to retain 8 FTE employees and 1 PTE and hire 2 FTE new employees (the "Employment Commitment").
- (iii) the Company agrees to follow the Agency Local Labor Policy during construction of the Facility (the "Local Labor Commitment"), only as applicable.
- (iv) the Company agrees that it will occupy the Facility and utilize the Facility as a commercial roofing facility (the "Project Use Commitment").
- (v) the Company agree that it will comply with the requirements of the Agency to provide annually to the Agency certain information to confirm that the Project is achieving the investment, job retention, job creation and other objectives of the Project (the Project Reporting Requirements of the Agency (the "Project Reporting Commitment").
- (vi) the Company agrees to maintain the insurance requirements as required in connection with this Agreement and the Installment Sale Agreement and to provide copies to the Agency as required herein (the "Insurance Commitment").

(a) In accordance with Section 874 and 875 of the New York State General Municipal Law, the policies of the Agency and the Resolution, the Company covenants and agrees that it may be subject to a Recapture Event Determination (as hereinafter defined) resulting in the potential recapture of any and all Financial Assistance from the Agency, if it is determined by the Agency that:

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(2) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or

(3) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documents false or misleading in any material respect, on its application for Financial Assistance.

(5) The parties agree that the Company shall be required to meet the Investment Commitment and the Local Labor Commitment threshold by December 31, 2017 (the "Project Completion Date") and to meet the Employment Commitment threshold within two years following the Project Completion Date and maintain such employment for a one calendar following the calendar year when the Employment Commitment threshold is met (the period following the achieving of the Employment Commitment threshold and the one year period following being defined as the "Material Terms and Conditions Monitoring Period").

(a) Investment Commitment, the total investment actually made with respect to the Project at the Project Completion Date must equal 85% of the project cost

as set forth in the application for Financial Assistance. The Company shall have the right to establish that it did not meet the requirements due to cost savings achieved by the Company and that the benefits that the Company has received have been reduced proportionately in accordance with the reduction in investment.

(b) Employment Commitment-that there were to be at least eight (8) FTE employees located at, or to be located at the Facility as stated in the Company's application for Financial Assistance (the "Baseline FTE") with an additional two (2) FTE to be created by the Company and the Company fails to maintain employment at 85% of the total of the Baseline FTE and new FTE. The Company shall have the right to establish that the failure to comply with the Employment Commitment was due to circumstances beyond their control.

(c) Local Labor Commitment-that the Company adheres to and undertakes or has undertaken construction activities in compliance with the Agency's Local Labor Workforce Policy, only to the extent applicable.

(d) Project Reporting Commitment-that the Company must supply the information required by this Agreement to allow the Agency to evaluate whether the Company is in compliance with the requirements of this Agreement. The reporting requirements are set forth in paragraph 4.

(b) Termination or Modification of Benefits. In addition to the recapture provisions as set forth in 3. (a) above, the Agency reserves the right to terminate the Installment Sale Agreement if the Company fails to comply with the Project Use Commitment, the Project Reporting Commitment and the Insurance Commitment.

In Company acknowledges and understands that a Recapture Event Determination made with respect to Section 3(a)(4) of this Agreement, will, in addition to requiring the repayment of benefits, in addition immediately result in the loss and forfeiture of the Company's right and ability to obtain any and all future Financial Assistance with respect to the Project.

4. Project Reporting Requirements. The Company shall comply with the provisions of Section 6 (j) and (k) as set forth hereafter with respect to the filing of NYS Forms ST-340 and ST-123.

The Company shall provide annually, to the Agency a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contracts that work at the Project location, and (ii) indicating the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for

categories of jobs retained and jobs created. **Exhibit B** contains the form of annual certification as so required as discuss above as well as additional Project assessment information that the Agency requires on an annual basis to be submitted to the Agency by the Company.

The findings made by the Agency with respect to Section 3 (a) (1), (2), (3) and/or (4) and/or the failure to provide written confirmation as required by Section 3(a)(5) with respect to the threshold and requirements as identified in Section 3(a)(5) above, may potentially be determined by the Agency, in accordance with the Town of Hamburg Industrial Development Agency Policy for Recapture, Termination and/or Modification of Financial Assistance or other procedure that provides for the suspension or discontinuance of Financial Assistance.

5. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the following: the acquisition and installation of machinery, equipment, furnishings and fixtures required in connection therewith by the Company, as agent for the Agency, for sale to the Company pursuant to an installment sale transaction, all for the provision of a commercial roofing facility. The right of the Company to act as agent of the Agency shall expire on September 24, 2020, unless extended as contemplated by the Resolution. The aggregate amount of work performed as Agent for the Agency shall not exceed the amounts described in the Application of the Company in this matter. All contracts entered into by the Company as agent for the Agency shall include the language set forth in **Exhibit C**:

6. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:

(a) The Company is a corporation duly incorporated and validly existing under the laws of the State of New York and duly qualified and authorized to conduct business in New York State (the "State"), has the authority to enter into this Agreement and has duly authorized the execution and delivery of this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

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

(f) Any personal property acquired by the Company in the name of the Agency shall be located in the Town of Hamburg, New York, except for temporary periods during ordinary use.

(g) In accordance with Section 875(3) of the New York General Municipal Law, the Company covenants and agrees that, if it receives New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") from the Agency, and it is determined that: (i) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project, then the Company will (i) cooperate with the Agency in its efforts to recover or

recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.

(h) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in the amount up to \$345,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$30,188.00.

(i) The Agency following the adoption of the Inducement Resolution and the entry into by the parties of this Project Agreement will complete and forward to the State Department of Taxation and Finance the "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (NYS Form ST-60) for the Project.

(j) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340) regarding the value of sales and use tax exemptions the Company, its agents, subagents, consultants or subcontractors have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with General Municipal Law Section 874(8). The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Agency; provided, however, in no event later than February 15th of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of the Company's authority to act as agent for the Agency.

(k) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123, a copy of which is attached hereto as **Exhibit D**; and it shall be the responsibility of the Company (and not the Agency) to complete NYS Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the purchase invoice should state, **"I, certify that I am a duly appointed representative of Gaal Holdings, Inc. a duly appointed agent of the Town of Hamburg Industrial Development Agency, and that I am purchasing the tangible personal property or services for use in the following IDA project located in the Lake Erie Commerce Center in the Town of Hamburg, IDA Project Number "14051903A" and that such purchases qualify as exempt from sales and use taxes under my agent agreement with the Town of Hamburg Industrial Development Agency."** For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described above, an "Invoice Rider" (a copy of which is attached hereto as **Exhibit E** can be utilized for record keeping purposes).

The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: "the name of the Project, the street address of the Project site, and IDA project number." Until the Project is completed, the Company will forward to the Agency on a semi-annual basis commencing six months following the adoption of the Inducement Resolution by the Agency, a listing of all vendors, costs of purchases and estimated sales/use tax for each vendor. A list of vendors is attached as **Exhibit F**. The Company will also forward to the Agency all Form ST-123's issued by the Company to sellers to the Agency within 30 days following the issuance of the Form ST-123 by the Company.

(1) The Company acknowledges and agrees that, except to the extent of bond proceeds (to the extent bonds are issued by the Agency with respect to the Project), the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

7. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members employees, agents (except the Company), representatives, successors and assigns harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation, or the use thereof or the presence on, in or about the Facility or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, rehabilitating, constructing, renovation, equipping, owning and leasing of the Equipment or the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents (except the Company) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

8. Insurance Required. Effective as of the date hereof and until the expiration or termination of the right of the Company to act as agent of the Agency hereunder, the Company shall maintain, or cause to be maintained by its subagent or subcontractors, certain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type, and paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) (i) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirement of periodic appraisal), the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well. Such insurance shall have a commercially reasonable deductible.

(b) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$5,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$5,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable workers' compensation law.

9. Additional Provisions Respecting Insurance. (a) All insurance required by Section 8 hereof shall name the Agency as an additional insured, as its interest may appear. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance may be written with commercially reasonable deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) at least thirty (30) days prior written notice of the cancellation thereof to the Company and the Agency, except in the event of non-payment, in which at least ten (10) days prior written notice of the cancellation shall be delivered to the Company and the Agency. All insurance requirements in Section 8 may be satisfied by blanket policies subject to the reasonable approval by the Agency; provided, however, that approval or acceptance by a commercial lender (if any) in connection with the financing of the Project shall not require approval by the Agency. All or some of Section 8 insurance requirements may be satisfied by an Owner Controlled Insurance Program ("OCIP") subject to approval by the Agency; provided, however, that approval or acceptance by a commercial lender in connection with the financing of the Project shall not require approval by the Agency.

