

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "Agreement"), dated as of May 9, 2019, by and between AOM 128 GRAND AVENUE LLC, a Delaware limited liability company authorized to do business in the State of New York, with an address for the transaction of business located at 60 Henry Street, Binghamton, New York 13901 (the "Company") and the BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public-benefit corporation duly organized and validly existing under the laws of the State of New York, with an office for the transaction of business located at FIVE South College Drive, Suite 201, Binghamton, New York 13905 (the "Agency").

WITNESSETH:

WHEREAS, Title 1 of Article 18-A, as amended, of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York (the "State"); and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities on such terms and conditions as it deems advisable, to issue its bonds for the purpose of carrying out any of its corporate purposes; and, as security for the payment of the principal and redemption price of, and interest on, any such bonds so issued and any agreements made in connection therewith, to pledge the revenues and receipts from its facilities or from the lease thereof; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, Chapter 564 of the Laws of 1970 of the State (collectively, the "Act") created the Broome County Industrial Development Agency (the "Agency"), which is empowered under the Act to undertake the providing, financing and leasing of the facility described below; and

WHEREAS, Broome County Industrial Development Agency (the "Agency") was created as a public benefit corporation pursuant to and for the purposes specified in Title 1 of Article 18-A of the General Municipal Law; and

WHEREAS, the Company has agreed to a lease and lease-back transaction, on the real property, more particularly described on Exhibit "A" attached hereto, to facilitate the construction and equipping of a 24 unit multi-family apartment building located at 128 Grand Avenue in the Village of Johnson City, Broome County, New York (the "Project"), and to lease the Project from the Agency; and

WHEREAS, the Agency will lease the Project from the Company pursuant to a certain lease agreement (the "Lease Agreement,") and the Agency will lease the Project back to the Company pursuant to a certain leaseback agreement (the "Leaseback Agreement"); and

WHEREAS, the Agency is exempt from the payment of taxes and assessments imposed upon real property, and as a further condition related to the acquisition by lease of the Project, the Company has agreed that, notwithstanding such exemption, the Company will nevertheless make payments to the Village of Johnson City (the "Village"), the Town of Union (the "Town"), the Johnson City Central School District (the "School District") and the County of Broome (the "County") while occupying the Project in lieu of general tax levies.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed as follows:

1. Pursuant to Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon the acquisition by lease of the

Project by the Agency and the filing of an Application for Real Property Tax Exemption Form RP-412-a (the "Exemption Form") with respect to the Project, and for so long thereafter as the Agency has a leasehold interest in the Project, the Project shall be assessed by the various taxing entities having jurisdiction over the Project, including, without limitation, the Village, the Town, the School District and the County as exempt on their respective assessment rolls prepared subsequent to the acquisition by lease of the Project by the Agency and the filing of the Exemption Form. The parties hereto understand that the Project shall not be entitled to such exempt status on any tax roll until the first tax year following the tax status date subsequent to the date upon which the Agency acquires a leasehold interest in the Project and an Exemption Form is filed. The Company shall be required to pay all taxes and assessments lawfully levied and/or assessed against the Project, including taxes and assessments levied for the current tax year and all subsequent years until the Project is entitled to exempt status on the tax roll. The Agency will cooperate with the Company to obtain and preserve the tax exempt status of the Project, including the preparation and filing of the Exemption Form.

2. During each tax year in which the Project shall be tax exempt, the Company agrees to pay to the Village, the Town, the School District and the County, the PILOT payments as shown on the PILOT Schedule attached hereto as Exhibit "B".

3. The Village, the Town, the County, and the School District shall separately bill the Company for each in-lieu-of payment due hereunder. For the purposes of this Agreement, the term "Timely Payment" shall be defined as payment made within thirty (30) days after receipt by the Company of a written bill demanding payment.

4. Should the Company use the Project for other than a 24 unit multi-family apartment building or allied purposes such as defined in Article 18-A of the General Municipal

Law, fail to retain or create substantially the number of jobs anticipated by the Project, or acquire a leasehold interest during the term of this Agreement to the leased Project from the Agency, this Agreement shall terminate immediately and the Premises shall be returned to the non-exempt portion of the tax roll and be subject to taxation thereafter, including any portion of a tax year not otherwise covered by this Agreement.

5. If any default shall be made in the payment referred to in Paragraph 2, supra, which default is not cured within thirty (30) days after notice to the Company, the Company hereby agrees to pay the same to the extent above specified:

A. Without requiring any notice of non-payment or of default to the Company, the Agency, or to any other person; and

B. Without further demand.

6. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-A of the Real Property Tax Law does not entitle the Agency to an exemption from special assessments and special ad valorem levies such as, but without limitation, charges for metered water and sewer rent. The Company hereby agrees to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project.

