

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING T&L BEACHFRONT HOLDINGS LTD. (THE "LESSEE") TO RENOVATE A 3,000 SQUARE FOOT WAREHOUSE/OFFICE AND TO CONSTRUCT, INSTALL AND EQUIP AN APPROXIMATELY 6,400 SQUARE FOOT WAREHOUSE/OFFICE ADDITION AT 97 EVANS STREET, VILLAGE OF HAMBURG, AS AGENT FOR THE AGENCY FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASEBACK TO THE LESSEE AND FURTHER SUBLEASE TO SERVPRO OF SOUTHTOWNS, INC. (THE SUBLESSEE") AND TO TAKE OTHER ACTION.

WHEREAS, T&L BEACHFRONT HOLDINGS, LTD. (the "Lessee") has entered into negotiations with the officials of the Town of Hamburg Industrial Development Agency (the "Agency") with respect to the renovation of a 3,000 square foot warehouse/office and to construct, install and equip an approximately 6,400 square foot warehouse/office addition at 97 Evans Street, Village of Hamburg, as agent for the Agency for lease to the Agency and subsequent leaseback to the lessee and further sublease to **SERVPRO OF SOUTHTOWNS, INC.** (The Sublessee") who will be the sole tenant (the "Project"); and

WHEREAS, the assistance contemplated by the Agency will include mortgage tax abatement; sales tax exemption on any materials and/or equipment purchased for incorporation into Project; and real property tax abatement in accordance with existing Agency Uniform Tax Exemption Policy and Guidelines; and

WHEREAS, the Lessee has submitted an Eligibility Questionnaire and other materials and information to the Agency (collectively hereinafter the "Eligibility Questionnaire") to initiate the accomplishment of the above; and

WHEREAS, the Agency has, after giving all required notices, held a public hearing on the Project pursuant to Section 859-A of the General Municipal Law; and

WHEREAS, the Eligibility Questionnaire sets forth certain information with respect to the Lessee, including the following: that the Lessee desires Agency assistance with respect to the Project. If the assistance is granted, **the Lessee anticipates retaining 30 FTE and hiring another 5 FTE employees at the Project location** within two years following the completion of the Project; that the Project will result in substantial capital investment; that there will be no adverse disruption of existing employment at facilities of a similar nature in the Village or Town of Hamburg; if Agency assistance is disapproved, the Lessee would have to scale back the Project negatively impacting future growth in New York; and that, therefore, Agency assistance is necessary to encourage the Lessee to proceed with the Project in the Village and Town of Hamburg; and

WHEREAS, the Agency desires to further encourage the Lessee with respect to the Project, if by so doing it is able to induce the Lessee to proceed with the Project in the Village of Hamburg.

NOW, THEREFORE, THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the construction, equipping and installation of the Project and the financing or other assistance thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act. The Agency further hereby determines, on the basis of the Eligibility Questionnaire and supplemental information furnished by the Lessee, as follows: (a) it would not have financed or otherwise assisted the Project except to induce the location of the Project in the area to be served by the Project as there is a demonstrable need for the Project; (b) that Agency financing and/or other assistance is reasonably necessary to promote economic development and to induce the Lessee to proceed with the Project; (c) there will be no substantial adverse disruption of existing employment or facilities of a similar nature to the Project in such area; (d) the Project will allow the Lessee to expand its business in the Town of Hamburg; (e) the Project will create additional employment and provide substantial capital investment; The Agency further determines, on the basis of the Lessee's Eligibility Questionnaire that; (f) the Project as represented is reasonably necessary to provide the purposes of the Act, subject to verification and confirmation of such representations prior to the into a lease with mortgage or lease only transaction and (g) the Project is an integral part of the Lessee's plan to proceed with the Project in the Village of Hamburg.

Section 2. The Chairman, Vice Chairman, Executive Director, Secretary and Assistant Secretary of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Lessee to assist in the acquisition, construction equipping and installation of the Project.

Section 3. The Lessee is authorized to initiate the Project at a total Project Cost of approximately **\$900,000.00**, subject to the obtaining of all required approvals from the Village of Hamburg and other involved governmental agencies, and to advance such funds as may be necessary to accomplish such purposes.

Section 4. The Agency is hereby authorized to enter into such agreements with the Lessee and the Sublessee, as the Chairman, Vice Chairman, Executive Director, Secretary or Assistant Secretary or other officer may deem necessary in order to accomplish the above.

Section 5. The Lessee is authorized to make purchases of goods and services relating to the Project that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$900,000.00** which may result in a New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$78,750.00**. The Agency may consider any requests by the Lessee for increases in the amount of sales and use tax benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services necessary for the completion of the Project.