(b) All such policies of insurance, or a certificate or certificates of insurance that such insurance is in force and effect, shall be deposited with the Agency on the date hereof. Prior to expiration of any such policy, the Company shall furnish evidence to the Agency that the policy has been renewed or replaced or is no longer required by this Agreement.

10. Survival. All warranties, representations and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Agreement to the Agency regardless of any investigation made by the Agency.

11. Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

12. Notices. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: TOWN OF HAMURG INDUSTRIAL DEVELOPMENT AGENCY
6100 South Park Avenue
Hamburg, New York 14075
Attention: Executive Director

To the Company: GAAL HOLDINGS, INC.,
5525 Rogers Road
Hamburg, New York 14075

With Copy To: David W. Polak, Esq.
1370 Union Road
West Seneca, New York 14224

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

13. Future Agreements. The parties are contemplating that the Agency will negotiate and enter into an Installment Sale Agreement (the "Installment Sale Agreement") with the Company in connection with the acquisition and installation of the Project. At any time prior to the execution of the Installment Sale Agreement, the Agency can transfer title to the Company of all assets acquired by the Company as agent for the Agency. Additionally, at any time prior to execution of the Installment Sale Agreement, the Company can demand that the Agency transfer title to the Company with respect to all assets acquired by the Company as agent for the Agency, provided all amounts owed the Agency have been paid current and the Agency shall transfer title to such assets to the Company by a bill of sale.

14. Agreement to Pay Agency Fees and Expenses. By executing this Project Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency for (i) legal services in connection with the Project, including but not limited to those provided by the Agency's Counsel, and (ii) other consultants retained by the Agency in connection with the Project; with all such charges to be paid by the Company at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Agency's invoices therefore. The Company is entitled to receive a written estimate of fees and costs of the Agency's Counsel in accordance with the fee schedule of the Agency.

The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Agency or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

15. Amendments. No amendment, change, modification, alteration or termination of this Agreement shall be made except in writing upon the written consent of the Company and the Agency.

16. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in the Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Agreement or any part thereof.

17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Erie County, New York.

18. Section Headings. The headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.


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[Signature Page to Agent Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Dated: 12/2, 2020

TOWN OF HAMBURG INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Sean Doyle,
Executive Director

Dated: December 18, 2020

GAAL HOLDINGS, INC.

By: 
J. Battista, Member

EXHIBIT A

GAAL HOLDINGS, INC. PROJECT

DRAFT PAYMENTS IN LIEU OF TAXES

It is recognized that under the provisions of the Act, the Agency is required to pay no real estate taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. Except as otherwise provided herein and in Section 4.4, while the Facility is being used in accordance with the Act and this Agreement, the provisions of this paragraph with respect to payments in lieu of real estate taxes shall be applicable. Until the commencement of the tax fiscal year of the appropriate taxing authority subsequent to the first tax status date on which the Agency is the holder of a leasehold interest in the Facility, located at the Lake Erie Commerce Center in the Town of Hamburg, New York (the "Lessee") shall continue to pay all appropriate taxing authorities all taxes due. Thereafter, the Lessee shall pay to the Town of Hamburg (Town), County of Erie (County) and the Frontier Central School District (School District) in lieu of exempted taxes the following amounts:

A. To the Town of Hamburg, c/o Director of Finance, 6100 South Park Avenue, Hamburg, New York 14075, no later than February 15th of each year,

1. Commencing in 2021, an amount equal to the Town taxes which would be due, were there no such exemption, based upon the assessed value of the Facility Realty; and

2. Commencing in 2022, an amount equal to the Town taxes which would be due, were there no such exemption, based upon the value of the non-depreciable portion of the Facility Realty (assessed as land); and

3. Commencing in 2022, an amount equal to the percentage of the Town taxes which would be due, were there no such exemption, based upon the value of the depreciable portion of the Facility Realty (assessed as buildings and other improvements) in accordance with the following schedule:

<u>Fiscal Year</u>	<u>Percentage</u>
2022	10%
2023	10%
2024	20%
2025	20%
2026	30%
2027	30%
2028	30%

4. Commencing in 2029, an amount equal to the Town taxes would be due, were there no such exemption upon the then assessed value of the Facility Realty.

