Nassau County Clerk
RECORDS OFFICE
RECORDING PAGE

Deed Number (RETT):
RETT005489

Type of Instrument: Deed

Control No: 199410060884

PERKIN-ELMER CORP

SULZER METCO WESTBURY INC

Recorded: 11/06/1994
At: 12:27:08 PM
In Liber: 10474
Of: Deed Book
From Page: 0460
Through Page: 0463

Refers to Liber: 00000
Of:
Page: 0000

Location:	Section:	Block:	Lot:	Unit:
Oyster Bay (2824)	00000011	0000H-00	00112	

V84

EXAMINED AND CHARGED AS FOLLOWS:

Consider Amt $ 2,000,000.00

Received Following Fees For Above Instrument

			Exempt				Exempt
Recording	$	27.00	NO	State Fee	$	4.75	NO
Equ /Cty	$	5.00	NO	St.Fee/Cty	$	.25	NO
Gain Tax	$	1.00	NO	Trans Tax	$	8000.00	NO
Surchg/NYS	$	22.00	NO				
Surchg/Cty	$	3.00	NO				

Fees Paid: $ 8,063.00

Deed Number (RETT): RETT005489

THIS PAGE IS A PART OF THE INSTRUMENT

Karen V. Murphy
County Clerk, Nassau County

GAH001

212800

Deed

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

8.00

THIS INDENTURE, made the 30th day of September, nineteen hundred and ninety-four

BETWEEN THE PERKIN-ELMER CORPORATION*, a New York corporation having an address at 761 Main Avenue, Norwalk, CT 06859-0313

* AS SUCCESSOR BY MERGER TO METCO INC. PURSUANT TO CERTIFICATE OF MERGER FILED NOV. 13, 1985 WITH THE NEW YORK SECRETARY OF STATE

party of the first part, and SULZER METCO (WESTBURY) INC., a Delaware corporation, having an address at c/o Sulzer Inc., 200 Park Avenue, New York, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Hicksville, Town of Oyster Bay, County of Nassau and State of New York and commonly known as 325 Duffy Avenue, Hicksville, NY.

Said Premises is more particularly described in Schedule A attached hereto and made a part hereof.

LEGIBILITY POOR FOR MICROFILM

TAX MAP DESIGNATION

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
The word "party" shall be construed as if it reads "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

THE PERKIN-ELMER CORPORATION

By: John B. McBurnett
Name: JOHN B. McBURNETT
Title: CORPORATE COUNSELOR

SCHEDULE "A"

ALL THAT CERTAIN PLOT, PIECE, OR PARCEL OF LAND, SITUATE, LYING, AND BEING AT HICKSVILLE, TOWN OF OYSTER BAY, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHERLY SIDE OF DUFFY AVENUE AND THE EASTERLY SIDE OF HENRIETTA STREET SAID POINT BEING THE EASTERLY END OF A CURVE; CONNECTING THE SAID SOUTHERLY SIDE OF DUFFY AVENUE AND THE EASTERLY SIDE OF HENRIETTA STREET AS SAID DUFFY AVENUE AND HENRIETTA STREET EXIST TODAY;

RUNNING THENCE EASTERLY ALONG THE SOUTHERLY SIDE OF DUFFY AVENUE ALONG THE ARC OF A CURVE BEARING TO THE RIGHT WHOSE RADIUS IS 700 FEET A DISTANCE OF 148.16 FEET TO A POINT;

THENCE STILL ALONG THE SOUTHERLY SIDE OF DUFFY AVENUE NORTH 76 DEGREES 49 MINUTES 40 SECONDS EAST 327.28 FEET;

RUNNING THENCE SOUTH 8 DEGREES 55 MINUTES 20 SECONDS EAST 679.30 FEET TO LAND NOW OR FORMERLY OF TERLIKOVSKY;

RUNNING THENCE SOUTH 77 DEGREES 14 MINUTES 40 SECONDS WEST ALONG SAID LAND, 181.43 FEET;

RUNNING THENCE NORTH 8 DEGREES 48 MINUTES 37 SECONDS WEST 59.84 FEET;

RUNNING THENCE SOUTH 78 DEGREES 05 MINUTES 30 SECONDS WEST 190.50 FEET;

RUNNING THENCE NORTH 8 DEGREES 30 MINUTES 08 SECONDS WEST 105.19 FEET;

RUNNING THENCE SOUTH 77 DEGREES 14 MINUTES 40 SECONDS WEST 28.66 FEET;

RUNNING THENCE NORTH 12 DEGREES 45 MINUTES 20 SECONDS WEST 39.86 FEET;

RUNNING THENCE SOUTH 77 DEGREES 14 MINUTES 40 SECONDS WEST 122 FEET TO THE EASTERLY SIDE OF HENRIETTA STREET;

RUNNING THENCE ALONG THE EASTERLY SIDE OF HENRIETTA STREET, NORTH 7 DEGREES 58 MINUTES 20 SECONDS WEST 435.10 FEET TO THE SOUTHERLY END OF THE CURVE FIRST ABOVE MENTIONED;

THENCE NORTHEASTERLY ALONG THE ARC OF THE CURVE FIRST ABOVE MENTIONED WHOSE RADIUS IS 20 FEET A DISTANCE OF 25.37 FEET TO THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION: 11 BLOCK: H LOT(S): 112/484

Said Premises is conveyed subject to the following:

1. Current taxes, assessments and special assessments not yet due and payable.
2. Laws, ordinances, and governmental regulations (including without limitation building and zoning ordinances) affecting said premises
3. Those matters disclosed on a survey of the premises made by Kenneth S. O'Brien dated April 19, 1995

STATE OF NEW YORK)
) SS.
COUNTY OF NEW YORK)

On this, the 30th day of September, A.D. 1994, before me, the undersigned officer, personally came JOHN B. McBENNETT to me known, who, being by me duly sworn, did depose and say that he resides at 761 MAIN, NORWALK, CT that he is the CORPORATE CONTROLLER of The Perkin-Elmer Corporation, the corporation described in and which executed the foregoing instrument.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:

FRANIA B. SHELLEY
NOTARY PUBLIC, State of New York
No. 31-4873542
Qualified in New York County
Certificate Filed in New York County
Commission Expires Nov. 2, 1994

BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTORS ACTS THE PERKIN-ELMER CORPORATION Grantor, TO SULZER METCO (WESTBURY) INC. Grantee	SECTION 11 BLOCK 4 LOT 112 COUNTY 484 Dated: September 30, 1994

RECORD AND RETURN TO

CHICAGO TITLE INS. CO.
330 Old Country Road
Mineola, NY 11501-4122
ATTENTION: RECORDING DEPT.

NORTH SHORE ABSTRACT, LTD.

as agent for

CHICAGO TITLE INSURANCE COMPANY

330 Great Neck Road
P.O. Box 220385
Great Neck, New York 11021

(516) 466-6050 (718) 468-9200
(516) 741-6363 1 800 420-6050
Fax #: (516) 466-6011

December 5, 1997

Certilman, Balin, Adler & Hyman
90 Merrick Avenue
East Meadow, NY 11554

Att: Marilyn Price

RE: Title No. N15836N (97-05-0155-000457)
Premises: 325 Duffy Avenue, Hicksville, NY
Parties: Sulzer Metco (Westbury) Inc.
To F.R. Acquisition, Inc.

Dear Ms. Price:

Enclosed please find the following in connection with the above referenced title:

( ) Amended Certification
( ) Amended Schedule A
( ) Omitted Exception No.
( ) Added Exception No.
(x) Amended Exception No. 17 (out of possession recital removed - Amended Schedule B page herewith)
( ) Survey Print
( ) Other

Kindly attach to Report of Title previously sent to your office and consider same a part thereof.

Very truly yours,

NORTH SHORE ABSTRACT, LTD.

FOR THE COMPANY

GK:mw
encl.
cc: Samuel Galowitz, Esq.
Harry Szenicer, Esq.

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

SCHEDULE B (Continued)

AMEND 17. Survey made by Shah Associates P.C. dated 9/20/97 shows a 1 story masonry building with bituminous pavement on Easterly, Northeasterly, Southerly and Westerly sides of building. Parking area in Westerly area of premises. Overhead wires, wood pole and guy wire vary with Easterly lot line. Fences vary with Easterly lot line. Fences up to 1.6 feet West of part of Southeasterly lot line and up to 2.1 feet North of Southeasterly lot line. Fences vary with Southerly lot lines. Fence up to 15.4 feet West of Southwesterly corner of premises. Shows recharge basin in Southeasterly area of premises. Fences, pole and overhead wires up to 12.8 feet onto Henrietta Street. Wood support pole, concrete curb, overhead wires and fence onto Duffy Ave. Shows no other encroachments or variations with lot lines.

except

NOTE: The survey reading and survey inspection are not intended to be and should not be used for the purpose of determining compliance with local building and zoning laws and regulations; they should only be relied upon for the purpose of disclosing exceptions to title.

note

NORTH SHORE ABSTRACT, LTD.

as agent for

CHICAGO TITLE INSURANCE COMPANY

330 Great Neck Road
P.O. Box 220385
Great Neck, New York 11021

(516) 466-6050 (718) 468-9200
(516) 741-6363 1 800 420-6050
Fax #: (516) 466-6011

September 30, 1997

Certilman, Baliln, Adler & Hyman
90 Merrick Avenue
East Meadow, NY 11554

Att: Howard Stein

RE: Title No. N15836N (97-05-0155-000457)

Premises: 325 Duffy Avenue, Hicksville, NY

Parties: Sulzer Metco (Westbury) Inc.
To F.R. Acquisition, Inc.

Dear Sirs:

Enclosed please find the following in connection with the above referenced title:

( ) Amended Certification
( ) Amended Schedule A
(x) Omitted Exception No. 15
(x) Added Exception No. 17 (Amended Schedule B pages herewith)
( ) Amended Exception No.
(x) Survey Print
( ) Other

Kindly attach to Report of Title previously sent to your office and consider same a part thereof.

Very truly yours,

NORTH SHORE ABSTRACT, LTD.

FOR THE COMPANY

ILZ:mw
encl.
cc: Samuel Galowitz, Esq.
Harry Szenicer, Esq.

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

SCHEDULE B (Continued)

8. Sulzer Metco (U.S.), Inc. has been run for Judgments and Federal Tax Liens. Nothing has been found of record.

9. The certified owner Sulzer Metco (Westbury), Inc. has been run for Judgments and Federal Tax Liens. Nothing has been found of record.

10. Deed to contain the following recital: "Being the same premises conveyed to the Grantor(s) herein by deed dated 9/30/94, recorded 10/6/94 in Liber 10474, Page 460."

omit

11. Application indicates that title is vested in Sulzer Metco (U.S.), Inc.. We find title as certified herein. This must be satisfactorily explained at, or prior to, closing of title.

12. NOTE: Affidavit must be given at closing stating that the owner has not received notice to install or repair sidewalks or curbs on the premises. In the event a repair notice has been received, the purchaser/mortgagor must ascertain PRIOR TO CLOSING whether or not the repair has been properly completed and all charges in connection therewith have been paid. Failure to comply with the repair requirements will result in a future lien against which the policy does not protect.

13. Section 316-B of the Real Property Law requires recording officers to provide proper books for making an index of present owners of inactive hazardous waste disposal sites contained in the annual report required by Section 27-1305 of The Environemental Conservation Law. The index shall also contain the tax map, parcel number or the section, block and lot number of the site. The inactive hazardous waste site, as it appears in the index and is listed below may include all or a portion of the premises under examination. Hazardous Waste Site filed 8/31/93. (to follow, if any)

except

14. Meter reading must be obtained by seller. In the event said reading is not obtained, then policy will except any additional water and sewer charges from the date of the last ACTUAL reading.

OMIT 15. Company is currently awaiting a title survey. Upon receipt, survey reading will be prepared.

ADD 16. Possible unpaid Franchise Taxes against Sulzer Metro (Westbury) Inc. (see within)

omit

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

SCHEDULE B (Continued)

ADD 17. Survey made by Shah Associates P.C. dated 9/20/97 shows a 1 story masonry building with bituminous pavement on Easterly, Northeasterly, Southerly and Westerly sides of building. Parking area in Westerly area of premises. Overhead wires, wood pole and guy wire vary with Easterly lot line. Fences vary with Easterly lot line. Fences up to 1.6 feet West of part of Southeasterly lot line and up to 2.1 feet North of Southeasterly lot line. Owner may be out of possession of so much of the premises lying between said fences and Southeasterly area of premises. Fee Policy will not insure said areas against rights of others. Fences vary with Southerly lot lines. Fence up to 15.4 feet West of Southwesterly corner of premises. Shows recharge basin in Southeasterly area of premises. Fences, pole and overhead wires up to 12.8 feet onto Henrietta Street. Wood support pole, concrete curb, overhead wires and fence onto Duffy Ave. Shows no other encroachments or variations with lot lines.

NOTE: The survey reading and survey inspection are not intended to be and should not be used for the purpose of determining compliance with local building and zoning laws and regulations; they should only be relied upon for the purpose of disclosing exceptions to title.

See
Amended

NORTH SHORE ABSTRACT, LTD.

as agent for

CHICAGO TITLE INSURANCE COMPANY

330 Great Neck Road **(516) 466-6050** **(718) 468-9200**
P.O. Box 220385 **(516) 741-6363** **1 800 420-6050**
Great Neck, New York 11021 **Fax #: (516) 466-6011**

August 7, 1997

Certilman, Baliln, Adler & Hyman
90 Merrick Avenue
East Meadow, NY 11554

Att: Howard Stein

RE: Title No. N15836N (97-05-0155-000457)

Premises: 325 Duffy Avenue, Hicksville, NY

Parties: Sulzer Metco (Westbury) Inc.
To F.R. Acquisition, Inc.

Dear Sirs:

Enclosed please find the following in connection with the above referenced title:

( ) Amended Certification
( ) Amended Schedule A
( ) Omitted Exception No.
(x) Added Exception No. 16 (Amended Schedule B page herewith)
( ) Amended Exception No.
( ) Amended Survey Print
( ) Other

Kindly attach to Report of Title previously sent to your office and consider same a part thereof.

Very truly yours,

NORTH SHORE ABSTRACT, LTD.

FOR THE COMPANY

:mw
encl.
cc: Samuel Galowitz, Esq.
Harry Szenicer, Esq.

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

SCHEDULE B (Continued)

8. Sulzer Metco (U.S.), Inc. has been run for Judgments and Federal Tax Liens. Nothing has been found of record.

9. The certified owner Sulzer Metco (Westbury), Inc. has been run for Judgments and Federal Tax Liens. Nothing has been found of record.

10. Deed to contain the following recital: "Being the same premises conveyed to the Grantor(s) herein by deed dated 9/30/94, recorded 10/6/94 in Liber 10474, Page 460."

11. Application indicates that title is vested in Sulzer Metco (U.S.), Inc.. We find title as certified herein. This must be satisfactorily explained at, or prior to, closing of title.

12. NOTE: Affidavit must be given at closing stating that the owner has not received notice to install or repair sidewalks or curbs on the premises. In the event a repair notice has been received, the purchaser/mortgagor must ascertain PRIOR TO CLOSING whether or not the repair has been properly completed and all charges in connection therewith have been paid. Failure to comply with the repair requirements will result in a future lien against which the policy does not protect.

13. Section 316-B of the Real Property Law requires recording officers to provide proper books for making an index of present owners of inactive hazardous waste disposal sites contained in the annual report required by Section 27-1305 of The Environemental Conservation Law. The index shall also contain the tax map, parcel number or the section, block and lot number of the site. The inactive hazardous waste site, as it appears in the index and is listed below may include all or a portion of the premises under examination. Hazardous Waste Site filed 8/31/93. (to follow, if any)

14. Meter reading must be obtained by seller. In the event said reading is not obtained, then policy will except any additional water and sewer charges from the date of the last ACTUAL reading.

15. Company is currently awaiting a title survey. Upon receipt, survey reading will be prepared.

ADD 16. Possible unpaid Franchise Taxes against Sulzer Metro (Westbury) Inc. (see within)

see Amended

New York State Department of Taxation and Finance
Taxpayer Assistance Bureau
W. A. Harriman Campus
Albany, NY 12227

Tax Status

Articles 9, 9-A, 9-B, 9-C, 13, 13-A, 32 and 33

51-A

N15836N

According to our records, tax liens exist under the above Articles for the periods listed below.