Section 6. Any such action heretofore taken by the Lessee in initiating the construction,

PROJECT AND AGENT AGREEMENT

THIS PROJECT AND AGENT AGREEMENT (hereinafter, the "Agent Agreement"), made as of the _____ day of July, 2024, by and between the TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, with offices at 6122 South Park Avenue, Hamburg, New York 14075 (the "Agency") and T&L Beachfront Holdings, LLC, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 97 Evans Street, Hamburg, New York 14075 and T&L of the Southtowns, Ltd. a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 97 Evans Street, Hamburg, New York 14075 (the "Company" or "Companies").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 784 of the Laws of 1986 of the State of New York pursuant to Title 1 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 Companies have submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") with respect to the renovation of a 3,000 square foot warehouse/office and to construct, install and equip an approximately 6,400 square foot warehouse/office addition at 97 Evans Street, Village of Hamburg, as agent for the Agency for lease to the Agency and subsequent leaseback to the lessee and further sublease to T&L of the Southtowns Ltd. (The Sublessee") (the "Project"); and

WHEREAS, by resolution adopted on June 12, 2024 (the "Resolution"), Agency authorized the Companies to act as its agent for the purposes of undertaking the Project subject to the Companies entering into this Agent Agreement, and pursuant to the Resolution and this Agent Agreement, the Companies have the power to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Companies choose including but not limited to the individuals and entities described on **SCHEDULE A** attached hereto (collectively, the "Subagent"). The Companies shall have the right to amend Schedule A from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent for the Agency; and

WHEREAS, by its Resolution, the Agency has conferred on the Companies in connection with the Project, certain benefits, exemptions and other financial assistance consisting of: (a) an exemption benefit from all New York State and local sales and use tax exemption benefits for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (b) an exemption benefit from mortgage recording tax, and (c) a partial abatement from real property taxes benefit **on the new construction** through a **seven year** "payment in lieu of tax- agreement" (the "PILOT Agreement") with T&L Beachfront Holdings, LLC for the benefit of each municipality and school district having taxing jurisdiction over the Project,

(collectively, the sales and use tax exemption benefit, the mortgage recording tax benefit, and the partial abatement from real property taxes benefit, are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, pursuant to and in accordance with Sections 859-a and 874 of the Act, the Agency requires, as a condition and as an inducement for it to provide any Financial Assistance, that the Companies enter into this Agent Agreement for the purposes of, among other things, to govern administration of and provide assurances with respect to the provision and recapture of said Financial Assistance upon the terms herein set forth; and

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

WHEREAS, no agent status in favor of the Companies or any subagent thereof, nor any amount of Financial Assistance shall be provided to the Companies by the Agency prior to the effective date of this Agent Agreement and;

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 Project and Scope of Agency. The purpose of the Agency's provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, 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 specifically promote the activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation thereof in and around the Facility. The right of the Companies to act as agent of the Agency shall expire on **June 12, 2026**, unless extended as contemplated by the Resolution. The aggregate amount of work performed as agent for the Agency shall not exceed the amounts identified in the Resolution and Section 2(h)(i) of this Agreement. All contracts entered into as agent for the Agency shall include the following language set forth as **APPENDIX A**.

2. Representations and Covenants of the Companies. The Companies make the following representations and covenants in order to induce the Agency to proceed with the Project/Facility:

(a) That T&L Beachfront Holdings, LLC is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of New York, has the authority to enter into this Agent Agreement, and has duly authorized the execution and delivery of this Agent Agreement.

(b) That T&L of the Southtowns, Ltd is a corporation, duly organized, validly existing and in good standing under the laws of the State of New York, has the authority to enter into this Agent Agreement, and has duly authorized the execution and delivery of this Agent Agreement.

(c) Neither the execution and delivery of this Agent Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agent 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 Companies are 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 Companies under the terms of any such instrument or agreement.

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

(e) 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 Companies, threatened against or affecting the Companies, to which the Companies are a party, and in which an adverse result would in any way diminish or adversely impact on the Companies' abilities to fulfill their obligations under this Agent Agreement.

(f) The Companies covenant 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) that the Companies 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 Companies 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 Companies hereby release 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 Companies), 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 Companies agree to pay the expenses of same to the Agency upon demand.