B. To the County of Erie, c/o Erie County Department of Finance, 95 Franklin Street, Buffalo, New York 14202, no later than February 15th of each year,

1. Commencing in 2020, an amount equal to the County taxes which would be due, were there no such exemption, based upon the assessed value of the Facility Realty; and

2. Commencing in 2022, an amount equal to the County taxes which would be due, were there no such exemption, based upon the value of the non-depreciable portion of the Facility Realty (assessed as land); and

3. Commencing in 2022, an amount equal to the percentage of the County taxes which would be due, were there no such exemption, based upon the value of the depreciable portion of the Facility Realty (assessed as buildings and other improvements) in accordance with the following schedule:

<u>Fiscal Year</u>	<u>Percentage</u>
2022	10%
2023	10%
2024	20%
2025	20%
2026	30%
2027	30%
2028	30%

4. Commencing in 2029, an amount equal to the County taxes would be due, were there no such exemption upon the then assessed value of the Facility Realty.

C. To the School District, c/o District Treasurer, Frontier Central Business Office, Frontier Educational Center, 5120 Orchard Avenue, Hamburg, New York 14075, no later than October 15th of each year,

1. Commencing in 2020-2121, an amount equal to the School taxes which would be due, were there no such exemption, based upon the assessed value of the Facility Realty; and

2. Commencing with the School District's fiscal year 2021-2022, an amount equal to the School District taxes which would be due, were there no such exemption, based upon the value of the non-depreciable portion of the Facility Realty (assessed as land); and

3. Commencing with the School District's fiscal year 2021-2022, an amount equal to the percentage of the School District taxes which would be due, were there no such exemption, based upon the value of the depreciable portion of the Facility Realty (assessed as buildings and other improvements) in accordance with the following schedule:

<u>Fiscal Year</u>	<u>Percentage</u>
2021-2022	10%
2022-2023	10%
2023-2024	20%
2024-2025	20%
2025-2026	20%
2026-2027	30%
2027-2028	30%

4. Commencing with the School District's fiscal year 2028-2029, an amount equal to the School District taxes which would be due, were there no such exemption upon the then assessed value of the Facility Realty.

The parties intend that the Lessee shall receive the equivalent of the standard seven year PILOT on the assessed valuation of the depreciable portion of the real property constituting a part of the Project. They assume the full value of the completed Project will first appear on the tax roll as of tax status date on March 1, 2021. If this assumption is incorrect, the dates on paragraphs A, B and C shall be adjusted accordingly unless the Lessee elects to begin the tax abatement before the real property is fully assessed.

The foregoing is subject, in each case, to the Lessee's rights to obtain reductions in the assessed valuation of the Facility Realty, to maintain existing exemptions, and to obtain other exemption, abatements or discounts therefrom, if any, and to seek to obtain a refund of any such payments made, all of which are hereby expressly reserved by the Lessee.

If the Lessee shall fail to make any such installments of payments in lieu of real estate taxes, the amount or amounts so in default shall continue as an obligation of the Lessee until fully paid and the Lessee agrees to pay the same with interest thereon.

In addition, a late payment penalty of five percent (5%) of the amount due shall be paid by the Lessee if payment is not received by the affected tax jurisdiction by the due date. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made. Once having paid the amount required by this Section 4.3 to be paid by it in lieu of real estate taxes, the Lessee shall not be required to pay any such taxes for which a payment in lieu thereof has been made to the appropriate officer of the Town, County or School District, as the case may be.

