

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "Agreement"), dated as of December 17, 2020, by and between OWEGO GARDENS ASSOCIATES II LLC, a limited liability company duly organized and validly existing under the laws of the State of New York, with an address for the transaction of business located at 700 Clinton Square, Rochester, New York 14604 (the "Company") and the TIOGA 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 56 Main Street, Owego, New York 13827 (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, renovate, 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 or renovation, 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 534 of the Laws of 1971, as amended by Chapter 883 of the Laws of 1974 of the State of New York, constituting Section 912 of the General Municipal Law (collectively, the "Act") created the Tioga 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, 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 workforce, general occupancy residential facility located on the south side of State Route 434 in the Village of Owego, Town of Owego, County of Tioga, and State of 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") for a term not to exceed thirty (30) 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 leasing of the Project, the Company has agreed that, notwithstanding such exemption, the Company will nevertheless make payments to the Village of Owego, (the "Village"), the Town of Owego (the "Town"), the Owego-Apalachin Central School District (the "School District") and the County of Tioga (the "County") while occupying the Project in lieu of general tax levies as specified herein.

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 the Agency by lease of 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 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 workforce, general occupancy residential facility or allied purposes such as defined in Article 18-A of the General Municipal Law 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 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. The Agency shall accept cure by Wincopin Circle LLLP (the "Investor Member"), and its successors and assigns, of the Company on behalf of the Company as cure by the Company.

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

expenses 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 by the Agency, 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.

**If to the Agency:** Tioga County Industrial Development Agency  
56 Main Street  
Owego, New York 13827  
Attn: Chairman

**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:** Owego Gardens Associates II LLC  
700 Clinton Square  
Rochester, New York 14604

Attn: Megan Houppert  
Development Manager

**Copy to:** Constance C. Giessert, Esq.  
Cannon Heyman & Weiss, LLP  
726 Exchange Street  
Suite 500  
Buffalo, New York 14210

**If to the  
Investor Member:** Wincopin Circle LLLP  
c/o Enterprise Community Asset Management, Inc.  
11000 Broken Land Parkway, Suite 700  
Columbia, Maryland 21044  
Attention: General Counsel

**Copy to:** Kenneth S. Gross, Esq.  
Gallagher Evelius & Jones LLP  
218 North Charles Street, Suite 400  
Baltimore, Maryland 21201

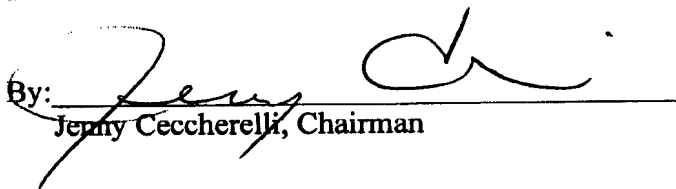
14. The Village, the Town, the School District, the County, the Agency and the Company as used herein shall include their successors and assigns. The terms of this Agreement shall inure to the benefit of, and shall be binding upon, any future owners of the Project and the Company's successors and assigns.

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 December 17, 2050.

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 all parties intend to be bound by the signatures on any document which is transmitted by e-mail. Each party is aware that the other party will rely on the e-mail transmitted signatures, and all parties hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

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

TIOGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Jenny Ceccherelli, Chairman

OWEGO GARDENS ASSOCIATES II LLC

By: Owego Gardens II Associates MM LLC  
Its Managing Member

By: Home Leasing, LLC, its Sole Member

By: \_\_\_\_\_  
Megan Houppert, Authorized Signatory



Leaseback Agreement from the Agency to the Company which, by its terms, expires December 17, 2050.

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 all parties intend to be bound by the signatures on any document which is transmitted by e-mail. Each party is aware that the other party will rely on the e-mail transmitted signatures, and all parties hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

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

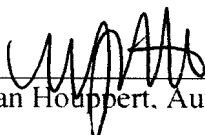
TIOGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Jenny Ceccherelli, Chairman

OWEGO GARDENS ASSOCIATES II LLC

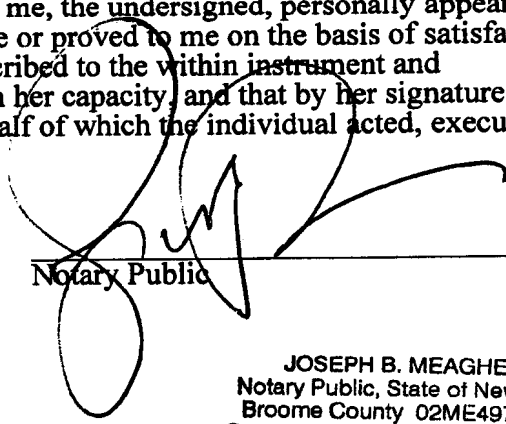
By: Owego Gardens II Associates MM LLC  
Its Managing Member