Name of Corporation				
SULZER METRO (WESTBURY) INC.				
Incorporated	Filing Period	Terminated date	Terminated code	Search date
DELAWARE	DECEMBER			7/8/97

Owes franchise tax reports for period(s) ended:

12/31/95, 12/31/96 INCLUDING 12/31/95 SURCHARGE AND 12/31/96 SURCHARGE

Owes franchise taxes for period(s) ended:

12/31/95, 12/31/96 INCLUDING 12/31/95 SURCHARGE AND 12/31/96 SURCHARGE

Owes license fee (Article 9, Sec. 181)	Owes maintenance fee for period(s)ended:
YES	NONE

Lien Provision

The tax shall become a lien on the date on which the return is required to be filed (without regard to any extension of time for filing such return), except that such tax shall become a lien not later than the date the taxpayer ceases to be subject to the tax or to exercise its franchise or to do business in this state in a corporate or organized capacity. A dissolved corporation which continues to conduct business shall also be subject to the tax imposed by this article.

Terminated

Reason	Code
Merger	1
Consolidation	2
Reorganization	3
Take over	4
Charter Expires	5
Certificate of Termination	6
Surrendered Authority	8
Voluntary Dissolution	9
Dissolved by Proclamation	P
Revocation of Authority	R

amlf

Official only

when perforated

NORTH SHORE ABSTRACT, LTD.

as agent for

CHICAGO TITLE INSURANCE COMPANY

330 Great Neck Road
P.O. Box 220385
Great Neck, New York 11021

(516) 466-6050 (718) 468-9200
(516) 741-6363 1 800 420-6050
Fax #: (516) 466-6011

July 10, 1997

Certilman, Baliln, Adler & Hyman
90 Merrick Avenue
East Meadow, NY 11554

Att: Howard Stein

RE: Title No. N15836N (97-05-0155-000457)

Premises: 325 Duffy Avenue, Hicksville, NY

Parties: Sulzer Metco (Westbury) Inc.
To F.R. Acquisition, Inc.

Dear Sirs:

Enclosed please find the following in connection with the above referenced title:

( ) Amended Certification
( ) Amended Schedule A
( ) Omitted Exception No.
( ) Added Exception No.
( ) Amended Exception No.
( ) Amended Survey Print
(x) Bankruptcy Search vs. Sulzer Metco (Westbury) Inc.

Kindly attach to Report of Title previously sent to your office and consider same a part thereof.

Very truly yours,

NORTH SHORE ABSTRACT, LTD.

FOR THE COMPANY

:mw
encl.
cc: Samuel Galowitz, Esq.
Harry Szenicer, Esq.

BARRETTA, L.L.C.

1 Old Country Road
Carle Place, NY 11514
(516) 663-0600
(800) 275-9643
Fax (516) 663-0650
(800) 200-3499

Date 07/03/97

Title No. NORT N15836N

BANKRUPTCY SEARCH

NAME OF INDIVIDUAL, CORPORATION OR BUSINESS:
SULZER METCO (WESTBURY) INC.

LAST KNOWN ADDRESS

County: NASSAU

SOCIAL SECURITY OR FEDERAL IDENTIFICATION NUMBER:

A search of the records of the United States Bankruptcy Court has been made with the following results:

(X) There is no record of a bankruptcy filing for the above mentioned individual, corporation or Business
The following office(s) have been checked:
U.S. BANKRUPTCY COURT
EASTERN DISTRICT COURT OF
NEW YORK

( ) The following information is on file:

IMPORTANT NOTICE ABOUT ABOVE SEARCH INFORMATION

Barretta does hereby certify that the records of the above Governmental agency were examined and that the information recorded above is a true and accurate abstraction of the information contained wherein.

This report is submitted for information purposes only. Liability is limited to errors and omissions of information properly indexed, filed and recorded with the above governmental agency. The Liability under this search not exceed $1,000 and shall be confined to the applicant for whom the search was made.

000300/000300

id# 1764852 5111845

003

This search does not include filings in areas other than the Microfiche or Index Sections of the United States Bankruptcy Clerk's office.

North Shore Abstract, Ltd.

as agent for:

Chicago Title Insurance Company

330 Great Neck Road, P.O. Box 220385, Great Neck, NY 11021
(516) 466-6050 1-800-420-6050 Fax No. (516) 466-6011

Application Date: 6/25/97 **Title No.** N15836N (97050155000457)

APPLICANT:
CERTILMAN,BALIN,ADLER & HYMAN
ATTN: HOWARD STEIN
90 MERRICK AVENUE
EAST MEADOW, NY 11554
(516)296-7000

REPORT TO:

SELLERS:
SAMUEL GALOWITZ, ESQ.
BACHMAN, TALLY, ETAL
380 MADISON AVENUE
NEW YORK, NY 10017
(212)687-7000

COPY TO:
HARRY SZENICER, ESQ.
575 UNDERHILL ROAD/SUITE 125
P.O. BOX 830
SYOSSET, NY 11791
(516)364-5000

Type of ins.	Mortgage: CON	Fee:	Leasehold:
AMOUNT OF INSURANCE:	$ 0.00	$ 3,200,000.00	$ 0.00

Survey Instructions: Locate

REC. OWNER.. Sulzer Metco (U.S.), Inc.

MORTGAGEE...

PURCHASER... F.R. Acquisition, Inc.

PREMISES: 325 Duffy Avenue
Hicksville, NY

COUNTY OF.. Nassau
Town of.....
Village of.....

LOT:	MAP OF:	MAP #	FILED:
DISTRICT:	SECTION: 11	BLOCK: H	LOT(S): 112& 484

COMPANY CHARGES

IF THIS IS A REFINANCE WITHIN TEN YEARS, YOU MAY BE ENTITLED TO A REDUCED PREMIUM.
CONTACT THIS COMPANY IMMEDIATELY FOR DETAILS.

Fee Rate	$ 11,602.00	Extra Chains	$
Mtg Rate	0.00	Messenger	
Survey Inspection		Paid on Account	
Departmental Searches	255.00	Fair Market Value Option	1,168.00
Abstract		Franchise Tax	50.00
Waiver of Arbitration Mortgage		3 Day Refinance Contin	
Waiver of Arbitration Fee	25.00	Vault Tax	
TIRSA (Residential)		Survey	
8.1 Environmental Endorsement		Other	

Thank you for your application for the examination of title to the above described premises. Our charges, on the basis of our filed rate schedule are noted, subject to any revision due to any desired change in liability, the addition of any requested or necessary disbursements, or changes in our filed rate schedule after this date.

By: North Shore Abstract, Ltd. for
Chicago Title Insurance Company

Number N15836N

97-05-0155-000457

CERTIFICATE FOR TITLE INSURANCE

Issued by

CHICAGO TITLE INSURANCE COMPANY

Chicago Title Insurance Company, a Missouri Corporation, herein called the Company, certifies to the Applicant named on the following page that an examination of title to premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue the ALTA (10-17-92) Owner's or Lender's form of insurance policy as modified by the New York Coverage Endorsements in the amount and for the transaction set forth herein and subject to the exclusions from coverage and the conditions and stipulations therein contained.

After the closing of the transaction, in conformance with the requirements and procedures of the Company, the Company will issue the policy and except (i) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth in Schedule B herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (ii) any questions or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.

Questions concerning the within Certificate should be directed to:

Issued by:
NORTH SHORE ABSTRACT LTD.
330 GREAT NECK ROAD
P.O. BOX 385
GREAT NECK, NY 11021
(516) 466-6050
FAX (516) 466-6011

CHICAGO TITLE INSURANCE COMPANY

By: _____ President

Dated:
Certified by: _____ Authorized Signature

Redated:
by: _____ Authorized Signature

CHICAGO TITLE INSURANCE COMPANY CORPORATE SEAL

ATTEST: Thomas J Adams Secretary

This certificate is intended for lawyers only. Such exceptions as may be set forth herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents of this certificate. The Company's representative at the closing hereunder may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N** Effective Date: **4/14/97** Redated: 12-9-97
97-05-0155-000-457

Proposed Insured:

Purchaser: ~~**F.R. Acquisition, Inc.**~~ First Industrial, L.P.

Mortgagee:

Amount of Insurance
Fee **$3,200,000.00**
Mortgage **$**
Leasehold **$**

THIS COMPANY CERTIFIES that a good and marketable title to the premises described in Schedule A, subject to the liens, encumbrances and other matters, if any, set forth in this certificate may be conveyed and/or mortgaged by:
Sulzer Metco (US) Inc, successor by merger to
Sulzer Metco (Westbury) Inc. (A Delaware Corporation)
By deed from: The Perkin-Elmer Corporation, successor by merger to Metco Inc.
Dated 9/30/94, Recorded 10/6/94 in Liber 10474, Page 460
recent. in First Industrial, L.P., by deed dated 12-9-97
Premises described in Schedule "A" are known as:

Address: **325 Duffy Avenue**
Hicksville, New York

County: **Nassau** City:

District: Town: **Oyster Bay**

Section: **11** Village:

Block: **H**

Lot(s): **112 & 484**

NOTE: This Certificate is intended for lawyers only. Such exceptions as may be set forth herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents hereof. The Company's representative at the closing here under may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

For Tax only

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being at Hicksville, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at a point on the Southerly side of Duffy Avenue said point being the Easterly end of a curve connecting the said Southerly side of Duffy Avenue and the Easterly side of Henrietta Street as said Duffy Avenue and Henrietta Street exist today;

RUNNING THENCE Easterly along the Southerly side of Duffy Avenue along the arc of a curve bearing to the right whose radius is 700 feet a distance of 148.16 feet to a point;

THENCE still along the Southerly side of Duffy Avenue North 76 degrees 49 minutes 40 seconds East 327.28 feet;

THENCE South 8 degrees 55 minutes 20 seconds East 679.30 feet to land now or formerly of Terlikofsky;

THENCE South 77 degrees 14 minutes 40 seconds West along said land, 151.43 feet;

THENCE North 8 degrees 48 minutes 37 seconds West 59.84 feet;

THENCE South 78 degrees 05 minutes 33 seconds West 190.50 feet;

THENCE North 8 degrees 30 minutes 08 seconds West 105.19 feet;

THENCE South 77 degrees 14 minutes 40 seconds West 28.66 feet;

THENCE North 12 degrees 45 minutes 20 seconds West 39.86 feet;

THENCE South 77 degrees 14 minutes 40 seconds West 122 feet to the Easterly side of Henrietta Street;

INSURE

For conveyancing only,
if intended to be conveyed.

{ *Together with all right, title and interest of, in and to any streets and*
{ *roads abutting the above described premises, to the center line thereof.*

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

SCHEDULE A (Continued)

THENCE along the Easterly side of Henrietta Street, North 7 degrees 58 minutes 20 seconds West 435.10 feet to the Southerly end of the curve first above mentioned;

THENCE Northeasterly along the arc of the curve first above mentioned whose radius is 20 feet a distance of 25.37 feet to the point or place of BEGINNING.

INSURE

For conveyancing only,
if intended to be conveyed.

{ *Together with all right, title and interest of, in and to any streets and*
{ *roads abutting the above described premises, to the center line thereof.*

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

SCHEDULE B

Hereinafter set forth are additional matters which will appear in our policy as exceptions from coverage unless disposed of to our satisfaction prior to the closing or delivery of the policy.

DISPOSITION

except see within

1. Rights of tenants or persons in possession, if any.

2. Taxes, tax liens, tax sales, water rates, sewer rents, and assessments set forth herein.

3. Mortgages returned herein (**0**). The mortgages set forth in the detailed statement within must be considered and/or disposed of.

4. Proof is required that all parties to this transaction have been known by no other names for the past ten years. Any other names are to be submitted to this Company prior to closing.

5. Covenants, conditions, easements, leases, agreements of record etc., more fully set forth herein: NONE

omit

6. Corporate resolution to conveyance by certified owner must be submitted at closing. Proposed conveyance must contain one of the following recitals:

   a) "This conveyance has been made with the unanimous consent in writing of all stockholders of the party of the first part and does not render the grantor insolvent."; or

   b) "This conveyance is made in the ordinary and regular course of business actually conducted by the party of the first part."

7. Proof is required that
   a) Sulzer Metco (Westbury) Inc.
   b) Sulzer Metco (U.S.), Inc. (if applicable)
   is in good stead and authorized to do business in this State.

   A Certificate of good standing from the State of incorporation is required.

Title Certified in: **Sulzer Metco (Westbury) Inc. (A Delaware Corporation)**

A duplicate copy of the exceptions is furnished to you with the thought you may wish to transmit same to the attorney for the owner of the property, and thereby facilitate the clearing of the objections prior to closing.

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

SCHEDULE B (Continued)

8. Sulzer Metco (U.S.), Inc. has been run for Judgments and Federal Tax Liens. Nothing has been found of record.

9. The certified owner Sulzer Metco (Westbury), Inc. has been run for Judgments and Federal Tax Liens. Nothing has been found of record.

10. Deed to contain the following recital: "Being the same premises conveyed to the Grantor(s) herein by deed dated 9/30/94, recorded 10/6/94 in Liber 10474, Page 460."

11. Application indicates that title is vested in Sulzer Metco (U.S.), Inc.. We find title as certified herein. This must be satisfactorily explained at, or prior to, closing of title.

12. NOTE: Affidavit must be given at closing stating that the owner has not received notice to install or repair sidewalks or curbs on the premises. In the event a repair notice has been received, the purchaser/mortgagor must ascertain PRIOR TO CLOSING whether or not the repair has been properly completed and all charges in connection therewith have been paid. Failure to comply with the repair requirements will result in a future lien against which the policy does not protect.

13. Section 316-B of the Real Property Law requires recording officers to provide proper books for making an index of present owners of inactive hazardous waste disposal sites contained in the annual report required by Section 27-1305 of The Environemental Conservation Law. The index shall also contain the tax map, parcel number or the section, block and lot number of the site. The inactive hazardous waste site, as it appears in the index and is listed below may include all or a portion of the premises under examination. Hazardous Waste Site filed 8/31/93. (to follow, if any)

14. Meter reading must be obtained by seller. In the event said reading is not obtained, then policy will except any additional water and sewer charges from the date of the last ACTUAL reading.

15. Company is currently awaiting a title survey. Upon receipt, survey reading will be prepared.

see amended

INFORMATION SHEET

PARKING VIOLATIONS- **A Satisfaction of Judgment must be obtained from the Parking Violations Bureau located at any of the below addresses. Said Satisfaction is then to be filed with the New York County Clerk's office located at 60 Centre Street, New York, New York and upon paying a $8.00 fee they will issue a Certificate of Disposition.**

P.V.B.... HELP CENTERS DAY & HOURS (212) 477-4430

MANHATTAN HELP CENTER	BRONX HELP CENTER	BROOKLYN HELP CENTER
1 Centre Street (1st Floor)	1400 Williamsbridge Rd.	210 Joralemon Street

QUEENS HELP CENTER	STATEN ISLAND HELP CENTER
89-61 162nd Street	300 St. Marks Place

The Help Centers are open Monday through Friday--8:30 A.M. to 7:00 P.M.

NEW YORK STATE TAX COMMISSION LIENS- **For information regarding disposition and payments, please write: Tax Compliance Division, P.O. Box 5149, Albany, New York, 12205, or call (800) 835-3554 or (800) 452-0455.**

FEDERAL TAX LIENS- **For information regarding disposition and payments, please write: The Internal Revenue Service, 120 Church Street, New York, New York or at 210 East Post Road, White Plains, New York, 10601 or call (800) 829-1040.**

CITY OF NEW YORK LIENS- **For information regarding dispositions and payments please write: The Department of Finance, Bureau of Tax Collection, 25 Elm Place, 4th Floor, Brooklyn, New York 11202 or call (718) 935-6000.**

HIGHWAY DEPARTMENT(sidewalk violations)- **For information regarding disposition and payments, please write: The Highway Department, 1400 Williamsbridge Road, Bronx, New York, 10461 or call (718) 931-2066.**

ENVIRONMENTAL CONTROL LIENS- **For information regarding disposition and payments, please write: The Environmental Control Board, 1250 Broadway, New York, New York 10001 or call (212) 971-3600.**

TRANSIT ADJUDICATION LIENS- **For information regarding disposition and payments, please write: 505 Fulton Street, Brooklyn, New York 10201 or call (718) 237-2666 or (718) 330-3000 (Law Department).**

NEW YORK STATE INDUSTRIAL COMMISSIONER- **For information regarding disposition and payments, please write: N.Y.S. Department of Labor, Building 12, State Campus. Room 500, Albany, New York 12240 or call (518) 457-2741.**

INTEREST CLERK- **For interest on all outstanding taxes in the City of New York or questions regarding In-Rem, please write: The City of New York, 25 Elm Place, 4th Floor, Brooklyn, New York 11202, attention: In-Rem Department or call (718) 935-6533.**

CO-OP TRANSFERS- **For the State of New York, form T.P. 584, form must be completed a long with the appropriate tax check (made payable to the Department of Finance) and forwarded to: N.Y.S. Department of Taxation and Finance, Real estate Transfer Tax Unit, W.A. Harriman Campus, Building 9, Albany, New York 12227 or call (518) 438-8581.**

When the property is in the City of New York, The R.P.T. must be completed along with the appropriate tax (made payable to Commissioner of Finance) and an additional check for $25.00 (made payable to the City Register) and forwarded to: Department of Finance, 25 Elm Place, Brooklyn, New York 11202.