The Agency shall cause such officers to apportion, within fifteen days prior to the date on which the Agency is no longer to be the owner of the Facility, that installment or payment in

CERTIFICATION

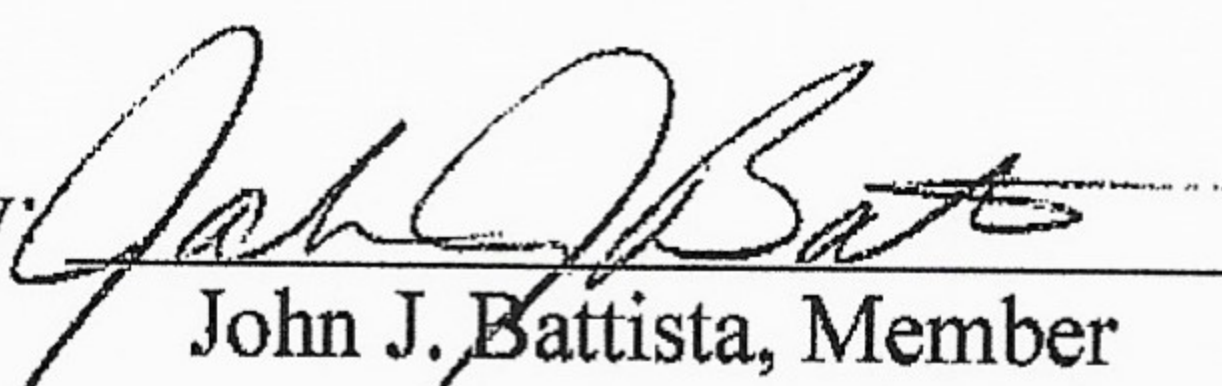
STATE OF NEW YORK)
)ss.:
COUNTY OF ERIE

John J. Battista, being first duly sworn, deposes and says:

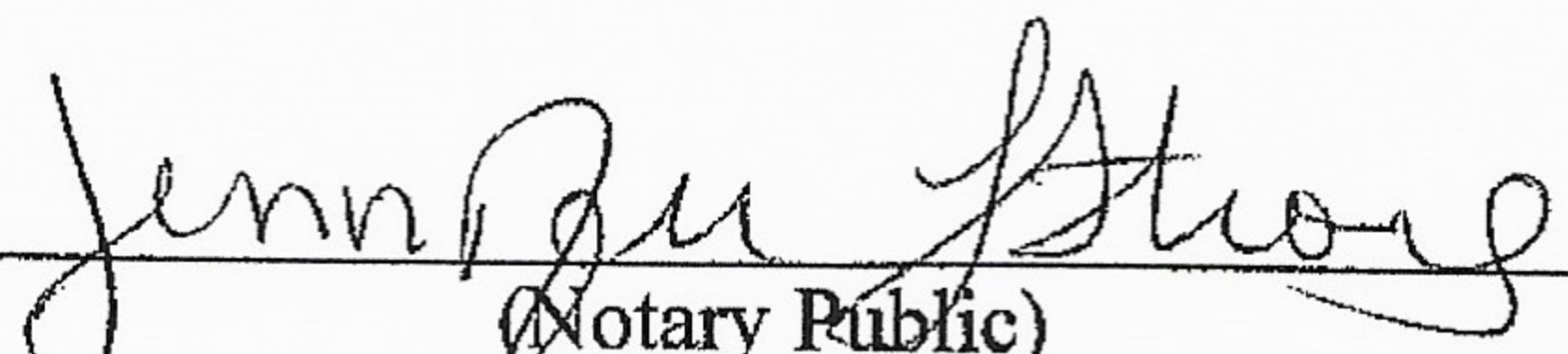
1. That I am a Member of Gaal Holdings, Inc. the Company and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement on behalf of the Company.

2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal law, worker protection and environmental laws, rules and regulations.

GAAL HOLDINGS, INC.

By: 
John J. Battista, Member

Subscribed and affirmed to me under the penalties of perjury
this 18th day of December, 2020.


(Notary Public)


JENNIFER L. STRONG
Notary Public, State Of New York
Qualified In Erie County
Commission Expires Aug. 24, 2022