7. Pursuant to Section 858 (15) of the General Municipal Law, the Agency agrees to give the Village, the Town, the School District and the County a copy of this PILOT Agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy thereof be given to the appropriate officer or officers with respect to each taxing jurisdiction responsible for preparing the tax rolls for said jurisdiction, together with a request that said officer or officers submit to the Company and the appropriate receiver of taxes periodic

statements specifying the amount and due date or dates of the payments due to each hereunder. Such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such jurisdictions.

8. The Company agrees to pay the amounts due hereunder to each particular taxing jurisdiction in any calendar year to the appropriate receiver of taxes within the period that such taxing entity allows the payment of taxes levied in such calendar year without penalty. The Company shall be entitled to receive receipts for such payments.

9. Pursuant to Section 874(5) of the General Municipal Law, if the Company shall fail to make any payment required by this PILOT Agreement when due, the Company shall pay the same, together with a late-payment penalty equal to five (5%) percent of the amount due. If the Company shall remain in default beyond the first month after such payment is due, the Company shall thereafter pay a late-payment penalty of one (1%) percent per month for each month, or part thereof, that the payment due thereunder is delinquent beyond the first month plus interest thereon, to the extent permitted by law, at the greater of (a) one (1%) percent per month, or (b) the rate per annum which would have been payable if such amount were delinquent taxes, until so paid in full.

10. Pursuant to Section 874(6) of the General Municipal Law, if the Company should default in performing any of its obligations, covenants or agreements under this PILOT Agreement and the Agency or any taxing jurisdiction should employ attorneys or incur other expense for the collection of any amounts payable hereunder, or for the enforcement or performance or observation of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefore, pay to the Agency or such taxing jurisdiction, as the case may be, not only the amounts adjudicated due hereunder,



With a copy to: Joseph B. Meagher, Esq.  
Thomas, Collison & Meagher  
1201 Monroe Street  
P.O. Box 329  
Endicott, New York 13761-0329

If to the Company: AOM 128 Grand Avenue LLC  
60 Henry Street  
Binghamton, New York 13901

Attn: Managing Member

With a copy to: Praveen Kamath, Esq.  
Attorney at Law  
60 Henry Street  
Binghamton, New York 13901

14. The Village, the Town, the County, the School District, the Agency and the Company as used herein shall include their successors and assigns. The terms of this Agreement shall inure to the benefit of, and shall be binding upon, any future owners of the Project and the Company's successors and assigns.

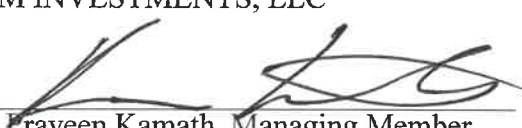
15. This Agreement shall remain in effect until termination or expiration of the Leaseback Agreement from the Agency to the Company which, by its terms, expires February 28, 2040.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the date set forth hereinabove.

BROOME COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Kevin McLaughlin, Executive Director

AOM 128 GRAND AVENUE LLC  
By its Managing Member  
AOM INVESTMENTS, LLC

By:   
Praveen Kamath, Managing Member

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

On this 9<sup>th</sup> day of May, 2019, before me, the undersigned, personally appeared KEVIN McLAUGHLIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

JOSEPH B. MEAGHER  
Notary Public, State of New York  
Broome County 02ME4974837  
Commission Expires Nov. 26, 2027

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

On this 9<sup>th</sup> day of May, 2019, before me, the undersigned, personally appeared PRAVEEN KAMATH, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

JOSEPH B. MEAGHER  
Notary Public, State of New York  
Broome County 02ME4974837  
Commission Expires Nov. 26, 2027



EXHIBIT "A"

ALL those tracts, pieces or parcels of land, situate in the Village of Johnson City, County of Broome and State of New York, known and designated as Lot Nos. 3, 4, 5, 32 and 33 as the same are laid down on a map of Strong Boulevard Location, recorded in the Broome County Clerk's Office as Map No. 1 at page 369.

Said Lot Nos. 3 and 4 are situate on the south side of Grand Avenue and are respectively 46 feet wide front and rear and 147 feet deep;

Said Lot No. 5 is situate at the southwesterly corner of Grand Avenue and Sherman Avenue and is 46 feet wide fronting on Grand Avenue and 147 feet deep along Sherman Avenue;

Said Lot Nos. 32 and 33 are situate on the west side of Sherman Avenue and are respectively 40 feet wide front and rear and 115 feet deep.