REQUIREMENTS FOR THE RECORDING OF DEEDS AND/OR OTHER TRANSFER INSTRUMENTS:

NEW YORK STATE REQUIREMENTS

a) Executed and acknowledged instruments signed by the proper parties containing their addresses.

b) Street address of the premises must appear on all instruments together with tax district (when applicable), section, block and lot.

c) Completed combined Tax Form TP-584 (and TP-584-1 if applicable,) signed by all parties setting forth Social Security numbers and/or Federal ID number, completing the appropriate schedules and payment of the taxes due, if any, as follows:

1) N.Y.S. Real Property Transfer Tax (Section 1401 of the Tax Law);
2) N.Y.S. Capital Gains Tax Affidavit (Article 31-B of the Tax Law);
3) "Mansion Tax" (Section 1402-A of the Tax Law), if applicable;
4) Credit Line Mortgages (Section 253-b of the Tax Law);

d) Should the consideration exceed $500,000.00 (other than premises wholly occupied and used by the transferor(s) exclusively as a residence) a tentative assessment and return is required and payment of tax due, if any. (Article 31-B of the Tax Land Gains Tax).

e) Deeds executed and delivered after JULY 1, 1994, must contain the following statements: "The premises are (are not) in an agricultural district" and that "The premises is entirely (or part of premises is) owned by the transferors".

f) Completed State Board of Equalization and Assessment Real Property Transfer Report.

NEW YORK CITY REQUIREMENTS

The following are required in addition to paragraphs (a)-(e) above.

g) Completed New York City Real Property Transfer Tax return (NYC-RPT) signed by all the parties together with payment due, if any.

h) If the premises are a non-multiple dwelling, an affidavit is required. If the premises are a multiple dwelling (three (3) families or more) a completed registration statement is required by the Department HPD together with payment of the appropriate fee.

i) If the premises are improved by a one (1) or a two (2) family dwelling a smoke detector affidavit is required.

j) Should the consideration for the transfer exceed $400,000.00 a copy of the executed contract must accompany the deed.

NOTE: The cities of Yonkers and Mount Vernon and Erie County have special Real Property Transfer Taxes and forms to be completed.

I M P O R T A N T N O T I C E

DUE TO THE RECENT NUMBER OF FORGERIES THAT HAVE OCCURRED IN THE METROPOLITAN AREA COMPANY WILL REQUIRE PROOF OF IDENTITY OF ALL PERSONS SIGNING DOCUMENTS AT CLOSING, OR FOR THE PARTY GRANTING A POWER OF ATTORNEY (WHETHER RECORDED OR TO BE RECORDED).

IN THE EVENT IDENTITY IS NOT PRODUCED, THIS COMPANY SHALL HAVE THE OPTION OF ADJOURNING THE CLOSING.

Title No. NORT N15836N

The unpaid taxes, water rates, assessments and other matters relating to taxes which are liens at the date of this certificate are set forth below.

Our policy does not insure against such items which have not become a lien up to the date of the policy or installments due after the date of the policy. Neither our tax search nor our policy covers any part of streets on which the premises to be insured abut.

If the tax lots above mentioned cover more or less than the premises under examination, this fact will be noted herein.

In such cases, the interested parties should take the necessary steps to make the tax map conform to the description to be insured.

Town of Oyster Bay
Hicksville

School Dist: 17-HICKSVILLE

RATE CLASS: 48414
MISC.

Ass'd to: SULZER METCO WESTBURY INC

LAND $ 114,870
TOTAL$ 312,260
NON-EXEMPT

325 DUFFY AVENUE

Disposition:

SECT: 11
BLOCK: H
LOT(s) 112,484

1997/98 1st 1/2 School tax - $58,100.66 - pd) amt

1996/97 SCHOOL TAX
1st Half: $54845.35 PAID
2nd Half: $54845.34 PAID
) amt

YEAR: 7/1-6/30
DUE.: 10/1
DUE.: 4/1

1997 TOWN TAX
1st Half $50247.32 PAID
2nd Half $50247.32 ~~OPEN~~ pd) amt

YEAR: 1/1-12/31
DUE.: 1/1
DUE.: 7/1

WATER: HICKSVILLE
ACCOUNT #: 2400-0130
AMOUNT: $600.00 PAID
INCLUDES USAGE TO: 1-1-97
SUBJECT TO FINAL READING.
PRESENT BILL/RECEIPT AT CLOSING.
) amt

WATER: HICKSVILLE
ACCOUNT #: 1104-0970
AMOUNT: $2,762.10 ~~$1690.36~~ ~~OPEN~~ pd
INCLUDES USAGE TO: 6-2-97 to 9-2-97
SUBJECT TO FINAL READING.
PRESENT BILL/RECEIPT AT CLOSING.
) amt

Continued on next page..

id# 1764852 5104195

Recent payments of any open items returned on this tax search may not be reflected on the public records.
Therefore please request the seller or borrower to have the receipted bills available at the closing.

001

BARRETTA

The unpaid taxes, water rates, assessments and other matters relating to taxes which are liens at the date of this certificate are set forth below.

Our policy does not insure against such items which have not become a lien up to the date of the policy or installments due after the date of the policy. Neither our tax search nor our policy covers any part of streets on which the premises to be insured abut.

If the tax lots above mentioned cover more or less than the premises under examination, this fact will be noted herein.

In such cases, the interested parties should take the necessary steps to make the tax map conform to the description to be insured.

Disposition:

POSTING DATE: 6-25-97

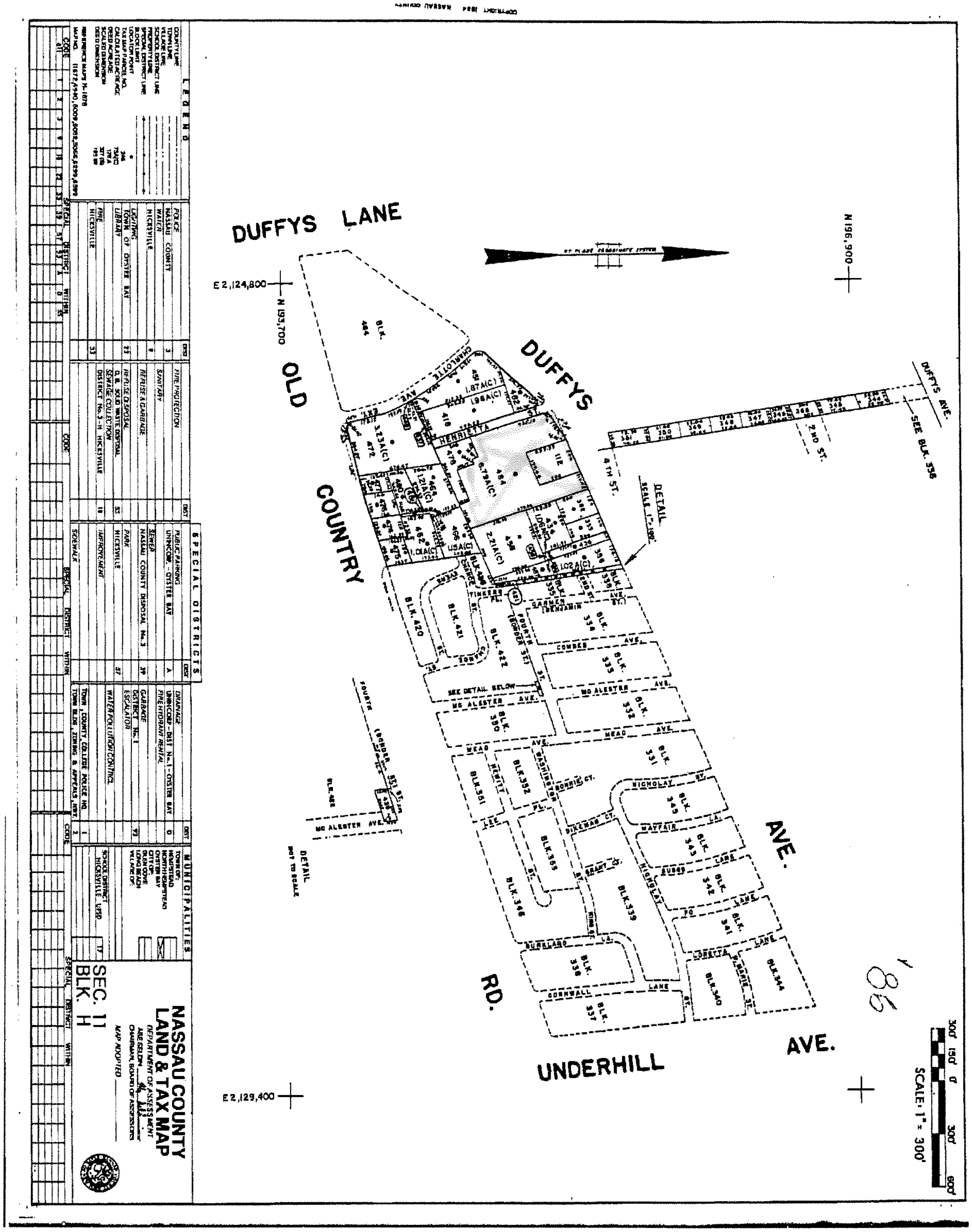
SUBJECT TO CONTINUATION

TAX SEARCH DOES NOT GUARANTEE AGAINST EXISTENCE OF SIDEWALK/CURB ASSESSMENTS WHICH ARE NOT REFLECTED IN THE REAL ESTATE TAX RECORDS AS OF SAID POSTING DATE.

GMK

Recent payments of any open items returned on this tax search may not be reflected on the public records.
Therefore please request the seller or borrower to have the receipted bills available at the closing.

BARRETTA


NASSAU COUNTY
LAND & TAX MAP
SEC. 11
BLK. H
DUFFYS LANE
DUFFYS AVE.
OLD COUNTRY RD.
UNDERHILL AVE.
SCALE: 1" = 300'
LEGEND
SPECIAL DISTRICTS
MUNICIPALITIES

NASSAU COUNTY REAL ESTATE TAXES

The information provided is believed to be accurate, but is not guaranteed.

TOWNS

LOCALITY	TAX	DUE DATE	PERIOD COVERED
Hempstead	Town	1/1 & 7/1	1/1-12/31
	School	10/1 & 4/1	7/1-6/30
North Hempstead	Town	1/1 & 7/1	1/1-12/31
	School	10/1 & 4/1	7/1-6/30
Oyster Bay	Town	1/1 & 7/1	1/1-12/31
	School	10/1 & 4/1	7/1-6/30
City of Long Beach	County	1/1 & 7/1	1/1-12/31
	School	10/1 & 4/1	7/1-6/30
	City	7/1 & 1/1	7/1-6/30
City of Glen Cove	County	1/1 & 7/1	1/1-12/31
	School	8/1 & 2/1	7/1-6/30
	City	12/1 & 6/1	1/1-12/31

VILLAGES

LOCALITY	TAX	DUE DATE	PERIOD COVERED
Atlantic Beach	Village	6/1	6/1-5/31
Bayville	Village	6/1 & 12/1	6/1-5/31
Bellerose	Village	6/1	6/1-5/31
Brookville	Village	6/1	6/1-5/31
Cedarhurst	Village	6/1 & 12/1	6/1-5/31
Centre Island	Village	6/1	6/1-5/31
Cove Neck	Village	6/1	6/1-5/31
East Hills	Village	6/1	6/1-5/31
East Rockaway	Village	6/1 & 12/1	6/1-5/31
East Williston	Village	6/1	6/1-5/31
Farmingdale	Village	6/1	6/1-5/31
Floral Park	Village	6/1	6/1-5/31
Flower Hill	Village	6/1	6/1-5/31
Freeport	Village	3/1 & 9/1	3/1-4/30
Garden City	Village	6/1 & 12/1	6/1-5/31
Great Neck	Village	6/1	6/1-5/31
Great Neck Estates	Village	6/1	6/1-5/31
Great Neck Plaza	Village	3/1 & 9/1	3/1-4/30
Hewlett Bay Park	Village	3/1	3/1-4/30
Hewlett Neck	Village	6/1	6/1-5/31

NASSAU COUNTY REAL ESTATE TAXES

The information provided is believed to be accurate, but is not guaranteed.

VILLAGES

LOCALITY	TAX	DUE DATE	PERIOD COVERED
Hempstead	Village	6/1 & 12/1	6/1-5/31
Hewlett Harbor	Village	6/1	6/1-5/31
Island Park	Village	6/1	6/1-5/31
Kensington	Village	3/1	3/1-4/30
Kings Point	Village	6/1	6/1-5/31
Lawrence	Village	6/1 & 12/1	6/1-5/31
Lattingtown	Village	6/1	6/1-5/31
Laurel Hollow	Village	6/1	6/1-5/31
Lynbrook	Village	6/1 & 12/1	6/1-5/31
Lake Success	Village	6/1	6/1-5/31
Malverne	Village	6/1	6/1-5/31
Massapequa Park	Village	6/1	6/1-5/31
Manorhaven	Village	6/1	6/1-5/31
Matinecock	Village	6/1	6/1-5/31
Mineola	Village	6/1	6/1-5/31
Mill Neck	Village	6/1	6/1-5/31
Munsey Park	Village	6/1	6/1-5/31
Muttontown	Village	6/1	6/1-5/31
New Hyde Park	Village	6/1	6/1-5/31
North Hills	Village	6/1	6/1-5/31
Old Brookville	Village	6/1	6/1-5/31
Old Westbury	Village	6/1	6/1-5/31
Oyster Bay Cove	Village	6/1	6/1-5/31
Plandome	Village	6/1 & 11/1	6/1-5/31
Plandome Heights	Village	6/1 & 12/1	6/1-5/31
Plandome Manor	Village	6/1	6/1-5/31
Port Washington No	Village	6/1	6/1-5/31
Roslyn	Village	6/1	6/1-5/31
Roslyn Estates	Village	6/1	6/1-5/31
Roslyn Harbor	Village	6/1	6/1-5/31
Rockville Centre	Village	6/1 & 12/1	6/1-5/31
Russell Gardens	Village	3/1	3/1-4/30
Saddle Rock	Village	3/1	3/1-4/30
Sands Point	Village	6/1	6/1-5/31
Sea Cliff	Village	6/1 & 12/1	6/1-5/31
South Floral Park	Village	6/1 & 12/1	6/1-5/31
Stewart Manor	Village	6/1 & 12/1	6/1-5/31
Upper Brookville	Village	6/1	6/1-5/31
Valley Stream	Village	6/1	6/1-5/31
Williston Park	Village	6/1	6/1-5/31
Westbury	Village	6/1	6/1-5/31
Woodsburgh	Village	3/1	3/1-4/30

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

MORTGAGES

Mortgagor:

Mortgagee:

Amount: $

Dated:

Recorded:

Liber:

Reel:

Page:

NONE OF RECORD

AMH

This title report does not show all the terms and provisions of the mortgage(s) set forth herein. Interested parties should contact the holder(s) thereof to ascertain the terms, covenants and conditions contained herein, and to determine if there are any unrecorded amendments or modifications thereto.

NORTH SHORE ABSTRACT, LTD.
as agent for:
CHICAGO TITLE INSURANCE COMPANY

Title No. **N15836N**
97-05-0155-000-457

MUNICIPAL DEPARTMENT SEARCHES AND STREET REPORT

Any searches or returns reported herein are furnished **FOR INFORMATION ONLY.** They will not be insured and the company assumes no liability for the accuracy thereof. They will **not be continued** to the date of closing.