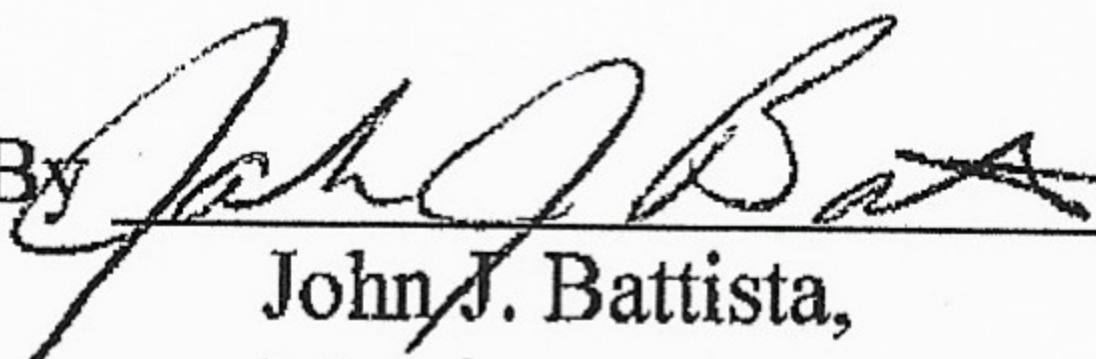
(signature page to PILOT)

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, this 18th
day of December, 2020

TOWN OF HAMBURG INDUSTRIAL
DEVELOPMENT AGENCY

GAAL HOLDINGS, INC.

By: 
Sean Doyle,
Executive Director

By: 
John J. Battista,
Member

APPENDIX C

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

2020 GAAL HOLDINGS, INC. PROJECT

PAYMENTS IN LIEU OF TAXES

It is recognized that under the provisions of the Act, the Agency is required to pay no real estate taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. Except as otherwise provided herein and in Section 4.4, while the Facility is being used in accordance with the Act and this Agreement, the provisions of this paragraph with respect to payments in lieu of real estate taxes shall be applicable. Until the commencement of the tax fiscal year of the appropriate taxing authority subsequent to the first tax status date on which the Agency is the holder of a leasehold interest in the Facility, located at the Lake Erie Commerce Center in the Town of Hamburg, New York (the "Lessee") shall continue to pay all appropriate taxing authorities all taxes due. Thereafter, the Lessee shall pay to the Town of Hamburg (Town), County of Erie (County) and the Frontier Central School District (School District) in lieu of exempted taxes the following amounts:

A. To the Town of Hamburg, c/o Director of Finance, 6100 South Park Avenue, Hamburg, New York 14075, no later than February 15th of each year,

1. Commencing in 2021, an amount equal to the Town taxes which would be due, were there no such exemption, based upon the assessed value of the Facility Realty; and

2. Commencing in 2022, an amount equal to the Town taxes which would be due, were there no such exemption, based upon the value of the non-depreciable portion of the Facility Realty (assessed as land); and

3. Commencing in 2022, an amount equal to the percentage of the Town taxes which would be due, were there no such exemption, based upon the value of the depreciable portion of the Facility Realty (assessed as buildings and other improvements) in accordance with the following schedule:

<u>Fiscal Year</u>	<u>Percentage</u>
2022	10%
2023	10%
2024	20%
2025	20%
2026	30%
2027	30%
2028	30%

lieu of tax paid by the Lessee to the Town, County and the School District, as the case may be, immediately preceding the date on which the Agency no longer owns the Facility, as of such date, and apply that portion attributable to the period from such date to the end of the period of such installment as a credit against the amount of real estate tax that would have been due for the period of such installment had the Facility been privately owned on the final assessment date of the tax year immediately preceding the date of such installment, and bill the Lessee for the balance of such installment, which amount shall be paid by the Lessee to such officer immediately upon the receipt thereof. The Agency shall cause such officers to return the Facility to the tax rolls as of the date of transfer of the title out of the Agency to the new owner of the Facility, who shall pay the remaining installments due for such tax fiscal year.

If the Project is not being used in accordance with the Act and this Agreement, the Lessee shall be required to make full payments in lieu of real estate taxes on the land, building and improvements constituting the Facility in such amount as would result from taxes levied on the Facility if the Facility were owned by the Lessee. Such amounts shall commence to be paid for the period subsequent to the date it is reasonably determined by the Agency that use of the Project under the Act or this Agreement is not in compliance. In such event, the tax rate and valuation shall be those then in effect in the records of the proper County, Town and School District departments, respectively. The Agency in its discretion may waive the increased payments set forth in this paragraph and agree to the continuation of the payments as otherwise set forth in Section 4.3.