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

(g) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolution, the Companies covenant and agree that they may be subject to a Recapture Event Determination (as hereinafter defined) resulting in the potential recapture and/or termination of any and all Financial Assistance, as described below, if the Companies receives, or their Subagents receives any Financial Assistance from the Agency, and it is determined by the Agency that:

- (1) the Companies or their Subagents, if any, authorized to make purchases for the benefit of the Projects 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 Companies or their 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 Companies have made a materially false or misleading statement, or omitted any information which, if included, would have rendered any 'information in the application or supporting documentation false or misleading in any material respect) on its application for Financial Assistance; or
- (5) the Companies fail to meet and maintain the thresholds and requirements representing certain material terms and conditions including the Investment Commitment, the Construction Commitment, the Investment Commitment, the Employment Commitment and the Local Labor Commitment two (2) years following the construction completion date (the "Project Completion Date" and the two year period following the Project Completion Date being defined as the "Material Terms and Conditions Monitoring Period):

(a) Construction Commitment-the Companies must complete the Building substantially in accordance with the provisions of the Companies' application for financial assistance no later than **June 12, 2026**, but may be subject to modifications as long as the Facility as constructed meets the needs of the Companies and that the Companies will renovate an approximately 3,000 square foot warehouse/office and build an approximately 6,400 square foot facility addition to said warehouse/office and maintain such employment for the duration of the PILOT Agreement (the period following the achieving of the Employment Commitment threshold and PILOT Agreement length being defined as the "Material Terms and Conditions Monitoring Period").

(b) Investment Commitment, the total investment actually made with respect to the Project at the Project Completion Date must equal 85% of the project cost (\$900,000.00) as set forth in the application for Financial Assistance. The Companies 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 Companies have received have been reduced

proportionately in accordance with the reduction in investment.

(c) Employment Commitment-that T&L of the Southtowns, Ltd. will retain 30 FTE and hire 5 FTE as stated in the Companies' application for Financial Assistance (the "Baseline FTE") and the Companies fail to maintain the Baseline FTE employment the Companies shall have the right to establish that the failure to comply with the Employment Commitment was due to circumstances beyond their control.

(d) Local Labor Commitment-that the Companies adhere to and undertakes or has undertaken construction activities in compliance with the Agency's Local Labor Workforce Policy, attached as **EXHIBIT A**.

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

(f) the Companies agree that it will occupy the Facility and utilize the Facility as a warehouse and office (the "Project Use Commitment").

(g) the Companies agree to make the payment-in-lieu-of taxes to the municipalities within the time frame required (the "Payment-in-Lieu-of-Taxes Commitment").

(h) the Companies agree to maintain the insurance requirements as required in connection with this Agreement and the Leaseback Agreement and the Installment Sale Agreement and to provide copies to the Agency as required herein (the "Insurance Commitment").

In order to accomplish the foregoing, the Companies 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 contractors that work at the project location, and (ii) indicating that 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, and (iii) such other information, as so requested from time to time, to enable the Agency to assess the progress of the Project toward achieving the investment, job retention, job creation, or other objectives of the Project indicated in the Application for Financial Assistance. The Companies shall annually complete and submit to the Agency the Annual Certification Report in the form attached hereto as **EXHIBIT B**. Failure by the Companies to complete and submit said form to the Agency by February 15 of each year during the Material Terms and Conditions Monitoring Period shall constitute an Event of Default hereunder, whereby the Agency, in its sole and absolute discretion, may terminate this Agreement and/or the PILOT Agreement and undertake a Recapture Event Determination.

The findings made by the Agency with respect to Section 2(g)(1), (2), (3) and/or (4) and/or failure to provide the written confirmation as required by Section 2(g)(5) with respect to the thresholds and requirements as identified in Section 2(g)(5), above, and/or failure to meet the thresholds and requirements as identified in Section 2(g)(5) above, may potentially be determined by the Agency, in accordance with the Agency's "Recapture of Benefits Policy", attached hereto as **EXHIBIT C**, to constitute a failure to comply with Section 875(3) of the New York General Municipal Law, and/or a failure to comply with a material term or condition to use property or services or Agency Financial Assistance in the manner approved by the Agency in connection with the Project, and/or a failure to comply with the Agency's policies and Resolution (collectively, findings and determinations made as described herein with respect to Section 2(g)(1), (2), (3) and/or (4) and/or the failure under Section 2(g)(5) to submit the required certification and/or the failure to meet the required thresholds and requirements as specified in Section 2(g)(5) are hereby defined as a "Recapture Event Determination". If the Agency makes a Recapture Event Determination, the Companies agree and covenant that they will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Companies and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s). The Companies further understand and agrees that in the event that the Companies fail to pay over such amounts to the Agency, the New York State Tax Commissioner and/or County Comptroller may assess and determine the Financial Assistance due from the Companies, together with any relevant penalties and interest due on such amounts.