Search made the Department of Buildings:	**SEE WITHIN**
Search made by the Fire Department:	**NONE ORDERED**
Street Report:	**SEE WITHIN**
Certificate of Occupancy:	**SEE WITHIN**

STREET VAULTS

In New York City, if there is a STREET VAULT, it is suggested that applicant investigate possible unpaid license fees by the city of New York for the use of such vault, because the right to maintain it IS NOT INSURED, nor does the Company insure that the vault charges have been paid.

BARRETTA, L.L.C.

1 Old Country Road
Carle Place, New York 11514
(516)663-0600
(800)275-9643
Fax (516)663-0650
(800)200-3499

NORT N15836N 06/30/97

325 DUFFY AVENUE

Hicksville
Town of Oyster Bay
NASSAU

DIST: SECT: 11
BLOCK: H LOT: 112,484

DEPARTMENT OF BUILDINGS VIOLATION SEARCH

In reply to your request for a violation search concerning the above mentioned premises, we have been advised by the BUILDING DEPARTMENT that a search of their records shows:

NO VIOLATIONS.

Barretta, L.L.C. does hereby certify that the records of the above governmental agency were examined for NORTHSHORE ABSTRACT LTD. The information reported above is a true and accurate abstract of the information reported therein and no liability is assumed. This report is submitted for information purposes only for the exclusive use of NORTHSHORE ABSTRACT LTD.

001300/001300 id# 1764852 5104197

002

SITE DESCRIPTION

The Perkin-Elmer Duffys Avenue facility is located at 325 Duffys Avenue, Hicksville, New York. The property is located on Duffys Avenue, between Frank Drive and Henrietta Street, in Hicksville, Town of Oyster Bay, New York, and is identified on the Nassau County tax map as Section 11, Block H, Lots 112 and 484 (see Figure C-1). The Duffys Avenue property contains approximately 6.5 acres of land upon which is located a 100,000-square foot, one-story brick building, which was constructed in 1959. The building is abutted on its western, eastern, and southern sides by asphalt pavement. A shipping and receiving dock is located on the southern side of the building. A landscaped lawn abuts the northern side of the building. A recharge basin is located in the southeastern corner of the site and a landscaped recreational area for site employees is located in the southwestern portion of the site. Site drainage and storm-water runoff are accomplished by a series of dry wells located throughout the paved areas of the Duffys Avenue property. Located on the western, southern, and eastern sides of the property are dry wells that recharge the storm water to the ground. One grating on the southeastern corner of the property receives storm water and discharges it into the on-site recharge basin.

Between 1959 when the building was constructed and 1978, the building on the Duffys Avenue property was operated by T.O.D. Manufacturing Company. Site operations reportedly involved the plating of boat parts and possibly fish hooks (Conroy 1993). The property was purchased by Perkin-Elmer on December 19, 1978 from New England Mutual Life Insurance Company (Macri 1993). Since that time, the building has been operated by Metco, a division of Perkin-Elmer. Site operations involve the manufacture of parts and equipment for the thermal spray coatings industry. Specifically, specialized spray guns and spray gun parts used to apply thermal liquid metal coatings are manufactured on-site. Site operations include machining, degreasing, tumbling, testing, and research and development. The building is divided into several interior sections, including machining and drilling, assembly and inspection, stock rooms, boiler room, maintenance room, and a cafeteria.

The Duffys Avenue site is located in a predominantly industrialized area. Surrounding properties include a solid waste transfer station (no longer in use) and a sand and gravel pit to the north; a fuel storage facility operated by Agway, Inc. to the west; a heavy equipment storage yard operated by Malvese Brothers to the west and south; and Toma Enterprises (operations unknown) to the south. The eastern property boundary abuts a vacant lot, Jodee Plastics (manufacturers of custom plastic extrusion and precision fabrications), and American Permancunc-Bowe Corporation (manufacturers of industrial laundry and dry cleaning equipment). The Bowe facility is currently unoccupied.

220 Miller Place, Hicksville, NY ("Miller Place Site")

The activities at this facility involve the manufacture of metallic and ceramic powders and wire. The subject property contains a 59,000 square foot, one-story building located on approximately 9 acres of land. Between 1951, when the building was constructed and 1975, the subject facility was occupied by Riverside Plastics Corporation, a division of Bishoff Chemical Corporation ("Riverside"). Riverside was reportedly engaged in the manufacture of fiberglass boats. The subject property was purchased by The Perkin-Elmer Corporation in June 1975, and has been operated by the Metco Division since that time.

Current facility operations include swaging and drawing (the compression and stretching of wire that has been filled with metal powder pellets) and the blending of metallic or ceramic powders with lacquer and glue. The subject building is divided into several interior sections, including blending rooms, cladding rooms, screening rooms, tungsten and ceramic oven rooms, spray areas, inspection laboratories, packaging and staging areas, boiler room, maintenance rooms, cafeteria, and office space.

The Miller Place site is located in a predominantly residential area. Surrounding properties include a vacant one-story office building to the north; residences to the east; a lumber yard to the south; and Long Island Railroad tracks to the west. Residences are also located further to the north and south, beyond the previously identified commercial activities. The Northern State Parkway is situated beyond the Long Island Railroad tracks to the west.

Summary of Findings

The attached table provides a summary of outstanding issues of potential concern by facility, including reasonable worst case estimates of costs required to correct or remediate the identified concern.

In the preparation of the cost estimates, consideration was given to whether the identified issue could be readily corrected using Metco facility personnel. No costs were assumed in those situations where wholly internal staff could be used to rectify the perceived problem. It should be emphasized that where potential non-compliance issues are involved, the specification of no costs should not be construed as implying that the perceived problem is not important. All such issues should be promptly investigated and appropriate corrective measures implemented where warranted. It also should be noted that where non-compliance issues may be involved, there is always the potential for incurring administrative or civil penalties (monetary fines), which in some cases can be substantial. We did not estimate either the probability of a fine or its potential magnitude, for such decisions normally are made by agencies or the courts on a case-by-case basis.

Although not discussed in the summary table, we would like to comment upon the soil and groundwater contamination issues at the Duffys Avenue site.

The Geraghty & Miller study identified the presence of elevated levels of selected metals in the surficial soils of the existing recharge basin which is located along the southeasterly side of the property. The data suggested that metals are present throughout the recharge basin at concentration levels above the New York State Recommended Soil Cleanup Objectives. However, Geraghty & Miller concluded that because of the immobility of the metals in soils and the apparent depth to groundwater (greater than 40 feet), no impact to groundwater was expected and therefore, no further action seemed warranted. While the New York DEC and the Nassau County Board of Health would be the ultimate decision makers as to the need for the remediation of soils at the recharge basin, we concur with Geraghty & Miller's initial assessment of the situation. The soil cleanup objectives are guidance values only. Their applicability on a site-specific basis are dependent upon a range of other considerations, including the likely impact of contaminants on groundwater. While no one can be assured that a soils cleanup at this location would not be ordered, the available data provides a strong argument against such a need, in our opinion.

The Geraghty & Miller study also identified the presence of low levels of volatile organic compounds (VOCs) in the groundwater beneath the existing recharge basin; these same VOCs were also found in the site's production well at comparable concentrations. The concentrations detected do not exceed state Ambient Water Quality Standards and Guidance Values, however. These VOCs were not detected in site soils.

These findings indicate that there is an apparent area-wide groundwater contamination problem. In fact, deep aquifer groundwater contamination has been identified by the Nassau County Board of Health in the vicinity of the Duffy Avenue property, according to a June 1986 report entitled,

Investigation of Contaminated Aquifer Segments--Nassau County, New York (prepared by the Nassau County Board of Health and Dvirka and Bartilucci, Consulting Engineers).

Geraghty & Miller's June 1993 review of regulatory agency files and discussions with Metco division personnel did not indicate that the Duffys Avenue property is the subject of investigation by any regulatory agency (federal, state, or local) as a potentially responsible party for the aquifer contamination. Followup by ENSR with the New York DEC, Hazardous Waste Remediation Section (Mr. Girish Desai, Environmental Engineer), confirms that the Nassau County Department of Health has not made a claim under the state's Superfund Program for the West Hicksville or North Hicksville contaminated aquifer segments. However, the American Permancunc-Bowe property, which is located adjacent to Metco at 200 Frank Drive, is the subject of a New York DEC Superfund investigation (#130048, Class II site--requiring remediation). The project is being managed by Mr. Jamie Ascher in the agency's Stoneybrook, office. Mr. Ascher was unavailable at the time of preparation of this report. ENSR recommends followup with Mr. Ascher to discern the nature and extent of contamination associated with Bowe Systems and the potential for the Metco property to be potentially drawn into this investigation in the future. It should be noted that the Bowe site is currently vacant.

In a related matter, it should be noted that during the time when Geraghty & Miller was preparing its site assessment of the Duffys Avenue property, the firm discovered that the New York DEC had drafted an Order requiring The Perkin-Elmer Corporation to investigate the impact to groundwater of volatile organic compounds from the recharge basin. According to Geraghty & Miller, the draft Order was never finalized because data available on the supply well water (deep aquifer water) and effluent to the recharge basin (process impacted water) indicated that both were of the same quality (i.e., the process was not discharging volatile organic compounds in excess of those already present in the aquifer) and, therefore, no action was warranted. This finding is supported by analytical data contained in Geraghty & Miller's March 1994 report entitled, *Environmental Site Assessments Conducted at the Perkin-Elmer METCO Division Facilities, Long Island, New York*. That report provides data that indicates that Duffys Avenue site does not appear to be contributing volatile organic compounds to either the shallow or deep acquifer. While it is not possible to preclude the Duffys Avenue property from being further investigated by the New York DEC with regard to the Bowe site's groundwater problem, there does appear to be current data that would suggest that volatile organic compounds related to historical activities on the Metco site have not migrated to the abutting Bowe site or any other off-site location.

BID. 40 11790 Perchloroethane. PTL

444-0240

DEC Hazardous Waste Remediation 444-0240

Direction → 444-0246

Study Limitations

This Executive Summary describes the results of ENSR's initial due diligence investigation to identify the presence of significant environmental liabilities materially affecting the subject facilities and/or properties. In the conduct of this due diligence investigation, ENSR has attempted to independently assess the presence of such problems within the limits of the established scope of work as described in our March 8, 1994 letter proposal.

As with any due diligence evaluation, there is a certain degree of dependence upon oral information provided by facility or site representatives which is not readily verifiable through visual inspection or supported by any available written documentation. ENSR shall not be held responsible for conditions or consequences arising from relevant facts that were concealed, withheld, or not fully disclosed by facility or site representatives at the time this investigation was performed.

This report and all field data and notes were gathered and/or prepared by ENSR in accordance with the agreed upon scope of work and generally accepted engineering and scientific practice in effect at the time of ENSR's investigation of the site. The statements, conclusions, and opinions contained in this report are only intended to give approximations of the environmental conditions on-site.

This report, including all supporting field data and notes (collectively referred to hereinafter as "information"), was prepared or collected by ENSR Consulting and Engineering (ENSR) for the benefit of Skadden, Arps, Slate, Meagher & Flom and its' client, Sulzer, Inc. (hereinafter jointly referred to as "Client"). ENSR's client may release the information to its lender or other third parties, who may use and rely upon the information at their discretion. However, any use of or reliance upon the information by a party other than specifically named above shall be solely at the risk of such third party and without legal recourse against ENSR, its parent or its subsidiaries and affiliates, or their respective employees, officers or directors, regardless of whether the action in which recovery of damages is sought is based upon contract, tort (including the sole, concurrent or other negligence and strict liability of ENSR), statute or otherwise. This information shall not be used or relied upon by a party that does not agree to be bound by the above statement.

SUBLEASE AGREEMENT

BETWEEN

SULZER METCO (US) INC.,

Landlord

AND

EXCEL IMPORTING CORP,

Tenant

DATED October, 2003

1101 Prospect Avenue
Westbury, New York 11590

TABLE OF CONTENTS

1. FUNDAMENTAL LEASE PROVISIONS 1
   (a) Landlord's Address: 1
   (b) Landlord's Address for Payment of Rent: 1
   (c) Property Manager's Address: 1
   (d) Tenant's Address: 1
   (e) Net Rentable Square Feet in the Premises: 1
   (f) Floor(s) of the Premises: 1
   (g) Building Name and Address: 1
   (h) Net Rentable Square Feet in the Building: 1
   (i) Lease Term: 1
   (j) Base Rent: 1
   (k) Base Year for Real Estate Taxes 1
   (l) Utilities 1
   (m) Cleaning 1
   (n) Tenant's Proportionate Share: 1
   (o) Commencement Date: 1
   (p) Number of Parking Spaces: 1
   (q) Security Deposit: 1
   (r) Renewal Term 1
   (s) Rent Abatement 1
2. DEFINITIONS 1
3. PREMISES 1
4. TERM 4
5. CONDITION OF PREMISES 4
6. RENT 4
   (A) Base Rent. 4
   (b) Additional Rent. 4
   (c) Adjustments to Reconciliation Statement. 4
   (d) Payment of Rent; Late Charges; Default Interest. 5
7. TAXES 5
   (a) Real Estate Taxes. 5
   (b) Tenant's Taxes. 5
8. SECURITY DEPOSIT 5
9. USE OF THE PREMISES 5
   (a) Use. 5
   (b) Advertisement; Solicitation. 5
10. ALTERATIONS 6
   (a) Prohibition. 6
   (b) Performance and Completion of the Alterations. 6
11. MECHANICS' LIENS 6
12. MAINTENANCE AND REPAIR 6
   (a) Tenant's Maintenance. 6
   (b) Landlord's Maintenance. 6
   (c) Landlord's Right to Enter Premises 7
13. COMMON AREAS 7
   (a) Grant 7
   (b) Parking. 7
   (c) Right to Change Common Areas. 7
14. BUILDING SERVICES 7
   (a) Landlord's Services. 7
   (b) Excess Usage of Services. 8
   (c) Interruption of Services. 8

(d) Energy Conservation. 8
15. ESTOPPEL CERTIFICATES 8
16. INDEMNIFICATION 8
17. INSURANCE 8
18. WAIVER OF SUBROGATION 8
19. ASSIGNMENT AND SUBLEASE 9
(a) Prohibition; Request for Consent. 9
(b) Conditions of Assignment. 9
(c) Landlord's Assignment 9
(d) Successors and Assigns. 10
20. QUIET ENJOYMENT 10
21. COMPLIANCE WITH LAWS AND RULES 10
22. HAZARDOUS DEVICES AND CONTAMINANTS 10
(a) Prohibition 10
(b) Indemnification. 10
23. FIRE AND CASUALTY 10
(a) Termination as a Result of Damage to the Building. 11
(b) Termination as a Result of Damage to the Premises or Common Area. 11
(c) Landlord's Obligation to Rebuild. 11
24. EMINENT DOMAIN 11
(a) Entire Taking. 11
(b) Termination by Tenant. 11
(c) Termination by Landlord 11
(d) Awards and Damages. 11
(e) Restoration of the Premises. 11
(f) Temporary Condemnation. 12
25. DEFAULT 12
(a) Events of Default. 12
(b) Landlord's Remedies. 12
(c) Landlord's Damages. 12
(d) Reletting the Premises. 12
(e) Landlord's Self-help. 13
26. WAIVER OF DEFAULT OR REMEDY 13
27. TERMINATION OF THE LEASE 13
(a) Condition of the Premises. 13
(b) Ownership of the Alterations. 13
(c) Holding Over. 13
28. FORCE MAJEURE 13
29. SUBORDINATION OF LEASE 14
(a) Subordination. 14
(b) Nondisturbance; Attornment. 14
30. NOTICES AND CONSENTS 14
31. BROKERAGE COMMISSION 14
32. LIMITATION ON RIGHT OF RECOVERY AGAINST LANDLORD 14
33. SIGNS 14
34. LOCKS 15
35. EMPLOYMENT 15
36. PLUMBING 15
37. MISCELLANEOUS 15
38. RELATIONSHIP OF PARTIES 15
39. GENDER AND NUMBER 15
40. TOPIC HEADINGS 15
41. TENANT'S FINANCIAL STATEMENTS 15

~~G237940.2~~
G237940.3

42. ATTORNEYS' FEES 15
43. COUNTERPARTS 15
44. ENTIRE AGREEMENT 16
45. RECORDING 16
46. GOVERNING LAW; INVALIDITY OF ANY PROVISIONS 16
47. GRANTING CONSENT 16
48. ACCEPTANCE OF THIS LEASE 16
49. MASTER LEASE 16

SUBLEASE AGREEMENT **draft 9/29/03**

THIS SUBLEASE AGREEMENT ("Lease"), dated October, 2003, is between SULZER METCO (US) INC., a Delaware corporation ("Landlord"), and EXCEL IMPORTING CORP., a New York corporation ("Tenant").