Being further bounded and described as follows:

BEGINNING at a mag spike set on the south line of Grand Avenue which lies 92 feet east of the east line of Willow Street;

THENCE north 87 degrees 50 minutes 55 seconds east along the south line of Grand Avenue for a distance of 138.00 feet to a mag spike set at the intersection of the west line of Sherman Street;

THENCE south 01 degrees 40 minutes 18 seconds east along the west line of Sherman Street for a distance of 226.85 feet to a mag spike set;

THENCE south 87 degrees 50 minutes 55 seconds west for a distance of 115.00 feet to a ¾ inch rebar set with cap;

THENCE north 01 degrees 40 minutes 18 seconds west for a distance of 79.85 feet to a ¾ inch rebar set with cap;

THENCE south 87 degrees 50 minutes 55 seconds west for a distance of 23.00 feet to a ¾ inch rebar set with cap;

THENCE north 01 degrees 40 minutes 18 seconds west for a distance of 147.00 feet to the Point of BEGINNING;

NOTE: Being Section 143.73, Block(s) 3, Lot(s) 3, Tax Map of the Town of Union, County of Broome.

NOTE: Lot and Block shown for informational purposes only.

EXHIBIT "B"

SEE ATTACHED PILOT PAYMENT SCHEDULE

**AOM 128 Grand Avenue LLC  
Revised PILOT Schedule**

Pymt Yr	PILOT year	PILOT assessment	Percentage of PILOT assessment to be paid	Annual PILOT Payment (with 2%/year increase for TAX rate)	Annual PILOT Paid To: Town/County	Annual PILOT Paid To: JC School	Annual PILOT Paid To: JC Village	Taxable Assessment	Payment at Town/County Tax Rate (\$22.02/1000)	Payment at JC School Tax Rate (\$93.17/1000)	Payment at JC Village Tax Rate (\$39.41/1000)	Total Tax Rate (1148.8/1000)	Annual TOTAL Difference
1	2021	\$108,000.00	0.123	\$15,157.21	\$4,488.71	\$7,714.23	\$2,954.27	\$108,000.00	\$23,978.18	\$93,199.36	\$36,856.28	\$123,832.80	\$108,875.69
2	2022	\$108,000.00	0.125	\$16,104.54	\$4,787.13	\$8,228.24	\$3,118.54	\$108,000.00	\$24,457.72	\$94,482.33	\$37,389.41	\$126,306.46	\$110,204.92
3	2023	\$108,000.00	0.130	\$17,063.70	\$5,058.67	\$8,728.52	\$3,308.14	\$108,000.00	\$24,946.88	\$95,751.57	\$38,137.19	\$128,835.65	\$111,751.06
4	2024	\$108,000.00	0.135	\$18,065.68	\$5,358.60	\$9,245.82	\$3,504.08	\$108,000.00	\$25,445.82	\$97,086.81	\$38,899.94	\$131,412.39	\$113,518.78
5	2025	\$108,000.00	0.140	\$19,141.10	\$5,685.98	\$9,776.70	\$3,706.54	\$108,000.00	\$25,954.79	\$98,407.94	\$39,677.94	\$134,040.61	\$114,899.51
6	2026	\$108,000.00	0.145	\$20,221.20	\$5,985.71	\$10,331.58	\$3,915.70	\$108,000.00	\$26,473.83	\$99,778.10	\$40,471.50	\$136,721.42	\$116,500.21
7	2027	\$108,000.00	0.150	\$21,338.88	\$6,318.95	\$10,901.57	\$4,131.74	\$108,000.00	\$27,003.30	\$71,171.82	\$41,290.92	\$139,456.05	\$118,118.99
8	2028	\$108,000.00	0.250	\$36,272.85	\$10,737.12	\$18,532.87	\$7,022.93	\$108,000.00	\$27,543.27	\$72,508.05	\$42,108.54	\$142,244.98	\$140,872.31
9	2029	\$108,000.00	0.280	\$39,478.03	\$11,538.33	\$19,858.46	\$7,451.01	\$108,000.00	\$28,084.24	\$74,048.05	\$42,948.67	\$145,099.98	\$108,811.69
10	2030	\$108,000.00	0.270	\$40,787.12	\$12,084.57	\$20,823.80	\$7,892.34	\$108,000.00	\$28,656.12	\$75,527.69	\$43,807.85	\$147,891.66	\$107,234.54
11	2031	\$108,000.00	0.260	\$43,111.97	\$12,781.83	\$22,027.08	\$8,346.34	\$108,000.00	\$28,229.24	\$77,038.46	\$44,683.00	\$150,991.49	\$107,839.52
12	2032	\$108,000.00	0.280	\$45,544.72	\$13,481.73	\$23,270.02	\$8,819.43	\$108,000.00	\$28,813.83	\$78,579.22	\$45,577.45	\$153,970.52	\$108,425.80
13	2033	\$108,000.00	0.480	\$78,463.97	\$23,236.10	\$40,104.67	\$15,189.83	\$108,000.00	\$30,410.10	\$80,180.89	\$48,488.03	\$187,048.98	\$78,565.97
14	2034	\$108,000.00	0.560	\$94,403.41	\$28,538.50	\$49,258.09	\$18,887.87	\$108,000.00	\$31,018.31	\$81,753.82	\$47,418.91	\$190,190.93	\$83,787.52
15	2035	\$108,000.00	0.680	\$114,997.83	\$34,040.09	\$68,765.47	\$22,266.59	\$108,000.00	\$31,638.87	\$83,588.99	\$48,397.18	\$193,394.78	\$48,588.92
16	2036	\$108,000.00	0.780	\$134,297.48	\$39,769.87	\$88,816.17	\$26,305.80	\$108,000.00	\$32,271.45	\$85,088.67	\$49,334.53	\$196,682.64	\$32,385.18
17	2037	\$108,000.00	0.980	\$154,323.08	\$45,881.38	\$78,847.80	\$28,883.63	\$108,000.00	\$32,918.88	\$86,757.81	\$50,321.22	\$199,995.90	\$15,572.81
	TOTALS			\$808,820.42	\$289,317.17	\$484,881.85	\$178,180.80		\$478,852.84	\$1,264,750.06	\$738,988.08	\$2,478,150.78	\$1,888,330.36

