

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "Agreement"), dated as of February 1, 2021, by and between SAM A. LUPO & SONS, INC., a corporation organized and existing under the laws of the State of New York, and SSE3, LLC, a limited liability company organized and existing under the laws of the State of New York, both with an address for the transaction of business located at 625 Dickson Street, Endicott, New York 13760 (collectively, 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"), collectively, the "Parties".

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 project described below; and

WHEREAS, the 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/leaseback transaction, on the real property more particularly described on Exhibit "A" attached hereto, to facilitate the renovation of a 10,000+/- square foot building to be used for administrative offices, storage and employee areas and the construction of a 9,000+/- square foot addition to the administrative office to be used for refrigerated workrooms and coolers located on a 1.70+/- acre parcel of land located at 625 Dickson Street in the Town of Union, Broome County, New York (the "Project"); and

WHEREAS, the Company will lease the Project to the Agency 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") for a term not to exceed

fifteen (15) years; 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 of the Project, the Company has agreed that, notwithstanding such exemption, the Company will nevertheless make payments to the Town of Union (the "Town"), the Union-Endicott 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 acquisition of the Project by the Agency and the filing of an Equalization and Assessment Form RP-412-a (the "Exemption Form") with respect to the Project, and for so long thereafter as the Agency shall have 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 Town, the School District and the County as exempt on their respective assessment rolls prepared subsequent to the leasehold acquisition by the Agency to the Project 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 Town, the School District and the County, the PILOT payments as shown on the PILOT Schedule attached hereto as Exhibit "B."

3. The Town, the County, and the School District shall separately bill the Company for each in-lieu-of-tax 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 administrative offices, storage and employee areas, and refrigerated workrooms and coolers, or allied purposes such as defined in Article 18-A of the General Municipal Law, fail to retain substantially the number of jobs anticipated by the project, or acquire title 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, 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;

B. Without proof of 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 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 percent (1%) 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, together with the late-payment penalty and interest due thereon, but also reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred whether or not an action is commenced.

11. Notwithstanding the foregoing, the Agency reserves the right to terminate, modify, or recapture any benefits provided to the Company pursuant to this PILOT Agreement, as well as any other benefit provided to the Company, in accordance with the policy of the Agency set forth in Exhibit "C" attached hereto.

12. No remedy herein conferred upon or reserved to the Agency or any taxing jurisdiction is intended to be exclusive of any other available remedy or remedies, but each and

every remedy shall be cumulative and shall be in addition to every other remedy given under this PILOT Agreement or now and hereafter existing at law or in equity or by statute. No delay or admission in exercising any such right or power accruing upon a default hereunder shall impair any such right or power or be construed as a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

13. All notices, demands or communications required to be given under this Agreement shall be forwarded simultaneously by certified mail or Federal Express, or other similar overnight delivery service, to the respective addresses of the Parties hereinafter set forth or to such other place(s) as any of the Parties hereto may, from time to time, designate by written notice to the other:

To the Agency: Broome County Industrial Development Agency
FIVE South College Drive
Suite 201
Binghamton, New York 13905
Attn: Executive Director

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

To the Company: Sam A. Lupo & Sons, Inc.
625 Dickson Street
Endicott, New York 13760
Attn: Sam A. Lupo, Jr., President

SSE3, LLC
625 Dickson Street
Endicott, New York 13760
Attn: Sam A. Lupo, Jr., Member

with a copy to: Brady L. Begeal, Esq.
Coughlin & Gerhart, LLP
99 Corporate Drive

Binghamton, New York 13904

14. 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 January 31, 2036.

16. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. In addition, the parties may transmit signed copies of this Agreement by e-mail and/or facsimile and all parties intend to be bound by the signatures on any document which is transmitted by e-mail and/or facsimile. Each party is aware that the other party(ies) will rely on the e-mail and/or facsimile transmitted signatures, and all parties hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

17. The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Project, with respect to any proposed assessment or change in assessment with respect to the Project by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the

validity or amount of any tax equivalent provided for herein.

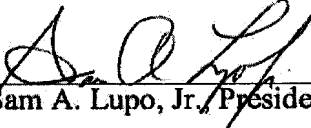
18. The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Tax Agreement, as if and to the same extent as if the Company were the owner of the Project.