RECITALS

WHEREAS, pursuant to the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), the Nassau County Industrial Development Agency (the "IDA") has become the fee title owner of the Property, as defined in Paragraph 2(cc) below; and

WHEREAS, the IDA, as lessor, and Landlord, as lessee, have entered into a certain Lease Agreement date as of June 1, 1998 (the "Master Lease"), whereby the IDA has leased to Landlord the entire Property; and

WHEREAS, Landlord desires to sublease to Tenant, and Tenant desires to sublease from Landlord, that portion of the Property consisting of the entire second (2nd) floor of the Building, as defined in Paragraph 2(j) below, on the terms and conditions hereinafter set forth;

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

1. **FUNDAMENTAL LEASE PROVISIONS**

This Lease contains the following fundamental provisions:

(a)	Landlord's Address:	1101 Prospect Avenue Westbury, New York 11590 Attn: Mr. Charles Haugh
(b)	Landlord's Address for Payment of Rent:	SAME
(c)	Property Manager's Address:	SAME
(d)	Tenant's Address:	_____ _____ _____
(e)	Net Rentable Square Feet in the Premises:	13,300
(f)	Floor(s) of the Premises:	Entire Second (2nd) Floor
(g)	Building Name and Address:	1101 Prospect Avenue Westbury, NY 11590
(h)	Net Rentable Square Feet in the Building:	163,000
(i)	Lease Term:	Two years and six months
(j)	Base Rent:	

Lease Period	Annual Base Rent	Monthly Base Rent
1 - 12 months	$179,556.00	$14,963.00
13 - 24 months	$184,488.00	$15,374.00
25 - 30 months	$189,564.00	$15,797.00

(k) Base Year for Real Estate Taxes 2002/2003

~~G237940.2~~
G237940.3

(l)	Utilities	Two Dollars and 10/100 ($2.10) per rentable square foot
(m)	Cleaning	One Dollar and 00/100 ($1.00) per rentable square foot
(n)	Tenant's Proportionate Share:	8.16%
(o)	Commencement Date:	October 1, 2003
(p)	Number of Parking Spaces:	40 non-reserved
(q)	Security Deposit:	$29,926.00 in the form of a letter of credit
(r)	Renewal Term	None
(s)	Rent Abatement	One (1) month Base Rent applicable to October 2003

2. **DEFINITIONS**

(a) "Additional Rent" is the consideration paid to Landlord by Tenant for the lease of the Premises pursuant to Paragraph 6(b) below. Additional Rent shall be equal to the sum of (i) Tenant's Proportionate Share of the Real Estate Tax Expense in any calendar year, less the Real Estate Tax Expense for the Base Year; and (ii) the Utilities Expense as set forth in Paragraph 1 (l); and the Cleaning Expense as set forth in Paragraph 1 (m). If this Lease commences or terminates on a date other than January 1, the annual Real Estate Tax Expense, Utilities and Cleaning for such calendar shall be prorated by multiplying one-twelfth (1/12) of the annual Real Estate Tax Expense, Utilities and Cleaning for such calendar year each by the number of full or partial months between the Commencement Date and December 31 of the year of commencement or between January 1 of the year of termination and the termination date, as the case may be.

(b) "Alterations" means any alterations, additions or improvements to the Premises made or to be made by Tenant, but does not include minor decorating, such as painting.

(c) "Answering Party" means the party to this Lease who has been requested to execute an estoppel certificate.

(d) "Applicable Laws" means all present and future laws, ordinances, requirements, orders, directives, rules and regulations of all state, federal, municipal and other agencies or bodies applicable to or having jurisdiction over Tenant, Landlord or the Property, as the case may be.

(e) "Asking Party" means the party to this Lease requesting an estoppel certificate from the Answering Party.

(f) "Assignee" means an assignee of this Lease or subtenant of the Premises pursuant to an Assignment.

(g) "Assignment" means (i) the assignment, conveyance, mortgage, pledge, encumbrance or other transfer of this Lease or any interest in this Lease, (ii) the sublease of all or any part of the Premises, (iii) the permission to use or occupy all or any part of the Premises by anyone other than Tenant; (iv) a transfer of this Lease by operation of law, merger or consolidation; (v) a change of any partnership, limited liability company or interest in Tenant or any direct or indirect parent of Tenant; or (vi) a change in fifty percent (50%) or more of the ownership of the voting stock of Tenant. Notwithstanding the foregoing, (y) if the stock of Tenant or its direct or indirect parent is listed on a public exchange at the time of the Assignment, a transfer by operation of law, merger or consolidation, or a change in the ownership of the voting stock of Tenant or its direct or indirect parent; or (z) the assignment of this Lease to any corporation, partnership or limited liability company that controls, is controlled by, or is under common control with, Tenant (and remains such during the Term of this Lease) shall not be deemed an "Assignment" requiring Landlord's consent provided that Tenant shall provide written notice to Landlord of such transaction.

(h) "Base Rent" means the aggregate annual amounts set forth in Paragraph 1(j), to be paid by Tenant to Landlord for the lease of the Premises pursuant to Paragraph 6(a).

(i) "Base Year" means the calendar year set forth in Paragraph 1(k) for which the amount of Real Estate Tax Expense shall be used for purposes of calculating Additional Rent.

(j) "Building" means that certain building known as and located on the Property at the address as set forth in Paragraph 1(g), containing the net rentable square feet of space identified in Paragraph 1(h).

(k) "Building Rules" means the rules and regulations for the Building including, but not limited to, the Environmental, Health and Safety policies, as Landlord, in its sole discretion, from time to time, may adopt after the date of this Lease.

(l) "Claims" means all claims, damages, losses, liabilities, liens, judgments, penalties, fines, expenses, including, but not limited to, reasonable attorneys' fees, including, but not limited to, reasonable attorneys' fees to enforce any obligation of indemnification.

(m) "Commencement Date" means October 1, 2003.

(n) "Common Areas" means the sidewalks, lobbies, halls, passages, exits, entrances, elevators, stairways, restrooms, cafeteria, the Parking Areas, driveways and landscaped areas of the Property, but does not include for purposes of access to Tenant the mechanical, roof or telecommunications area of the Property.

(o) "Contaminant" means any substance or waste containing hazardous substances, pollutants, and contaminants as those terms are defined in the federal Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. and any substance similarly defined or identified in any other federal, provincial or state laws, rules or regulations governing the manufacture, import, use, handling, storage, processing, release or disposal of substances or wastes deemed hazardous, toxic, dangerous or injurious to public health or to the environment. This definition includes friable asbestos and petroleum or petroleum-based products.

(p) "Damage" means any damage or destruction by any cause to the Property or the Premises.

(q) "Default Rate" means a rate equal to twelve percent (12%) per annum.

(r) "Environmental Law" means any Applicable Law relating to the environment, health or safety.

(s) "HVAC" means the heating, ventilation or air-conditioning systems of the Building and does not include any auxiliary heating, ventilation or air-conditioning systems required or installed by Tenant.

(t) "Landlord's Broker" means Cushman & Wakefield of Long Island, Inc., who represented Landlord in connection with this Lease.

(u) "Landlord Parties" means Landlord's agents, servants, employees, officers, directors, partners, members, shareholders, successors and assigns.

(v) "Landlord's Services" means the Building services to be provided by Landlord set forth in Paragraph 14(a) below.

(w) "Lender" means the IDA and the holder or beneficiary of any Mortgage, if any, and its agents, servants, employees, officers, directors, partners, members, shareholders, successors and assigns.

(x) "Lien" means any mechanic's lien or other lien, charge or order for the payment of money.

(y) "Mortgage" means any prior or subsequent mortgage, deed of trust or other security interest respecting the Property or any modification to any of them given to or for the benefit of Lender.

(z) "Normal Business Hours" means 8:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 1:00 p.m. on Saturday and not including Sundays and the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

(aa) "Other Charges" means all costs, expenses and other sums that Tenant assumes, agrees or is obligated to pay to Landlord pursuant to this Lease other than Base Rent or Additional Rent.

(bb) "Parking Areas" means to the extent that the Property contains parking, the surface parking area of the Property, if any, and subject to the limitations set forth in Paragraph 13(b) below, the covered parking area of the Building, if any.

(cc) "Property" means the land, the Building and all other improvements located on the land, and is more particularly described on Schedule 2(cc), attached to this Lease and incorporated herein by reference.

(dd) "Premises" means those certain premises containing approximately the rentable square feet identified in Paragraph 1(e), located on the floor(s) identified in Paragraph 1(f) and are cross-hatched on the floor plan attached to this Lease as Schedule 2(dd) and incorporated herein by reference. The Premises are located in the Building.

(ee) "Real Estate Taxes" means all taxes, including, but not limited to, (i) state equalization factor, if any, and assessments, special or otherwise, levied upon or with respect to the Property, including the Premises, imposed by any federal, state or local governmental agency, (ii) business improvement district charges; and (iii) any use, occupancy, excise, sales or other like taxes, payments in lieu of real estate taxes, and any non-Real Estate Taxes imposed upon Landlord in substitution for any Real Estate Taxes. Real Estate Taxes shall not include income, franchise, capital stock, estate or inheritance taxes except to the extent they are Real Estate Taxes as provided in this Paragraph 1(ee).

(ff) "Real Estate Tax Expense" means in any calendar year amounts paid by Landlord for (i) Real Estate Taxes, including, but not limited to, any additional Real Estate Taxes as a result of a Tax Contest, (ii) reasonable legal fees, and actual costs and other expenses of a Tax Contest; and (iii) third party tax administration. Real Estate Taxes Expense does not include the payment of any penalties or interest for the late payment of Real Estate Taxes. Real Estate Tax Expense shall be reduced by any refund received as a result of Tax Contest decreasing Real Estate Taxes.

(gg) "Reconciliation Statement" means a statement prepared by Landlord reconciling the actual Additional Rent for a calendar year and Tenant's payments of estimated Additional Rent applicable to such calendar year.

(hh) "Release" means the same thing as in the federal Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601, et seq.

(ii) "Rent" means Base Rent, Additional Rent, and Other Charges.

(jj) "Security Deposit" means the sum set forth in Paragraph 1(q) above that Tenant has deposited with Landlord as security for Tenant's full and faithful performance of Tenant's obligations under this Lease.

(kk) "Taking" means any condemnation of property for any public or quasi-public use under any statute or by right of eminent domain or by private purchase in lieu of condemnation.

(ll) "Tax Contest" means the proceeding by which Landlord is contesting or reducing the amount or validity of any Real Estate Taxes or the valuation of the Property in assessing Real Estate Taxes for the years during the term of this Lease.

(mm) "Tenant Default" means those events of default set forth in Paragraph 25(a) below.

(nn) "Tenant Parties" means Tenant's agents, servants, employees, officers, directors, partners, members, shareholders, successors and assigns.

(oo) "Tenant's Broker" means Coldwell Banker Commercial/Tsunis Rosner, who represented Tenant in connection with this Lease.

(pp) "Tenant's Insurance" means the insurance required of Tenant as set forth in Paragraph 17.

(qq) "Tenant's Permitted Use" means general and executive office use.

(rr) "Tenant's Personal Property" means the trade fixtures, furnishings, equipment and all other personal property of Tenant located in the Premises during the Term.

(ss) "Tenant's Proportionate Share" means a percentage factor, the numerator of which is the net rentable square footage of the Premises and the denominator of which is the net rentable square footage of the Building, or the percentage set forth in Paragraph 1(n).

(tt) "Term" means the initial term of this Lease and any renewals or extensions of this Lease, if any.

3. **PREMISES**

In consideration of the rents, terms, provisions and covenants of this Lease, Landlord leases to Tenant, and Tenant rents and accepts from Landlord, the Premises.

Landlord represents and warrants that (i) to its knowledge, Landlord has not breached and (ii) has not received a notice of breach of the Master Lease nor any of the agreements referred to in the Master Lease, including but not limited to, the PILOT Agreement, Mortgage, Sales Tax Letter, Indenture, Security Documents, and Bonds.

Landlord represents and warrants that to, to its knowledge, the IDA has approved this Lease and the execution of this Lease shall not breach the Master Lease. Landlord shall use reasonable efforts to obtain from the IDA written approval and acknowledgement (i) that the execution of this Lease shall not constitute an assignment or transfer of the whole of the Facility and (ii) that neither the Tenant nor any guarantor is liable with Lessee pursuant to section 9.3 of the Master Lease for the performance of any agreements referred to in section 9.3 of the Master Lease.

4. **TERM**

The initial term of this Lease shall be for the time period identified in Paragraph 1(i), commencing on the Commencement Date and ending on the last day of the month of the time period identified on Paragraph 1(i) above.

5. **CONDITION OF PREMISES**

Tenant agrees to accept the Premises in its "as is" condition and understands and agrees that Landlord shall not be required to perform any work, supply any materials or incur any expense to prepare the Premises for Tenant's occupancy. Notwithstanding the foregoing, Landlord agrees to install, at Landlord's sole cost and expense, card access controls for Tenant access to the Premises. Tenant may use existing workstations and partitions and associated workstation furniture as currently exist in the Premises, excluding perimeter office and conference room furniture. Except as otherwise agreed to in writing, Tenant's taking possession of the Premises shall be conclusive evidence against Tenant that the Premises were in good order and satisfactory condition when Tenant took possession. Landlord has made no representation respecting the condition of the Premises or any part of the Property; however, notwithstanding anything to the contrary contained herein, Landlord represents and warrants that, to its knowledge, the Premises does not have any conditions that violate any law, statute, rule, or regulation and Landlord has not received any notice of any such violation. Tenant shall notify Landlord of any heavy furniture, freight, equipment supplies or files that Tenant intends to bring into the Building. Landlord shall have the right to prohibit such items and prescribe the weight, size and position of all heavy furniture, freight or equipment brought into the Building and the times and manner of moving the same in and out of the Building. As a condition of Landlord's approval, Landlord may require, at Tenant's cost and expense, that such heavy items shall stand on supports of such thickness as is necessary to properly distribute the weight or that Tenant reinforce the floors in a manner acceptable to Landlord. Landlord shall not be responsible for loss of or damage to any heavy items from any cause, and all damage done to the Building by moving or maintaining any such heavy items shall be repaired at Tenant's expense.

6. **RENT**

(a) Base Rent.

During the Term, Tenant shall pay to Landlord Base Rent in the monthly installments of Base Rent as set forth in Paragraph 1(j). If the Term does not begin on the first day of the month or end on the last day of the month, Base Rent shall be prorated by multiplying the monthly Base Rent by a fraction, the numerator of which is the number of days of the partial month included in at the beginning or end of the Term and the denominator of which is the total number of days in the full calendar month. Notwithstanding the foregoing, Tenant shall receive an abatement of the Base Rent for calendar month October 2003.

(b) Additional Rent.

During the Term, Tenant shall pay to Landlord Additional Rent. To provide for current payments of Real Estate Taxes, Landlord shall estimate the Real Estate Taxes for each calendar year. Landlord shall notify Tenant prior to the Commencement Date or at least fourteen (14) days prior to the beginning of a calendar year, as the case may be, of the estimated Real Estate Taxes for such calendar year and Tenant's monthly installment of such estimate. If at any time during the calendar year, Landlord reasonably believes that the estimate will not cover the actual Real Estate Taxes for the calendar year, Landlord shall give notice to Tenant at least fourteen (14) days prior to the due date of the next installment of the new estimate of Real Estate Taxes and Tenant's monthly installment. Within ninety (90) days after the end of a calendar year, Landlord shall give to Tenant a Reconciliation Statement; provided, however, if Landlord fails to give the Reconciliation Statement, Landlord does not waive its right to recover Additional Rent that is due and payable pursuant to this Paragraph 6(b). If the Reconciliation Statement indicates that Tenant owes Additional Rent, then within ten (10) business days of Tenant's receipt of the Reconciliation Statement, Tenant shall pay to Landlord the amount of such underpayment, unless Tenant notifies Landlord in writing that Tenant contests such amount. In such event, the parties shall meet within the next ten (10) business days in an effort to resolve any open issues. If the Reconciliation Statement indicates that Tenant is entitled to a refund of Additional Rent already paid, Landlord shall credit Tenant for the amount of such overpayment against the next maturing installment(s) of Rent or within ten (10) business days after the last day of the Term in the event that the refund is due for the last year of the Term. Since the reconciliation for the calendar year in which the Lease terminates will occur after such termination, Tenant's obligation to pay Additional Rent shall survive the termination of this Lease.