The obligations of the Lessee under Sections 4.3 and 4.4 shall survive the termination or expiration of this Agreement for any reason whatsoever. The Agency, in its discretion and in furtherance of the purposes of the Act, may waive, in whole or in part, payments in lieu of taxes, set forth in this Section 4.3, for good cause shown.

Payments for the Town of Hamburg shall be mailed to the Director of Finance, Town of Hamburg, 6100 South Park Avenue, Hamburg, New York 14075 and are due no later than February 15th of each year.

Payments for the County of Erie shall be mailed to the Erie County Department of Finance, 95 Franklin Street, Buffalo, New York 14202 and are due no later than February 15th of each year.

Payments for the Frontier Central School District shall be mailed to District Treasurer, Frontier Central Business Office, Frontier Educational Center, 5120 Orchard Avenue, Hamburg, New York 14075 and are due no later than October 15th of each year.

other improvements) in accordance with the following schedule:

<u>Fiscal Year</u>	<u>Percentage</u>
2021-2022	10%
2022-2023	10%
2023-2024	20%
2024-2025	20%
2025-2026	20%
2026-2027	30%
2027-2028	30%

4. Commencing with the School District's fiscal year 2028-2029, an amount equal to the School District taxes which would be due, were there no such exemption upon the then assessed value of the Facility Realty.

The parties intend that the Lessee shall receive the equivalent of the standard seven year PILOT on the assessed valuation of the depreciable portion of the real property constituting a part of the Project. They assume the full value of the completed Project will first appear on the tax roll as of tax status date on March 1, 2021. If this assumption is incorrect, the dates on paragraphs A, B and C shall be adjusted accordingly unless the Lessee elects to begin the tax abatement before the real property is fully assessed.

The foregoing is subject, in each case, to the Lessee's rights to obtain reductions in the assessed valuation of the Facility Realty, to maintain existing exemptions, and to obtain other exemption, abatements or discounts therefrom, if any, and to seek to obtain a refund of any such payments made, all of which are hereby expressly reserved by the Lessee.

If the Lessee shall fail to make any such installments of payments in lieu of real estate taxes, the amount or amounts so in default shall continue as an obligation of the Lessee until fully paid and the Lessee agrees to pay the same with interest thereon.

In addition, a late payment penalty of five percent (5%) of the amount due shall be paid by the Lessee if payment is not received by the affected tax jurisdiction by the due date. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made. Once having paid the amount required by this Section 4.3 to be paid by it in lieu of real estate taxes, the Lessee shall not be required to pay any such taxes for which a payment in lieu thereof has been made to the appropriate officer of the Town, County or School District, as the case may be.

The Agency shall cause such officers to apportion, within fifteen days prior to the date on which the Agency is no longer to be the owner of the Facility, that installment or payment in lieu of tax paid by the Lessee to the Town, County and the School District, as the case may be, immediately preceding the date on which the Agency no longer owns the Facility, as of such date, and apply that portion attributable to the period from such date to the end of the period of such installment as a credit against the amount of real estate tax that would have been due for the period of such installment had the Facility been privately owned on the final assessment date of

4. Commencing in 2029, an amount equal to the Town taxes would be due, were there no such exemption upon the then assessed value of the Facility Realty.

B. To the County of Erie, c/o Erie County Department of Finance, 95 Franklin Street, Buffalo, New York 14202, no later than February 15th of each year,

1. Commencing in 2020, an amount equal to the County taxes which would be due, were there no such exemption, based upon the assessed value of the Facility Realty; and

2. Commencing in 2022, an amount equal to the County taxes which would be due, were there no such exemption, based upon the value of the non-depreciable portion of the Facility Realty (assessed as land); and

3. Commencing in 2022, an amount equal to the percentage of the County taxes which would be due, were there no such exemption, based upon the value of the depreciable portion of the Facility Realty (assessed as buildings and other improvements) in accordance with the following schedule:

<u>Fiscal Year</u>	<u>Percentage</u>
2022	10%
2023	10%
2024	20%
2025	20%
2026	30%
2027	30%
2028	30%

4. Commencing in 2029, an amount equal to the County taxes would be due, were there no such exemption upon the then assessed value of the Facility Realty.