19. The Company shall file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

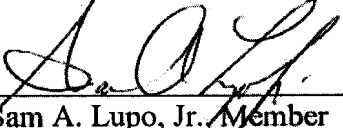
20. To the extent the Project is declared to be subject to taxation or assessment by an amendment to the Act, or other legislative change, or by final judgement of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

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

SAM A. LUPO & SONS, INC.

By: 
Sam A. Lupo, Jr., President

SSE3, LLC

By: 
Sam A. Lupo, Jr., Member

BROOME COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

validity or amount of any tax equivalent provided for herein.

18. The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Tax Agreement, as if and to the same extent as if the Company were the owner of the Project.

19. The Company shall file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

20. To the extent the Project is declared to be subject to taxation or assessment by an amendment to the Act, or other legislative change, or by final judgement of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

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

SAM A. LUPO & SONS, INC.

By: _____
Sam A. Lupo, Jr., President

SSE3, LLC

By: _____
Sam A. Lupo, Jr., Member

BROOME COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____


Stacey M. Duncan, Executive Director

STATE OF NEW YORK:

: ss.:

COUNTY OF BROOME :

On February 3, 2021 before me, the undersigned, personally appeared SAM A. LUPO, JR., 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.

BRADY BEGAL
Notary Public, State of New York
No. 02BE6257391
Qualified in Broome County
Commission Expires March 12, 2024



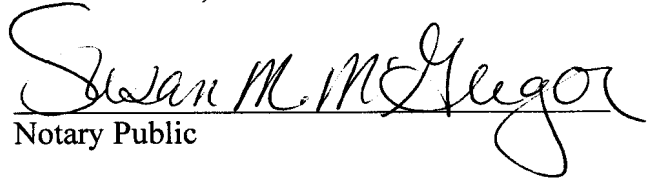
Notary Public

STATE OF NEW YORK :

: ss.:

COUNTY OF BROOME :

On February 4, 2021, before me, the undersigned, personally appeared STACEY M. DUNCAN, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

SUSAN M. MCGREGOR
Notary Public, State of New York
No. 01MC6215671
Qualified in Broome County
Commission Expires January 4, 2022

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Union, Broome County, New York, bounded and described as follows:

BEGINNING at a $\frac{3}{4}$ " rebar set with cap on the north line of Dickson Street which lies 323+/- feet east of the east line of South Grippen Avenue;

THENCE N 05° 50' 00" E for a distance of 396.28 feet to a $\frac{5}{8}$ " rebar;

THENCE N 81° 02' 00" E for a distance of 150.00 feet to a $\frac{5}{8}$ " rebar;

THENCE S 01° 44' 27" E for a distance of 435.86 feet to a $\frac{5}{8}$ " rebar;

THENCE N 84° 53' 11" W for a distance of 202.49 feet to the Point of Beginning.

EXHIBIT "B"

(SEE ATTACHED PILOT PAYMENT SCHEDULE)

SAM A. LUPO & SONS, INC, SSE3,LLC PILOT SCHEDULE

<u>YEAR</u>	<u>FULL TAXES</u>	<u>% INCREASE</u>	<u>PILOT PAYMENT</u>	<u>BENEFIT</u>
2021	\$71,953.34	0%	\$15,267.05	\$56,686.29
2022	\$73,392.41	0%	\$15,267.05	\$58,125.36
2023	\$74,860.25	0%	\$15,267.05	\$59,593.20
2024	\$76,357.46	0%	\$15,267.05	\$61,090.41
2025	\$77,884.61	0%	\$15,267.05	\$62,617.56
2026	\$79,442.30	50%	\$43,610.20	\$35,832.11
2027	\$81,031.15	50%	\$43,610.20	\$37,420.95
2028	\$82,651.77	50%	\$43,610.20	\$39,041.58
2029	\$84,304.81	50%	\$43,610.20	\$40,694.61
2030	\$85,990.90	50%	\$43,610.20	\$42,380.71
2031	\$87,710.72	25%	\$57,781.77	\$29,928.95
2032	\$89,464.93	25%	\$57,781.77	\$31,683.17
2033	\$91,254.23	25%	\$57,781.77	\$33,472.47
2034	\$93,079.32	25%	\$57,781.77	\$35,297.55
2035	\$94,940.90	25%	\$57,781.77	\$37,159.14
	\$1,244,319.11		\$583,295.06	\$661,024.04

Based on an assumed 2% property tax increase per year

Current Assessment \$15,330

Final Assessment: \$72,250