(c) Adjustments to Reconciliation Statement.

If a clerical error occurs or Landlord or its accountants discover new facts, Landlord shall have the right to adjust the Reconciliation Statement. Within ten (10) business days after Tenant receives the adjusted Reconciliation Statement with substantial detail explaining the adjustment, Tenant shall pay to Landlord the amount of such underpayment, or Landlord shall credit Tenant for the amount of such overpayment against the next maturing installment(s) of Rent, as the case may be. This provision shall survive the termination of the Lease.

(d) Payment of Rent; Late Charges; Default Interest.

Tenant shall pay to Landlord, at the address set forth in Paragraph 1(b) or at such other place as Landlord may designate from time to time hereafter by written notice to Tenant, all Rent due without demand, deduction or set off, except as provided in this Lease. Tenant shall pay to Landlord Base Rent and estimated installments of Additional Rent in advance, on or before the first day of each and every month during the Term; provided, however, that the first month's Base Rent shall be due and payable upon execution of this Lease. If Landlord requires Tenant to pay Rent into a "lockbox" arrangement, Landlord shall not be deemed to have accepted Rent until (2) days after deposit in the lockbox, and the deposit of Tenant's check shall not waive Landlord's right to object to the payment. Tenant shall pay the Other Charges within ten (10) business days after Landlord gives notice to Tenant of its incurring Other Charges. If Landlord does not receive Rent within ten (10) business days after it is due, other remedies for nonpayment of Rent notwithstanding, Tenant shall pay to Landlord, a late charge of one hundred dollars ($100.00) to defray Landlord's administrative expenses incident to the handling of such overdue payment. In addition, Tenant shall pay to Landlord interest on such past due Rent at the Default Rate, for each day from the date that such Rent is due through the date that Landlord receives such past due Rent.

7. **TAXES**

(a) Real Estate Taxes.

Prior to delinquency, Landlord shall pay at its expense, subject to reimbursement under Paragraph 6(b) above, all Real Estate Taxes. Landlord shall retain the sole right to participate in any Tax Contest proceedings.

(b) Tenant's Taxes.

Prior to delinquency, Tenant shall pay, at its expense, all taxes assessed against or levied upon its occupancy of the Premises, or upon Tenant's Personal Property. If any of Tenant's Personal Property or Tenant's occupancy of the Premises is assessed and taxed with the property of Landlord, Tenant shall pay to Landlord Tenant's share of such taxes within ten (10) days after Landlord delivers to Tenant a statement in writing setting forth the amount of such taxes applicable to Tenant's Personal Property or Tenant's occupancy.

8. **SECURITY DEPOSIT**

Concurrently with the execution of this Lease, Tenant has deposited with Landlord the Security Deposit in the form of a letter of credit. If a Tenant Default exists, Landlord may apply all or any part of the Security Deposit for any amount owed to Landlord as a result of a Tenant Default, or to compensate Landlord for any other loss, cost or damage that Landlord may suffer as a result of a Tenant Default. If Landlord so applies the Security Deposit, Tenant shall deposit with Landlord an additional letter of credit in an amount sufficient to restore the Security Deposit to its original amount, within five (5) days after Landlord demands in writing restoration of the Security Deposit. Tenant's failure to restore the Security Deposit shall constitute a Tenant Default. Unless otherwise required by Applicable Laws, Landlord shall not be required to keep the Security Deposit separate from Landlord's general funds or to pay interest on the Security Deposit to Tenant. If Landlord is required by Applicable Laws to maintain the Security Deposit in an interest-bearing account, Landlord will retain the maximum amount permitted under Applicable Laws as a bookkeeping and administrative charge. If Tenant performs Tenant's obligations under this Lease, Landlord shall return the remaining balance of the Security Deposit to the then current Tenant at the expiration of the Term and upon Tenant's vacation of the Premises. If bankruptcy or other debtor-creditor proceedings exist against Tenant, the Security Deposit shall be deemed to be applied first to the payment of Rent due Landlord for all periods prior to filing of such proceedings. Landlord may deliver the Security Deposit to the purchaser of Landlord's interest in the Premises if Landlord's interest is transferred, in which event Landlord shall be discharged from any further liability with respect to the Security Deposit. The previous sentence shall also apply to any subsequent transferees of Landlord.

9. **USE OF THE PREMISES**

(a) Use.

Tenant shall use the Premises for Tenant's Permitted Use and for no other purpose whatsoever. Tenant will not use or permit to be used any part of the Premises and will not bring into or keep anything in any part of the Premises that (i) violates any of the terms of this Lease; (ii) directly or indirectly is forbidden by any Applicable Laws; (iii) is dangerous to life, limb or property; (iv) increases the risk to Landlord or any other tenant or invalidates or increases the premium cost of Landlord's Insurance; (v) that unreasonably disturbs any other tenant in the Building or creates nuisance in, upon or about the Premises or the Building, including but not limited to, noise, odors or vibrations; or (vi) in the sole reasonable judgment of Landlord, in any way materially impairs the character, reputation or appearance of the Property, or materially impairs or materially interferes with any of Landlord's Services. Tenant shall not, without the prior written consent of Landlord, exhibit, sell or offer for sale on the Premises or the Property any article or thing, except those articles and things essentially connected with Tenant's Permitted Use. Notwithstanding anything to the contrary contained in this Lease, Tenant shall be permitted to use and have access to the Premises 24 hours a day, 7 days a week, 365 days a years during the Term hereof.

(b) Advertisement; Solicitation.

Tenant shall not advertise the business, profession or activities of Tenant conducted in the Building in any manner which violates the letter or spirit of any code of ethics adopted by any recognized association or organization pertaining to such business of

Tenant, and shall never use any picture or likeness of the Building in any circulars, notices, advertisements or correspondence without Landlord's prior written consent. Tenant shall not disturb, solicit, or canvass any occupant of the Building and shall cooperate with Landlord to prevent same.

10. **ALTERATIONS**

(a) Prohibition.

Tenant shall not make any Alterations in or to the Premises or the Building without the express prior written consent of Landlord; provided, however, that Landlord shall not be unreasonable in withholding consent to nonstructural Alterations which do not adversely affect any building systems.

(b) Performance and Completion of the Alterations.

Before commencing any work in connection with the Alterations, Tenant shall furnish to Landlord for its approval the following: (i) detailed plans and specifications for the proposed Alterations, (ii) names and addresses of each of the contractors and subcontractors, (iii) copies of all contracts, subcontracts and necessary permits, (iv) if the cost of the Alterations exceed Ten Thousand Dollars ($10,000.00), a payment and performance bond, or other indemnification, in form and amount reasonably satisfactory to Landlord, protecting Landlord against any and all claims, costs, damages, liabilities and expenses that may arise in connection with the Alterations, (v) such documentation as is necessary to comply fully with the mechanics' lien law of the state in which the Property is located, and (vi) certificates of insurance, in form and amount satisfactory to Landlord, from all contractors and subcontractors who will perform labor or furnish materials, insuring Landlord against any and all liability for personal injury, including workers' compensation claims and for property damage that may arise out of or be in any manner connected with the Alterations. Tenant shall pay the cost of all Alterations. Tenant shall perform and complete all Alterations in accordance with the approved plans and specifications, in a good and workmanlike manner, in compliance with Applicable Laws, using only materials of the same or higher quality as those installed in the Building. Landlord shall not be liable for any labor or materials furnished or to be furnished to Tenant upon credit, and no mechanic's or other lien for such labor or material shall attach to or affect Landlord's interest in the Property. Tenant shall permit Landlord to supervise construction operations in connection with any Alterations, if Landlord requests the right to do so (but Landlord shall have no obligation to make such requests, or having done so, to supervise construction). Landlord's supervision of construction shall be done solely for the benefit of Landlord and shall not alter Tenant's liability and responsibility under this Paragraph 10(b). Landlord will direct electricians as to where and how telephone and computer wires are to be introduced. No boring or cutting for wires will be allowed without Landlord's consent, which shall not be unreasonably withheld. Upon completion of any Alterations, Tenant shall furnish Landlord with (i) receipted bills covering all labor and materials used, lien waivers and such other documentation as is necessary to comply fully with the mechanics' lien law of the state in which the Property are located; (ii) a true and correct copy of the certificate of occupancy, if one is issued; and (iii) a certificate of Tenant's architect or engineer stating that such Alterations were made in accordance with the plans and specifications. Tenant shall indemnify, defend and hold harmless Landlord and the Landlord Parties forever against and from all Claims of third parties regarding Alterations of Tenant, which indemnity shall survive the termination of this Lease.

11. **MECHANICS' LIENS**

If any Lien is filed against any portion of the Premises respecting material or work claimed to have been furnished to the Premises on Tenant's behalf and at Tenant's request, Tenant, at its own cost and expense, shall cause the Lien to be discharged of record or bonded against within thirty (30) days after the filing of the Lien. If Tenant posts a bond, Tenant shall contest the validity of the Lien by appropriate legal proceedings diligently conducted in good faith and without expense to Landlord. If Tenant fails to cause the Lien to be discharged of record or bonded against within the thirty (30) day period or shall fail to satisfy the Lien within thirty (30) days after any judgment in favor of the Lien holder from which no further appeal might be taken, then Landlord shall have the right to cause the Lien to be discharged. Tenant shall indemnify, defend and hold harmless Landlord and the Landlord Parties forever against and from all third party Claims regarding any Lien, which indemnity shall survive the termination of this Lease. All amounts paid by Landlord to cause the Lien to be discharged, plus interest on such amounts at the Default Rate shall constitute Other Charges payable by Tenant to Landlord. Nothing contained in this Paragraph 11 shall constitute Landlord's consent to subject the Property to a Lien.

12. **MAINTENANCE AND REPAIR**

(a) Tenant's Maintenance.

Tenant, at its sole cost and expense, shall take good care of, maintain and repair the Premises, any and all appurtenances thereto and any Alterations, including but not limited to, the doors and interior walls of the Premises; special light fixtures; kitchen fixtures; auxiliary HVAC equipment; private bathroom fixtures and any other type of special equipment; and rugs, carpeting, wall coverings, drapes or blinds within the Premises, whether installed by Tenant or by Landlord on behalf of Tenant, and whether or not such items will become Landlord's property upon the termination of this Lease, normal wear and tear excepted. Tenant shall not be responsible for, the roof, foundation, exterior walls, interior structural walls, all structural components, and all systems such as mechanical, electrical, HVAC and plumbing. Notwithstanding the provisions of this Lease, if repairs required to be made by Tenant become immediately necessary to avoid possible injury or damage to persons or property, Landlord may, but shall not be obligated to, make repairs to such items at Tenant's expense, which shall constitute Other Charges payable by Tenant to Landlord. Within ten (10) days after Landlord renders a bill for the cost of the repairs, Tenant shall reimburse Landlord.

(b) Landlord's Maintenance.

Subject to Paragraph 12(a) above, Landlord shall maintain and repair the Property, including, but not limited to, the roof, foundation, exterior walls, interior structural walls, all structural components, and all systems such as mechanical, electrical, HVAC and plumbing, all in good and tenantable condition. Landlord represents and warrants that all such items are in good and tenantable condition as of the date of this Lease. Tenant shall promptly notify Landlord immediately when any repair to be made by Landlord is necessary, after which notice Landlord shall have reasonable opportunity to repair same. To make any repairs or perform any maintenance, Landlord may temporarily block, close or change any entrances, doors, corridors, elevators, or other facilities in the Building or in the Premises, and may temporarily close, block or change any Common Areas, and Landlord shall give Tenant reasonable prior written notice of the foregoing. Landlord shall not be liable to Tenant, except as expressly provided in this Lease, for any damage or inconvenience and Tenant shall not be entitled to any abatement of Rent by reason of any repairs, maintenance or replacements made by Landlord under this Lease or by reason of any repairs, maintenance or replacements not made by Landlord but which Tenant determines are necessary. If any portion of the Building or the Premises is damaged through the fault or negligence of Tenant or the Tenant Parties and Landlord would be responsible to pay for the repair to such damage as a result of the deductible under Landlord's Insurance, Landlord shall make such repairs and Tenant shall, within ten (10) business days, pay to Landlord the cost of such repairs, up to the amount of the deductible, together with interest at the Default Rate as Other Charges or upon request from Landlord, Tenant shall promptly and properly repair the same at no cost to Landlord.

(c) Landlord's Right to Enter Premises.

Landlord and the Landlord Parties, at any time in the event of an emergency, and otherwise at reasonable times upon giving Tenant forty-eight (48) hours prior written notice, may enter the Premises to (i) take any and all measures, including inspections, repairs, alterations to the Premises or to the Building, as may be necessary or desirable to safeguard, protect or preserve the Premises, the Building or Landlord's interests; (ii) operate or improve the Building; (iii) comply on behalf of Tenant with all Applicable Laws, if Tenant fails to do so; (iv) examine the Premises to verify Tenant's compliance with its obligations of this Lease; (v) exercise any rights with respect to the Premises that Landlord may exercise if Tenant Default exists; (vii) exhibit the Premises to prospective tenants during the last twelve (12) months of the Term; or (viii) exhibit the Premises to any prospective purchaser or Lender on the Property and to others having a legitimate interest at any time.

13. COMMON AREAS

(a) Grant.

Landlord grants to Tenant and the Tenant Parties, a nonexclusive license to use, in common with all others to whom Landlord has granted or may grant a license to use, the Common Areas, subject to the Building Rules, provided Tenant receives a written copy thereof. Tenant shall have access to the Premises twenty-four (24) hours a day seven (7) days a week. Landlord may require persons desiring access to the Property and the Premises to comply with reasonable security regulations. Tenant shall not obstruct or use the Common Areas for any purpose other than for ingress to and egress from the Premises. The Common Areas are not for the use of the general public and Landlord shall in all cases retain the right to control and prevent access to the Common Areas by all persons whose

presence, in the judgment of Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom Tenant normally deals in the ordinary course of Tenant's business unless such persons are engaged in illegal activities. Neither Tenant nor the Tenant Parties shall go upon the roof or mechanical floors into mechanical areas of the Building or any portion of the Common Areas that Landlord has prohibited access.

(b) Parking.

Subject to the limitations below, Tenant shall have a right to use the Parking Areas. Landlord shall have the right to designate Parking Areas for the use of the Building, and Tenant and its employees shall not park in Parking Areas not so designated, specifically including entrances. Upon written notice from Landlord, Tenant shall furnish to Landlord, within five (5) business days after receipt of such notice, the state automobile license numbers assigned to the automobiles of Tenant and its employees. Landlord shall not be liable for any illegal parked vehicle of Tenant or its employees that Landlord tows from the Property. Landlord shall have no liability to Tenant for any damages or claims arising from the use of the Parking Areas by Tenant, other tenants, or their customers, invitees or employees. Tenant shall be allotted the number of nonreserved and/or reserved parking spaces set forth in Paragraph 1(p) above. Landlord is not responsible for the policing or enforcement of the exclusivity of the Parking Areas, but Landlord shall have the right to require that Tenant and the Tenant Parties use no more than the number of reserved and nonreserved parking spaces allotted to Tenant. If any of the Parking Areas are subject to access control devices, Tenant, at its sole cost and expense, shall be issued key cards, not in excess of the number of parking spaces allotted to Tenant. If Tenant requests a replacement key card, then Landlord shall charge Tenant the actual amount that it pays for each replacement card issued.

(c) Right to Change Common Areas.

Landlord may do and perform such acts in and to the Common Areas as, Landlord, in its reasonable business judgment, shall determine to be advisable. Upon giving Tenant five (5) business days prior written notice of the specific changes to be made, Landlord may make alterations, additions, deletions or changes to the Common Areas, including, but not limited to, changes in its size and configuration.