C. To the School District, c/o District Treasurer, Frontier Central Business Office, Frontier Educational Center, 5120 Orchard Avenue, Hamburg, New York 14075, no later than October 15th of each year,

1. Commencing in 2020-2121, an amount equal to the School taxes which would be due, were there no such exemption, based upon the assessed value of the Facility Realty; and

2. Commencing with the School District's fiscal year 2021-2022, an amount equal to the School District taxes which would be due, were there no such exemption, based upon the value of the non-depreciable portion of the Facility Realty (assessed as land); and

3. Commencing with the School District's fiscal year 2021-2022, an amount equal to the percentage of the School District taxes which would be due, were there no such exemption, based upon the value of the depreciable portion of the Facility Realty (assessed as buildings and

the tax year immediately preceding the date of such installment, and bill the Lessee for the balance of such installment, which amount shall be paid by the Lessee to such officer immediately upon the receipt thereof. The Agency shall cause such officers to return the Facility to the tax rolls as of the date of transfer of the title out of the Agency to the new owner of the Facility, who shall pay the remaining installments due for such tax fiscal year.

If the Project is not being used in accordance with the Act and this Agreement, the Lessee shall be required to make full payments in lieu of real estate taxes on the land, building and improvements constituting the Facility in such amount as would result from taxes levied on the Facility if the Facility were owned by the Lessee. Such amounts shall commence to be paid for the period subsequent to the date it is reasonably determined by the Agency that use of the Project under the Act or this Agreement is not in compliance. In such event, the tax rate and valuation shall be those then in effect in the records of the proper County, Town and School District departments, respectively. The Agency in its discretion may waive the increased payments set forth in this paragraph and agree to the continuation of the payments as otherwise set forth in Section 4.3.

The obligations of the Lessee under Sections 4.3 and 4.4 shall survive the termination or expiration of this Agreement for any reason whatsoever. The Agency, in its discretion and in furtherance of the purposes of the Act, may waive, in whole or in part, payments in lieu of taxes, set forth in this Section 4.3, for good cause shown.

Payments for the Town of Hamburg shall be mailed to the Director of Finance, Town of Hamburg, 6100 South Park Avenue, Hamburg, New York 14075 and are due no later than February 15th of each year.

Payments for the County of Erie shall be mailed to the Erie County Department of Finance, 95 Franklin Street, Buffalo, New York 14202 and are due no later than February 15th of each year.

Payments for the Frontier Central School District shall be mailed to District Treasurer, Frontier Central Business Office, Frontier Educational Center, 5120 Orchard Avenue, Hamburg, New York 14075 and are due no later than October 15th of each year.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, this ____ day of November, 2019

TOWN OF HAMBURG INDUSTRIAL
DEVELOPMENT AGENCY

GAAL HOLDINGS, INC.

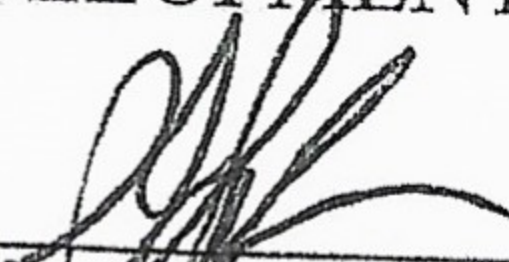
By: _____
Sean Doyle,
Executive Director

By _____
John J. Battista,
Member


(signature page to PILOT)

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, this 18th
day of December, 2020

TOWN OF HAMBURG INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Sean Doyle,
Executive Director

GAAL HOLDINGS, INC.

By: 
John J. Battista,
Member

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot 16, Township 9, Range 8 of the Holland Land Company's survey, described as follows:

Beginning at a point in the northeast line of Bayview Road (66 feet wide) at its intersection with the southeast line of Lake Erie Boulevard as established by a deed recorded in Erie County Clerk's Office on June 10, 2016 in liber 11297 of Deeds at page 2241;

Thence N 34° 54' 26" E along the southeast line of Lake Erie Boulevard a distance of 356.04 feet;

Thence S 55° 35' 21" E a distance of 243.00 feet;

Thence S 34° 54' 26" W a distance of 360.53 feet to a point in the northeast line of Bayview Road;

Thence N 54° 31' 56" W along the northeast line of Bayview Road a distance of 243.00 feet to the point of beginning.