By: Home Leasing, LLC, its Sole Member

By:  \_\_\_\_\_  
Megan Houppert, Authorized Signatory

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

On this 2<sup>nd</sup> day of December, 2020, before me, the undersigned, personally appeared JENNY CECCHERELLI, 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

JOSEPH B. MEAGHER  
Notary Public, State of New York  
Broome County 02ME4974837  
Commission Expires Nov. 26, 2022

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

On this \_\_\_\_\_ day of December, 2020, before me, the undersigned, personally appeared MEGAN HOUPPERT, 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

STATE OF NEW YORK:

: ss.:

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of December, 2020, before me, the undersigned, personally appeared JENNY CECCHERELLI, 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

STATE OF NEW YORK:

: ss.:

COUNTY OF MONROE:

On this 15<sup>th</sup> day of December, 2020, before me, the undersigned, personally appeared MEGAN HOUPPERT, 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

**ERIN R CORREA**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**No. 01CO6338854**  
**Qualified in Monroe County**  
**My Commission Expires 03-21-2024**

EXHIBIT "A"

PARCEL A

ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Owego and the Town of Owego, County of Tioga, bounded and described as follows:

BEGINNING at a rebar found lying on the southern boundary of New York State Route 434 also being the northeast corner of Owego Southside Properties, LLC (Inst. #187264-001); thence easterly along New York State Route 434, N 77° 03' 06" E, 29.79 feet to a point; thence S 9° 09' 46" E, 133.38 feet to a point; thence S11°51'15"E, 186.39 feet to a point, thence following a curve to the left having a radius of 525.00 feet, a length of 74.61 feet, and a chord of S 12° 56' 14.89" E, 74.55 feet to a point; thence S 17° 00' 32" E, 234.12 feet to a point; thence following a curve to the right having a radius of 550.00 feet, a length of 182.26 feet, and a chord of S 07° 30' 55.41" E, 181.43 feet to a point; thence S 01° 58' 41" W, 488.77 feet to a point; thence following a curve to the left having a radius of 239.00 feet, a length of 167.55 feet, and a chord of S 18° 06' 19.92" E, 164.14 feet to a point; thence S 38° 11' 21" E, 117.56 feet to a point; thence following a curve to the right having a radius of 25.00 feet, a length of 40.77 feet, and a chord of S 08° 32' 02.81" W, 36.40 feet to a point; thence S 55° 15' 27" W, 22.47 feet to a point; thence S 34° 44' 33" E, 112.28 feet to a point; thence S 55° 22' 28" W, 715.10 feet to a point on the eastern boundary of Eastern Consolidated Management Corp. (B. 495, P. 218); thence along the eastern boundary of Eastern Consolidated Management Corp. (B. 495, P. 218) N 06° 44' 2" E, 482.45 feet to an iron pin found; thence along the southern boundary of Marzo (B. 613, P. 194) N 77° 02' 57" E, 100.00 feet to an iron pin found; thence along the eastern boundary of Marzo (B. 613, P. 194) N 06° 44' 02" E, 900.00 feet to an iron pin found; thence along the northern boundary of Marzo (B. 613, P. 194) S 77° 03' 06" W, 100.00 feet to an iron pin found on the eastern boundary of Owego Southside Properties, LLC (Inst. # 187264-001); thence along the western boundary of Owego Southside Properties, LLC (Inst. # 187264-001) N 06° 44' 02" E, 500.35 feet to a point; thence continuing along the western boundary of Owego Southside Properties, LLC (Inst. # 187264-001) N 06° 41' 29" E, 199.65 feet to the point of beginning.

CONTAINING 10.59 acres of land as shown on a map labeled as Owego Gardens 2 by Fagan Engineers & Land Surveyors, PC dated July 5, 2018.

The above described property is depicted on Subdivision Plat Project No. 2016.094 dated July 8, 2018 and filed in the Tioga County Clerk's Office on August 7, 2020 as Map Number 2020-00002887 last revised by Plan filed on October 23, 2020 as Map No. 2020-00004196.

EXHIBIT "A" (Continued)

PARCEL C

ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Owego, County of Tioga, bounded and described as follows:

BEGINNING at a point which is N 77°03'06" E, 29.79 feet from a rebar found lying on the southern boundary of New York State Route 434 and also being the Northwest corner of Owego Southside Properties, LLC (Inst.# 187264-001).

THENCE S 9°09'46" E, 133.38 feet to the point of beginning.

THENCE S 11°51'15" E, 186.39 feet to a point.

THENCE following a curve to the left having a radius of 525.00 feet, a length of 74.61 feet, and a chord of S 12°56'14.89" E, 74.55 feet to a point.

THENCE S 17°00'32" E, 234.12 feet to a point.

THENCE following a curve to the right having a radius of 550.00 feet, a length of 182.26 feet, and a chord of S 07°30'55.41" E, 181.43 feet to a point.