Tax Freeze Years	Current Assessment	Total Annual Payment	Annual PILOT Paid To: Town/County	Annual PILOT Paid To: JC School	Annual PILOT Paid To: JC Village
2018	\$12,000.00	\$13,759.27	\$4,072.80	\$7,029.89	\$2,656.58
2019	\$12,000.00	\$13,759.27	\$4,072.80	\$7,029.88	\$2,656.59
2020	\$12,000.00	\$13,759.27	\$4,072.80	\$7,029.88	\$2,656.59
TOTALS		\$41,277.82	\$12,218.70	\$21,089.94	\$7,969.17

WORKSPACE

**CURRENT**

FMV	\$277,778.00
EQ RATE	4.32%
ASSESSED VALUE	\$12,000.01

Current Assessment	Total Annual Payment	Annual Paid To: Town/County	Annual Paid To: JC School	Annual Paid To: JC Village
2017	\$13,759.27	0.289011344	0.510926815	0.193943287

**PER JOE COOKS ASSESSMENT**

FMV	\$2,500,000.00
EQ RATE	4.32%
ASSESSED VALUE	\$108,000.00
2018 TOWN/COUNTY	\$28,978.16
2017 JC SCHOOL	\$65,198.36
2017 JC VILLAGE	\$36,856.28
TOTAL	\$123,832.80

EXHIBIT "C"

SEE ATTACHED AGENCY POLICY  
FOR  
TERMINATION, MODIFICATION AND/OR RECAPTURE OF AGENCY BENEFITS

**BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
POLICY FOR TERMINATION, MODIFICATION  
AND/OR RECAPTURE OF AGENCY BENEFITS**

The goal of this Policy is to establish and provide a procedure as required by Section 875 of the New York State General Municipal Law for the termination, modification and/or recapture of Broome County Industrial Development Agency (the “Agency”) benefits provided to an applicant in order to induce such applicant to undertake a project in Broome County. For purposes of this policy, Agency benefits shall include any or all of the following:

- (i) exemptions from New York State and local sales and use tax;
- (ii) an exemption from the New York State mortgage recording tax; and/or
- (iii) an abatement from real property taxes provided through a payment-in-lieu-of-tax (“PILOT”) Agreement.

The Agency reserves the right to terminate, modify, or recapture Agency benefits if :

- (i) an applicant or its sub-agency (if any) authorized to make purchases for the benefit of the project is not entitled to the sales and use tax exemption benefits;
- (ii) sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the applicant or its sub-agents;
- (iii) sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the project;
- (iv) the applicant has made material, false, or misleading statements in its application for financial assistance;
- (v) the applicant has committed a material violation of the terms and conditions of a Project Agreement; and/or
- (vi) there is a material shortfall in job creation and retention projections as set forth in its application.

Upon the occurrence of any of the above conditions, the Agency Board may, upon

recommendation of the Executive Director, terminate, modify and/or recapture the Agency benefits provided to a specific project. Prior to undertaking such action, the Agency shall give written notice of its intention to terminate, modify and/or recapture Agency benefits to the applicant specifying the reasons why the Agency is considering such action. The applicant shall have twenty (20) days to respond to the Agency, either in writing or in person, providing such information and documentation as it deems appropriate for the Board to consider prior to making its decision. All such recaptured Agency benefits shall be redistributed to the appropriately affected taxing jurisdictions unless agreed to otherwise by such jurisdictions.

Notwithstanding the foregoing, the Agency retains the right to terminate Agency benefits as otherwise provided in project transaction documents including, but not limited to, failure of the applicant to make timely PILOT payments, to provide required reports, or to cooperate with Agency personnel in providing data regarding project progress.