14. BUILDING SERVICES

(a) Landlord's Services.

Landlord, at its cost and expense subject to reimbursement under Paragraph 6(b) above, shall provide the following services:

(i) electric power to the Premises during Normal Business Hours in reasonable amounts necessary for normal office use, lighting and HVAC;

(ii) water for drinking, lavatory and toilet purposes from the regular Building supply (at the prevailing temperature) through fixtures installed by Landlord (or by Tenant with Landlord's prior written consent);

(iii) HVAC to the Premises for comfortable occupancy during Normal Business Hours;

(iv) janitorial services to the Premises as specified in Schedule 14(a);

(v) if the Building contains elevators, passenger elevator service and freight elevator service (as reasonable scheduling permits) to the floors on which the Premises are located; and

(vi) maintenance of and services to the Common Areas.

(b) Excess Usage of Services.

Tenant shall not connect or use any installation or equipment in the Premises that in any way may increase the amount of Landlord's Services usually furnished or supplied to tenants in the Building, without Landlord's consent, which consent shall not be

unreasonably withheld. Notwithstanding the foregoing, if Tenant uses Landlord's Services during hours other than as stated in Paragraph 14(a) above or Tenant's installations or equipment in the Premises require higher than normal consumption of utilities, Landlord may charge Tenant for such excess services as Other Charges, or at Landlord's option, Landlord, at Tenant's expense, may install a submeter for the utilities necessary for such installations or equipment.

(c) Interruption of Services.

Any one or more of Landlord's Services may be interrupted or diminished (i) temporarily by Landlord or other person until certain repairs, alterations or other improvements to the Premises or other parts of the Property can be made or (ii) by any event or cause which is beyond Landlord's reasonable control, including, without limitation, any ration or curtailment of utility services. Landlord does not represent, warrant or guarantee to Tenant the continuous availability of Landlord's Services. Any such interruption or diminishment shall not be deemed or construed to be an interference with Tenant's right of possession, occupancy and use of the Premises, shall not render Landlord liable to Tenant for damages or entitle Tenant to any reduction of Rent, and shall not relieve Tenant from its obligation to pay Rent and to perform its other obligations under this Lease. Landlord shall use commercially reasonable efforts to restore service as quickly as possible and to give appropriate notice of interruption and attempt to schedule such interruption to occur during hours other than Normal Business Hours, provided that in no event shall Landlord be obligated to incur overtime charges.

(d) Energy Conservation.

Tenant shall use commercially reasonable efforts to cooperate with Landlord regarding the operation of the Building's HVAC systems, including the closing of venetian blinds and drapes, and if windows are operable, to keep them closed when the HVAC system is in use. Tenant shall use commercially reasonable care and caution so that all electricity is carefully shut off to prevent waste or damage. Tenant shall comply with all Applicable Laws with respect to energy consumption, and during any period of time as such governmental authority may so require, Tenant shall reduce or curtail operations in the Premises as shall be directed such governmental authority. Compliance with such rules and/or such reduction or curtailment of operation shall not constitute a breach of Landlord's covenant of quiet enjoyment or otherwise invalidate or affect this Lease, and Tenant shall not be entitled to any diminution or abatement in Rent during the periods of reduction or curtailment of operations.

15. ESTOPPEL CERTIFICATES

Within fourteen (14) days after written request by the Asking Party, the Answering Party shall execute and deliver to the Asking Party or to any third party with whom the Asking Party is dealing, an estoppel certificate, in form and substance substantially similar to that attached as Schedule 15 and incorporated herein by reference. The Answering Party may make such modifications to such estoppel certificate as may be necessary to make such certificate true and accurate.

16. INDEMNIFICATION

Tenant shall indemnify, defend and hold harmless Landlord and the Landlord Parties forever against and from all third party Claims for personal injury, bodily injury, death or property damage for (i) incidents occurring on or about the Premises, except caused by the negligent or intentional act or omission of Landlord or the Landlord Parties or other tenants; or (ii) incidents occurring on or about the Property (other than the Premises) caused by the negligent or intentional act or omission of Tenant or the Tenant Parties. Landlord shall give written notice to Tenant of a Claim subject to indemnification. Tenant shall assume the defense of such Claim and select legal counsel who shall be reasonably acceptable to the Landlord. Landlord shall have the right to participate in its defense of the Claim at its own cost and expense. Tenant shall not settle any Claim without the consent of the indemnitee.

Landlord shall indemnify, defend and hold harmless Tenant and the Tenant Parties forever against and from all third party Claims for personal injury, bodily injury, death or property damage for (1) incidents occurring on or about the Property, except caused by the negligent or intentional act or omission of Tenant or the Tenant Parties; or (ii) incidents occurring on or about the Property caused by the negligent or intentional act or omission of Landlord or the Landlord Parties ~~of~~or other tenants. Tenant shall give written notice to Landlord of a Claim subject to indemnification. Landlord shall assume the defense of such Claim and select legal counsel who shall be reasonable acceptable to the Tenant. Tenant shall have the right to participate in its defense of the Claim at its own cost and expense. Landlord shall not settle any Claim without the consent of the indemnitee.

The provisions of this Paragraph 16 shall survive the termination of this Lease.

17. **INSURANCE**

Tenant, at its sole cost and expense, shall procure and maintain the following types of insurance:

(i) Commercial general liability insurance against injuries to persons occurring in, upon or about the Property, with minimum coverage of Three Million Dollars ($3,000,000.00) per occurrence and Three Million Dollars ($3,000,000.00) aggregate coverage per one (1) accident or disaster, and One Million Dollars ($1,000,000.00) for property damage;

(ii) All-risk insurance on Tenant's Personal Property for its full insurable value on a replacement cost basis;

(iii) Business interruption insurance, against loss or damage resulting from the same risks as are covered by the insurance mentioned in subparagraph (ii) above in an amount equal to the aggregate of one (1) year's requirement of (A) Base Rent, (B) Additional Rent, and (C) insurance premiums necessary to comply with this Paragraph 17;

(iv) Workers' Compensation or similar insurance, if and to the extent required by law and in form and amounts required by law; and

(v) Such other insurance or additional coverage as Landlord may deem commercially reasonable for tenants of buildings similar to the Property.

Tenant shall name Landlord as an additional insured on its liability insurance and may meet the liability requirements through an umbrella or excess insurance policy. Tenant's liability insurance shall be primary with respect to the Premises and secondary with respect to the Property other than the Premises. Tenant's Insurance shall be written with a company or companies reasonably satisfactory to Landlord, having a policyholder rating of at least "A" and be assigned a financial size category of at least "Class X" as rated in the most recent edition of "Best's Key Rating Guide" for insurance companies, and authorized to engage in the business of insurance in the state in which the Premises are located. Tenant shall deliver to Landlord customary insurance certificates evidencing such paid-up insurance and if requested by Landlord copies of such policies. Tenant's Insurance shall further provide that the same may not be canceled, terminated or modified unless the insurer gives Landlord and Lender at least thirty (30) days prior written notice of such cancellation, termination or modification. The provisions of this Paragraph 17 shall be considered an express agreement governing any cause of damage of destruction of the Premises by fire or other casualty, and Section 227 of the Real Property Law of the State of New York, providing for such a contingency in the absence of an express agreement, and any other law of the like import, now or hereafter in force, shall have no application in such case.

Landlord shall name Tenant and guarantor as additional parties insured on its liability policy.

18. **WAIVER OF SUBROGATION**

Notwithstanding anything to the contrary contained in this Lease, Landlord or Tenant, as the case may be, shall not be liable to, and releases all claims against, the other party or to any insurance company for such party's business interruption or any loss or damage to personal or real property located within or constituting part of or all of the Property caused by the negligence or other fault of injuring party or its agents, employees, subtenants, licensees or assignees; provided, however, this release does not apply to claims by a party's willful misconduct. Notwithstanding the foregoing, this release shall apply only to the extent that such business interruption or loss or damage is caused by perils covered by insurance or was required to be covered by insurance pursuant to this Lease and this release shall not apply to the amount of any deductible under any insurance policy. Nothing in this Paragraph 18 shall be construed to impose any other or greater liability upon either Landlord or Tenant than would have existed in the absence of this Paragraph 18. Because this Paragraph 18 will preclude the assignment of any claim mentioned in it by way of subrogation (or otherwise) to an insurance company (or any other person), each party to this Lease agrees immediately to give to each insurance company that has issued to it policies of fire and extended coverage insurance, written notice of the terms of the mutual waivers contained in this paragraph, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverage because of the mutual waivers contained in this Paragraph 18.

19. **ASSIGNMENT AND SUBLEASE**

(a) Prohibition; Request for Consent.

Tenant's Assignment shall be prohibited, unless Tenant receives Landlord's prior written consent, which consent shall be in Landlord's commercially reasonable discretion. To request Landlord's consent to a proposed Assignment, Tenant must provide Landlord in writing the following: (i) the name and address of the proposed Assignee; (ii) the nature of the proposed Assignee's business that it will operate in the Premises; (iii) the material terms of the proposed Assignment; (iv) reasonable financial information certified by an officer of the proposed Assignee so that Landlord can evaluate the proposed Assignee and its principal owners and (v) the nature and character of the experience of the principal owners of the proposed Assignee. Landlord shall have twenty (20) days after Landlord receives Tenant's request for Landlord's consent and required documentation to (i) grant consent to the Assignment; (ii) withhold consent to the Assignment; or (iii) terminate this Lease effective thirty (30) days after notice to Tenant; provided, however, that such twenty (20) day period may be extended if Tenant does not reasonably provide the information requested. Landlord may charge Tenant a reasonable fee to process the proposed Assignment and cover legal expenses, which fee shall not exceed $3,000. Landlord's consent to an Assignment shall not be deemed to be consent to any future Assignment.

Notwithstanding the foregoing, Tenant may Assign the Lease to any subsidiary, affiliate, or parent corporation of the Tenant without obtaining Landlord's prior written consent. However, Tenant shall notify Landlord in writing of any such Assignment, and provided Landlord with an executed copy of the assignment agreement.

(b) Conditions of Assignment.

Any Assignment by Tenant is subject to the following:

(i) The terms of this Lease;

(ii) The continuing liability of Tenant for all Lease obligations;

(iii) If Tenant receives base rent under the Assignment in excess of the Base Rent (or the pro rata share of Base Rent in the case of a sublease of a portion of the Premises), then the payment by Tenant to Landlord, as Rent, one hundred percent (100%) of such excess received by Tenant after the payment of reasonable leasing commissions, brokerage commissions, free rent consistent with the market place, and improvement allowances actually incurred by Tenant.

(iv) Upon the occurrence of a Tenant Default, the right of Landlord to collect directly from the Assignee all Rent becoming due to Tenant by reason of the Assignment, which shall not be construed to be a novation or a release of Tenant from the further performance of its obligations under this Lease;

(v) If a Tenant Default exists and Landlord terminates this Lease, the right of Landlord to require such Assignee to attorn to Landlord as if Landlord were the landlord under the sublease;

(vi) Landlord's execution of an Assignment consent form; and

(vii) The delivery by Tenant to Landlord, promptly after execution, of an executed copy of the Assignment executed by Tenant and the Assignee.

(c) Landlord's Assignment.

If the Property is sold or transferred, Landlord, as seller, shall be automatically and entirely released of its Lease obligations from and after the date of conveyance or transfer, provided the purchaser has assumed Landlord's obligations of this Lease to be performed on the part of Landlord. Tenant acknowledges that Landlord's obligations of this Lease shall be binding upon a landlord only during its respective period of ownership.

(d) Successors and Assigns.

This Lease shall be binding upon and shall inure to the benefit of the parties to this Lease and their respective successors and assigns, subject to the restrictions in Paragraph 19(a) above.

20. QUIET ENJOYMENT

If no Tenant Default exists, and subject to the terms of this Lease, Tenant shall peacefully and quietly have and enjoy possession of the Premises without any encumbrance or hindrance by, from or through Landlord, except for regulations imposed by any governmental or quasi-governmental agency on the occupancy of Tenant or the conduct of Tenant's business operations 24 hours a day, 7 days a week, 365 days a year.

21. COMPLIANCE WITH LAWS AND RULES

Tenant, at its sole cost and expense, shall promptly observe and comply with all Applicable Laws respecting (i) Tenant's use of the Premises; or (ii) the physical condition of the Premises to the extent that such compliance does not require structural alteration of the Premises, unless Tenant creates such condition as a result of its use of the Premises. Tenant shall indemnify, defend and hold harmless Landlord and the Landlord Parties forever against and from all third party Claims regarding the violation of any Applicable Law as set forth in the preceding sentence, which indemnity shall survive the termination of this Lease. Tenant shall give Landlord prompt notice of any violation of an Applicable Law. Tenant, at its sole cost and expense, shall procure any permits and licenses required for the transaction of Tenant's business in the Premises. Tenant and the Tenant Parties shall comply with the Building Rules. To the extent that the Building Rules are inconsistent with the terms of this Lease, the terms of this Lease shall govern.

Landlord shall indemnify, defend and hold harmless Tenant and the Tenant Parties forever against and from all third party Claims regarding the violation of any Applicable Law by Landlord and for which Tenant is not responsible under this Paragraph 21, which indemnity shall survive the termination of this Lease. Landlord shall give Tenant prompt notice of any violation of an Applicable Law, if in Landlord's judgment, such violation will effect the Premises or Tenant's use thereof.

22. HAZARDOUS DEVICES AND CONTAMINANTS

(a) Prohibition.

Except for Contaminants used in the ordinary course of business and in compliance with Environmental Laws, Tenant and the Tenant Parties shall not use, store, release, generate or dispose of or permit to be used, stored, released, generated or disposed of any Contaminants on or in the Premises. Tenant shall immediately deliver to Landlord complete copies of all notices, demands or other communications from any governmental authority or other third party alleging a Release or a violation of an Environmental Law.

(b) Indemnification.

Tenant shall indemnify, defend and hold harmless Landlord and the Landlord Parties forever from and against third party Claims, relating to any environmental liability resulting from (1) any Release of any Contaminant at the Premises or emanating from the Premises to adjacent properties or the surrounding environment; (2) any generation, transport, storage, disposal, treatment or other handling of any Contaminant at the Premises, including, but not limited to, any and all off-site transport, storage, disposal, treatment or other handling of any Contaminant generated, produced, used and/or originating in whole or in part from the Premises; and (3) any activities at the Premises that in any way might be alleged to fail to comply with any Requirements of Law.

Landlord shall indemnify, defend and hold harmless Tenant and the Tenant Parties forever from and against third party Claims, relating to any environmental liability result from (1) any Release of any Contaminant at the Property or emanating from the Property to adjacent properties or the surrounding environment, except for any Release by Tenant or Tenant Parties or Tenant's invitees; (2) any generation, transport, storage, disposal, treatment or other handling of any Contaminant at the Property, including, but not limited to, any and all off-site transport, storage, disposal, treatment or other handling of any Contaminant generated, produced, used and/or originating in whole or in part from the Property, except for those by Tenant or Tenant Parties or Tenant's invitees; and (3) any activities at the Property that in any way might be alleged to fail to comply with any Requirements of Law, except for activities of

the Tenant or Tenant Parties or Tenant's invitees.

The provisions of this Paragraph 22(b) shall survive the termination of this Lease.

23. **FIRE AND CASUALTY**

(a) Termination as a Result of Damage to the Building.

If the Building is subject to Damage and: (i) the Damage affects more than twenty-five (25%) of the Building; (ii) Lender shall not allow adequate insurance proceeds for repair and restoration; or (iii) the Lease is in the last twelve (12) months of the Term, and Landlord decides not to repair and restore the Building, Landlord may terminate this Lease, by written notice to Tenant given within thirty (30) days after such damage. If the Premises or access to the Premises are subject to Damage, then Landlord's termination shall be effective as of the date of such Damage; otherwise the termination shall be effective thirty (30) days after such notice. Any prepaid Rent shall be prorated as of the date of termination.

(b) Termination as a Result of Damage to the Premises or Common Area.

If all or a substantial portion of the Premises are subject to Damage or the Common Areas are subject to Damage to the extent that it substantially interferes with Tenant's use of the Premises and the Damage cannot be repaired within one hundred twenty (120) days after the date of the Damage in either event using standard working methods and procedures, then either party may terminate this Lease by giving written notice to the other party within thirty (30) days after the date of the Damage, the termination to be effective as of the date of such damage. Any prepaid Rent shall be prorated as of the date of termination.