THENCE S 1°58'41" W, 488.77 feet to a point.

THENCE following a curve to the left having a radius of 239.00 feet, a length of 167.55 feet, and a chord of S 18°06'19.92" E, 164.14 feet to a point.

THENCE S 38°11'21" E, 117.56 feet to a point.

THENCE following a curve to the right having a radius of 25.00 feet, a length of 40.77 feet, and a chord of S 08°32'02.81" W, 36.40 feet to a point.

THENCE S 55°15'27" W, 22.47 feet to a point.

THENCE S 34°44'33" E, 70.11 feet to a point.

THENCE N 55°22'22" E, 150.01 feet to a point.

THENCE N 34°44'33" W, 70.41 feet to a point.

THENCE S 55°15'27" W, 27.37 feet to a point.

THENCE following a curve to the right having a radius of 25.00 feet, a length of 37.77 feet, and a chord of N 81°27'57.19" W, 34.28 feet to a point.

THENCE N 38°11'21" W, 123.58 feet to a point.

EXHIBIT "A" (Continued)

THENCE following a curve to the right having a radius of 189.00 feet, a length of 132.50 feet, and a chord of N 18°06'19.92" W, 129.80 feet to a point.

THENCE N 01°58'41" E, 488.77 feet to a point.

THENCE following a curve to the left having a radius of 600.00 feet, a length of 198.83 feet, and a chord of N 07°30'55.41" W, 197.92 feet to a point.

THENCE N 17°00'32" W, 234.12 feet to a point.

THENCE following a curve to the right having a radius of 475.00 feet, a length of 67.51 feet, and a chord of N 12°56'14.89" W, 67.45 feet to a point.

THENCE N 08°51'58" W, 186.44 feet to a point.

THENCE S 80°50'14" W, 60.00 feet to a point to the point of beginning.

CONTAINING 1.95 acres of land as shown on a map labeled as Owego Gardens 2 by Fagan Engineers & Land Surveyors, PC dated July 5, 2018.

The above described property is depicted on Subdivision Plat Project No. 2016.094 dated July 8, 2018 and filed in the Tioga County Clerk's Office on August 7, 2020 as Map Number 2020-00002887 last revised by Plan filed on October 23, 2020 as Map No. 2020-00004196.

**EXHIBIT "B"**

**(SEE ATTACHED PILOT PAYMENT SCHEDULE)**

**Owego Gardens II PILOT Schedule**

Year	Total Payment	Distribution				
		Village 18.90	Town/County 15.96	School 27.88	Fire 2.43	Composite 65.18
Construction Period	0	0	0	0	0	0
1	46,500	13,484	11,386	19,894	1,736	46,500
2	47,430	13,754	11,614	20,292	1,771	47,430
3	48,379	14,029	11,846	20,698	1,806	48,379
4	49,346	14,310	12,083	21,111	1,842	49,346
5	50,333	14,596	12,325	21,534	1,879	50,333
6	51,340	14,888	12,571	21,964	1,917	51,340
7	52,367	15,185	12,822	22,404	1,955	52,367
8	53,414	15,489	13,079	22,852	1,994	53,414
9	54,482	15,799	13,340	23,309	2,034	54,482
10	55,572	16,115	13,607	23,775	2,075	55,572
11	56,683	16,437	13,879	24,250	2,116	56,683
12	57,817	16,766	14,157	24,735	2,158	57,817
13	58,973	17,101	14,440	25,230	2,202	58,973
14	60,153	17,443	14,729	25,735	2,246	60,153
15	61,356	17,792	15,024	26,249	2,291	61,356
16	62,583	18,148	15,324	26,774	2,336	62,583
17	63,835	18,511	15,630	27,310	2,383	63,835
18	65,111	18,881	15,943	27,856	2,431	65,111
19	66,413	19,259	16,262	28,413	2,479	66,413
20	67,742	19,644	16,587	28,982	2,529	67,742
21	69,097	20,037	16,919	29,561	2,580	69,097
22	70,478	20,438	17,257	30,152	2,631	70,478
23	71,888	20,846	17,602	30,755	2,684	71,888
24	73,326	21,263	17,954	31,371	2,737	73,326
25	74,792	21,689	18,314	31,998	2,792	74,792
26	76,288	22,122	18,680	32,638	2,848	76,288
27	77,814	22,565	19,053	33,291	2,905	77,814
28	79,370	23,016	19,435	33,956	2,963	79,370
29	80,958	23,476	19,823	34,636	3,022	80,958
30	82,577	23,946	20,220	35,328	3,083	82,577



**EXHIBIT "C"**

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

**TIOGA 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 Tioga County Industrial Development Agency (the "Agency") benefits provided to an applicant in order to induce such applicant to undertake a project in Tioga County. For purposes of this policy, Agency benefits shall include and 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 Chairman, 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.