Termination or Modification of Benefits. In addition to the recapture provisions as set forth in Exhibit C above, the Agency reserves the right to terminate the Lease Agreement and Leaseback Agreement and/or Installment Sale Agreement and end the Payment-in-Lieu-of Tax benefits to the Companies if the Companies fail to comply with the Project Use Commitment, the Project Reporting Commitment, the Payment-in-Lieu-of-Taxes Commitment and the Insurance Commitment. In the event that it is determined that based upon the number of employees created or retained, the Companies would have been eligible for Financial Assistance but for a less generous Payment-in-Lieu-of-Tax provision, the Agency reserves the right to modify the benefits to reduce the benefits to the benefits that would have been available based upon the actual employment numbers.

The Companies acknowledge and understand 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 Companies' rights and abilities to obtain any and all future Financial Assistance with respect to the Project.

(h) In accordance with the Resolution the Companies further: (i) covenant 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 an amount up to **\$900,000.00**, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency, subject to Section 2(g) of this Agent Agreement, cannot exceed **\$78,750.00**, (ii) confirms that the mortgage recording tax

exemption amount shall be approximately \$15,000.00 and (iii) and confirms that real property tax abatement benefits to be provided to the Companies over the ten year benefit period of the payment in lieu of tax agreement (the "PILOT Agreement"), said-PILOT Agreement attached hereto as **EXHIBIT D** immediately upon its execution, are estimated to be approximately \$74,285.00.

(i) The Agency following the adoption of the Resolution and the execution and delivery of this Agreement will complete and within thirty (30) days of appointment 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) in the form attached hereto as **EXHIBIT E** for the Project. The Companies shall immediately notify the Agency of its appointment of any agents or subagents in connection with the Project and shall, on request of the Agency, complete and submit to the Agency a NYS Form ST-60 for each such agent or subagent.

(j) The Companies acknowledge and agree 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 **EXHIBITS F-1 AND F-2**), and it shall be the responsibility of the Companies (and not the Agency) to complete NYS Form ST-123. The Companies acknowledge and agree that they shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Companies are 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 Companies acknowledge and agree that the bill or invoice should state, "I, T&L Beachfront Holdings, LLC/ T&L of the Southtowns, Ltd, certify that I am 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 SERVE PRO PROJECT located at 97 Evans Street, Hamburg, New York, IDA Project Number "1405-24-02A". For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described in the prior sentence, an "Invoice Rider" (a copy of which is attached hereto as **EXHIBIT F-3**) can be utilized for record keeping purposes.

(k) The Companies 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, a copy of which is attached hereto as **EXHIBIT G**) regarding the value of sales and use tax exemptions the Companies and its Subagents, if any, have claimed pursuant to the agency conferred on the Companies with respect to the Project in accordance with General Municipal Law Section 874(8). The Companies further covenant and agree that they 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 Companies understands and agrees that the failure to file such annual statement will result in the removal of the Companies authority to act as agent for the Agency.

(l) The Companies acknowledge and agree 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 Companies shall be the sole party liable thereunder.

(m) The Companies covenant and agree that at all times during the Material Terms and Conditions Monitoring Period, they will (i) maintain their existence and not dissolve, (ii) continue to be a limited liability company and corporation, respectively, subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise sell, assign, or dispose of all or substantially all of their property, business or assets. This Agreement may not be assigned in whole or part without the prior written consent of the Agency, which shall not be unreasonably withheld.

(n) The Companies agree that they will, throughout the term of, this Agent Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof. Notwithstanding the foregoing, the Companies may in good faith contest the validity of the applicability of any requirement of the nature referred to this Section 2(p). In such event, the Companies, with the prior written consent of the Agency (which shall not be unreasonably conditioned, delayed or withheld) may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency shall notify the Companies that they must comply with such requirement or requirements.

3. Hold Harmless Provision. The Companies hereby release 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, members, officers, employees, agents (except the Companies), 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 Companies of this Agent Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, rehabilitating, renovating, equipping, owning and leasing of the Equipment or of 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 executive director, directors, members, officers, agents 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.

4. Insurance Required.

Effective as of the date hereof and until the expiration or termination of the right of the Companies to act as agent of the Agency hereunder, the Companies 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 Companies or (ii) as an alternative to the above requirements (including the requirement of periodic appraisal), the Companies 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 Companies are required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Companies 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 Companies by any applicable workers' compensation law.

5. Additional Provisions Respecting Insurance.

(a) All insurance required by Section 8 (c) 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 Companies 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 Companies are engaged. All policies evidencing such insurance shall provide for at least thirty (30) days prior written notice of the cancellation thereof to the Company(ies) 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(ies) 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 Companies shall furnish evidence to the Agency that the policy has been renewed or replaced or is no longer required by this Agreement.

6. This Agent 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.

7. 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, or by a nationally recognized overnight courier, addressed as follows:

To the Agency:

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
6122 South Park Avenue
Hamburg, New York 14075
Attention: Executive Director

To the Company:

T & L BEACHFRONT HOLDINGS LTD. and T & L OF THE SOUTHTOWNS LTD.
97 Evans Street
Hamburg, New York 14075
Attention: Thom Braun

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

8. This Agent Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Erie County, New York.

9. The warranties, representations, obligations and covenants of the Companies under this Agent Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Agent Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Agent, regardless of any investigation made by the Agency. This Agent Agreement shall survive any termination or expiration of the Leaseback Agreement or the PILOT Agreement, as described below.

10. The parties are contemplating that, after any applicable public hearing(s), if required, the Agency will negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), and a PILOT Agreement with the Companies. The Companies agree not to take title to any real property as agent for the Agency. The Agency will

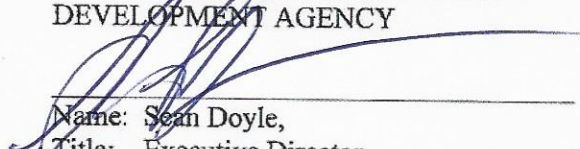
provide the Companies with a bill of sale (a form of which is attached hereto as **EXHIBIT H**) which sells, transfers and delivers unto the Companies and its successors and assigns, all Equipment which were acquired and installed and/or are to be acquired and installed by the Companies as agent for the Agency pursuant to this Agent Agreement which Equipment is located or intended to be located at 97 Evans Street, Hamburg, New York 14075.

11. By executing this Agent Agreement, the Companies covenant and agree to pay all reasonable fees, costs and expenses incurred by the Agency for (a) legal services, including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, (b) other consultants retained by the Agency, if any, in connection with the Project; in accordance with the terms of the Administrative Fee Agreement between the Companies and the Agency, and (c) with respect to enforcing this Agent Agreement (including reasonable attorney fees). The Companies agree that the Companies are liable for payment to the Agency of all charges Agency in undertaking the Project notwithstanding the occurrence of any of (i) the Companies' withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Agency or the Companies to procure the services of one or more financial institutions to provide financing for the Project; or (iii) the Companies' failure, for whatever reason, to undertake and/or successfully complete the Project.

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

TOWN OF HAMBURG INDUSTRIAL
DEVELOPMENT AGENCY

Dated: 8/21/2024


Name: Sean Doyle,
Title: Executive Director

State of New York)

County of Erie) ss.:

On the 21 day of ^{August} ~~July~~, in the year 2024, before me, the undersigned, personally appeared, Sean Doyle, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public, State of New York

MARY ELLEN DORAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01DO6366619
Qualified in Erie County
My Commission Expires 11-06-2025

[Continued Signature Page to Project and Agent Agreement]

T&L BEACHFRONT HOLDINGS LLC

Dated: 7/16/2024

Name: Lynn A. Braun
Title: President

State of New York)

County of Erie) ss.:

On the 16 day of July in the year 2024, before me, the undersigned, personally appeared, LYNN A. BRAUN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Francine Geyer Krzemien
Notary Public, State of New York
County of Erie
My Commission Expires 03/27/2027
01GE5040991

[Continued Signature Page to Project and Agent Agreement]

Dated: 7/16/2024

T&L OF THE SOUTHTOWNS, LTD

[Signature]
Name: Lynn A. Braun
Title: President

State of New York)

County of Erie) ss.:

On the 16 day of July in the year 2024, before me, the undersigned, personally appeared, LYNN A. BRAUN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]
Notary Public

Francine Geyer Krzemien
Notary Public, State of New York
County of Erie
My Commission Expires 03/27/2027
01GE5040991

STATE OF NEW YORK)

COUNTY OF ERIE) ss.:

Lynat A. Braun, being first duly sworn, deposes and says:

1. That I am the President (Corporate Office) of T&L Beachfront Holdings, LLC (Company) and that I am duly authorized on behalf of the Company to bind the Applicant.

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 tax, worker protection and environmental laws, rules and regulations.

L.A.B.
(Signature of Officer)

Subscribed and affirmed to me under penalties

of perjury this 1~~4~~ day of July, 2024.

[Signature]
(Notary Public)

Francine Geyer Krzemien
Notary Public, State of New York
County of Erie
My Commission Expires 03/27/2027
01GE5040991