(c) Landlord's Obligation to Rebuild.

Unless this Lease is terminated as set forth in Paragraphs 23(a) or 23(b) above, Landlord shall proceed with due diligence to restore the portion of the Premises and/or the Building subject to Damage to its condition as of the Commencement Date within one hundred twenty (120) days after the Damage, subject to the provisions of Paragraph 28 below. If an intentional or negligent act or omission of Tenant or a Tenant Party did not cause or contribute to the Damage, Rent shall abate from the date of the Damage to date of completion of the restoration in proportion to that part of the Premises that is unfit for use in Tenant's business. Landlord shall have no duty to restore or repair any damage to any Alterations made by Tenant or any of Tenant's Personal Property.

24. **EMINENT DOMAIN**

(a) Entire Taking.

If all or a substantial part of the Premises is subject to a Taking, this Lease shall terminate as of the date of vesting of title.

(b) Termination by Tenant.

If twenty-five percent (25%) or more of the Premises is subject to a Taking, then Tenant may terminate this Lease by notifying Landlord of such termination within sixty (60) days after the date of vesting of title. This Lease shall expire on the date specified in such notice of termination, which date shall be not less than sixty (60) days after the giving of such notice. The Rent under this Lease shall be apportioned as of such termination date.

(c) Termination by Landlord.

If fifty percent (50%) or more of the Building is subject to a Taking, then Landlord may terminate this Lease by notifying Tenant of such termination within sixty (60) days after the date of vesting of title. This Lease shall expire on the date specified in such notice of termination, which date shall be not less than sixty (60) days after the giving of such notice. The Rent under this Lease shall be apportioned as of such termination date.

(d) Awards and Damages.

Landlord shall be entitled to receive the entire award paid for a Taking, Tenant assigning to Landlord all Tenant's right, title and interest therein, if any. Nothing contained herein shall be deemed to give Landlord any interest in or to require Tenant to assign to Landlord any award made to Tenant for the taking of Tenant's Personal Property, for the interruption of or damage to Tenant's business or for Tenant's moving expenses but only if such award is in addition to the award for the Property containing the Premises or is specifically allocated in such single award.

(e) Restoration of the Premises.

If this Lease is not terminated pursuant to this Paragraph 24, then Landlord, at its sole cost and expense, shall promptly repair and restore the Premises and the Common Areas to the condition that existed immediately before the Taking, except for the part taken, to render the Premises a complete architectural unit, but only to the extent of condemnation award received for the damage; and Building standard work.

(f) Temporary Condemnation.

Any temporary Taking or temporary requisition of the Premises which does not result in a termination of this Lease, as hereinbefore provided in this Paragraph 24, shall not be cause for any reduction or diminution of Rent; provided, however, Tenant shall be entitled to any award.

25. **DEFAULT**

(a) Events of Default.

Each of the following shall constitute a default by Tenant:

(i) Tenant fails to pay any Rent within five (5) days after said Rent is due;

(ii) Tenant fails to perform or observe any of its obligations under this Lease other than the payment of Rent within thirty (30) days (or within a reasonable time period (but in no event longer than ninety (90) days) if the same cannot be cured within such period so long as Tenant is diligently pursuing cure) after Landlord gives Tenant written notice of Tenant's failure;

(iii) Tenant fails to vacate or stay any of the following within ninety (90) days after it occurs:
- (A) A petition in bankruptcy is filed by or against Tenant;
- (B) Tenant is adjudicated as bankrupt or insolvent;
- (C) A receiver, trustee, or liquidator is appointed for all or a substantial part of Tenant's assets; or
- (D) Tenant makes an assignment for the benefit of creditors; or

Notwithstanding the foregoing, if Landlord gives written notice of three (3) defaults in any twelve (12) month period, Landlord shall not be required to give Tenant any further notice for Tenant Default to exist.

(b) Landlord's Remedies.

If a Tenant Default occurs, Landlord may, without further notice to Tenant, and in addition to and not in lieu of any other rights or remedies available to Landlord at law or in equity, exercise any one or more of the following rights:

(i) Landlord may terminate this Lease by giving notice of termination to Tenant, and reenter the Premises, by summary proceedings or otherwise, remove Tenant and all other persons and property from the Premises; or

(ii) Landlord may reenter and take possession of the Premises, by summary proceedings or otherwise, without terminating this Lease and without relieving Tenant of its obligations under this Lease.

Landlord's remedies shall be cumulative. In addition to the other remedies in this Lease, Landlord shall be entitled to the restraint by injunction of the violation or attempted violation of any of the provisions of this Lease.

(c) Landlord's Damages.

If Landlord terminates this Lease or ends Tenant's right to possess the Premises without terminating this Lease pursuant to this Paragraph 25(b) above, Tenant shall be liable to Landlord for the following:

(i) any Rent that may be due or damages sustained prior to the termination of this Lease or Tenant's right to possess the Premises;

(ii) additional damages, which, at the election of Landlord, shall be either:

(A) the present value of an amount equal to (1) Rent that would have become due during the remainder of the Term had no Tenant Default existed, less (2) the fair market rental rate for the remainder of the Term of this Lease, discounted at the current five (5) year treasury bill rate, in which case such additional damages shall be payable to Landlord in one lump sum; or

(B) an amount equal to the Rent that would have become due during the remainder of the Term had no Tenant Default existed, less any sums, if any, Landlord receives by reletting the Premises during the Term, in which case such additional damages shall be computed and payable at Landlord's option, either in (1) an accelerated lump sum payment or (2) monthly installments, in advance, on the first day of each calendar month and continuing until the date on which the Lease would have expired but for the termination of the Lease, and any suit or action brought to collect such monthly installments shall not in any manner prejudice the right of Landlord to collect such additional monthly installments for any subsequent month by a similar proceeding; and

(iii) all reasonable costs, fees and expenses, including, but not limited to, storage fees, attorneys', brokers' and other professional fees, incurred by Landlord in pursuit of its remedies under this Lease or in renting the Premises to others from time to time.

The foregoing damages shall be due and payable immediately upon demand by Landlord and shall bear interest at the Default Rate until paid. Landlord shall not be required to give Tenant notice of its elections under this Paragraph 25(c).

(d) Reletting the Premises.

Upon the termination of this Lease or Tenant's right to possess the Premises, Landlord may relet all or any part of the Premises, alone or together with any other premises, for such term (which may be greater or less than the balance of the remaining portion of the Term) and upon such other terms (which may include concessions or free rent and alterations of the Premises) as Landlord, in its absolute discretion, may determine, but Landlord shall not be liable for, and Tenant's obligations shall not be diminished by reason of, any failure by Landlord to relet the Premises or any failure of Landlord to collect any Rent due upon such reletting.

(e) Landlord's Self-help.

If Tenant at any time fails to make any payment or perform any other act on its part to be made or performed under this Lease, Landlord may, after reasonable prior written notice of not less than ten (10) business days or demand and without waiving or releasing Tenant from any obligation under this Lease, make such payment or perform such other act to the extent Landlord may deem desirable, and in connection therewith to pay expenses and employ counsel. Tenant shall pay upon demand all of Landlord's costs, charges and expenses, including the fees of counsel, agents and others retained by Landlord, incurred in enforcing Tenant's obligations under this Lease or incurred by Landlord in any litigation, negotiations or transactions in which Tenant causes Landlord, without Landlord's fault, to become involved or concerned, which amount shall be deemed to be Other Charges.

26. WAIVER OF DEFAULT OR REMEDY

No waiver of any provision, or the waiver of the breach of any provision, of this Lease (i) shall constitute a future waiver of, or the

waiver of any later breach of, such provision, (ii) shall justify or authorize the later nonobservance of same or any other provision of this Lease or (iii) shall estop Landlord. If a Tenant Default exists, Landlord's acceptance of Rent or Landlord's failure promptly to avail itself of its rights or remedies shall not be construed as a waiver of a Tenant Default or of Landlord's right to pursue any remedy as a result of a Tenant Default, but Landlord may at any time, if the Tenant Default continues, assert any rights or remedies available to Landlord. No receipt of money by Landlord from Tenant after the termination of this Lease or after the service of any notice or after the commencement of any suit, or after final judgment for possession of the Premises shall reinstate, continue or extend the Term of this Lease or affect any such notice, demand or suit or imply consent for any action for which Landlord's consent is required.

27. **TERMINATION OF THE LEASE**

(a) Condition of the Premises.

At the termination of this Lease, Tenant shall remove all Tenant's Personal Property from the Premises, and shall return the Premises broom-clean and in as good a condition as when Tenant took possession or as same may thereafter have been put by Landlord, except for ordinary wear, loss by fire or other casualty, and repairs that Landlord is required to make under this Lease or in the alternative in a condition acceptable to Landlord. Tenant shall repair all damage to the Premises, the Building or the Property caused by the removal of Tenant's Personal Property. If Tenant fails to remove any of Tenant's Personal Property upon termination of this Lease, it shall be deemed to be abandoned and shall become the property of Landlord and the cost of removing such abandoned property shall be at Tenant's cost and expense, or at Landlord's option, Landlord may store such property in a public warehouse or elsewhere for the benefit of Tenant at Tenant's sole cost and expense without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby. Tenant shall return all keys to Landlord. If Landlord requests, Tenant shall remove any telecommunications equipment, any cables, conduits, wires, raised floors where ever installed.

(b) Ownership of the Alterations.

All Alterations and the Improvements made by Tenant shall become Landlord's property and shall remain with the Premises at the termination of this Lease, without compensation, allowance or credit to Tenant; provided, however, Landlord may request that Tenant remove all or a portion of the Alterations at the termination of this Lease. Except as provided in Paragraph 27(a) above, Tenant shall not, however, be required to remove pipes and wires concealed in floors, walls or ceilings, provided that Tenant properly cuts and caps the same, and seals them off in a safe, lawful and workmanlike manner, in accordance with Landlord's reasonable requirements and all Applicable Laws. If Tenant does not remove any Alterations when requested by Landlord to do so, Landlord may remove the same and repair all damage caused thereby, and Tenant shall pay to Landlord the cost of such removal and repair immediately upon demand by Landlord, plus ten percent (10%) of the cost of such removal to reimburse Landlord for its administrative expense. Tenant's obligation in the previous sentence shall survive the termination of this Lease.

(c) Holding Over.

If Tenant retains possession of all or any part of the Premises after the termination of this Lease, including, but not limited to, for the sole purpose of removing Tenant's Personal Property or any other items that Landlord has requested to be removed, Tenant shall be a tenant from month to month and Tenant shall pay Landlord Rent at two (2) times the monthly rate in effect immediately prior to the termination of this Lease for the time Tenant remains in possession and shall be subject to all other of Tenant's obligations under this Lease. No acceptance of Rent by, or other act or statement whatsoever on the part of Landlord or its agent or employee, in the absence of a writing signed by Landlord, shall be construed as an extension of or as a consent for further occupancy. Tenant shall indemnify, defend and hold harmless Landlord and the Landlord Parties forever against and from all third party Claims regarding Tenant's retention of the Premises, including, but not limited to, any consequential damages from the loss of prospective tenants. The provisions of this Paragraph 27(c) are cumulative, do not exclude pursuit of Landlord's right of re-entry or any other right under this Lease and shall survive the termination of this Lease.

28. **FORCE MAJEURE**

If Landlord or Tenant shall be delayed, hindered in or prevented from the performance of any act required under this Lease (other than the payment of Rent) by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, acts of terrorism, riots, insurrection, the act, failure to act or default of the other party, war or any other reason beyond the reasonable control

of the party who is seeking additional time for the performance of such act, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a reasonable period, in no event to exceed a period equivalent to the period of such delay. No such interruption of any service to be provided by Landlord shall ever be deemed to be an eviction, actual or constructive, or disturbance of Tenant's use and possession of the Premises or the Property.

29. **SUBORDINATION OF LEASE**

(a) Subordination.

Subject to the Paragraph 29(b) below, this Lease shall be subordinate to any Mortgage, without the need to document further the subordination. However, if Landlord requests, Tenant shall execute and deliver to Landlord within fourteen (14) days any instrument evidencing the subordination that Landlord or Lender may reasonably request.

(b) Nondisturbance; Attornment.

If Landlord's interest in this Lease is transferred by reason of foreclosure, deed in lieu of foreclosure, or other proceedings to enforce the Mortgage, (i) this Lease shall continue upon the same terms of this Lease for the balance of the Term with Lender or purchaser at foreclosure sale (the "Successor Landlord") performing the obligations of Landlord; (ii) Tenant's quiet possession shall not be disturbed if no Tenant default exists; (iii) Tenant shall attorn to and recognize the Successor Landlord as landlord for the remaining Term; (iv) the Successor Landlord shall not be bound by (A) any payment of Rent for more than one (1) month in advance, except for the Security Deposit and free rent, in any, specified in this Lease, (B) any amendment, modification, or ending of this Lease without Successor Landlord's consent which may be made after the Successor Landlord's name is given to Tenant unless the amendment, modification, or ending is specifically authorized by the original Lease and does not require Landlord's prior agreement or consent, and (C) any liability for any act or omission of a prior Landlord, except to cure continuing defaults.

30. **NOTICES AND CONSENTS**

All notices, demands, requests, consents and approvals that may or are required to be given or delivered under this Lease shall be in writing and shall be deemed validly given (a) immediately upon hand delivery, (b) one (1) day following deposit with a courier or express service guaranteeing next day delivery, (c) two (2) postal delivery days after deposit in the U.S. mails by certified mail, return receipt requested, or (d) immediately upon the telephonically confirmed receipt of a facsimile transmission, (a) if for Tenant at the address set forth in Paragraph 1(d) above, or (b) if for Landlord at the address set forth in Paragraph 1(a) above, with a copy to Landlord's property manager at the address set forth in Paragraph 1(c) above. Landlord's property manager may give notices on behalf of Landlord. Either party may change the person or address to whom notice is given by notifying the other party as provided in this Paragraph 30 above.

31. **BROKERAGE COMMISSION**

Except for Landlord's Broker and Tenant's Broker, Landlord and Tenant represent and warrant each to the other that each has dealt with no broker, agent or other person in connection with this transaction and that no broker, agent or other person brought about this transaction. Landlord shall pay to Landlord's Broker, a leasing commission as set forth in that certain Property Management Agreement between Landlord and Landlord's Broker, from which Landlord's Broker shall pay a "co-op" leasing commission to Tenant's Broker. Tenant shall indemnify, defend and hold harmless Landlord from and against any Claims by any other broker, agent or other person (including, without limitation, Tenant's Broker) claiming a commission or other form of compensation by virtue of having dealt with Tenant with regard to this leasing transaction. The provisions of this Paragraph 31 shall survive the termination of this Lease.

32. **LIMITATION ON RIGHT OF RECOVERY**

This Lease is executed by certain authorized representatives of Landlord, not individually, but solely on behalf of, Landlord. Tenant waives any rights to bring a cause of action against the individuals executing this Lease on behalf of Landlord. The liability of Landlord under this Lease shall be limited to its interest in the Property and any judgments rendered against Landlord shall be satisfied

solely out of the proceeds of sale of Landlord's interest in the Property. No personal judgment shall remain against Landlord upon extinguishment of its rights in the Property and shall not give rise to any right of execution or levy against any other assets of Landlord or of the general partners of Landlord. The provisions of this Paragraph are not intended to relieve Landlord from the performance of any of Landlord's obligations under this Lease, but only to limit the personal liability of Landlord in the case of recovery of a judgment against Landlord. Tenant's rights to obtain injunctive relief or avail itself of any other right or remedy which may be awarded to Tenant by law or under this Lease shall in no way be limited by the foregoing.

This Lease is executed by certain authorized representatives of Tenant, not individually, but solely on behalf of, Tenant, Landlord waives any rights to bring a cause of action against the individuals executing this Lease on behalf of Tenant. Landlord's rights to obtain injunctive relief or avail itself of any other right or remedy which may be awarded to Landlord by law or under this Lease shall in no way be limited by the foregoing.

33. **SIGNS**

Tenant shall not display, inscribe, print, paint, maintain or affix on any place in or about the Building any sign, notice, legend, direction, figure or advertisement, except on the doors of the Premises or walls adjacent thereto, and then only such name(s) and matter, and in such color, size, place and materials, as shall first have been approved by Landlord in writing. Landlord reserves the right to install and maintain a sign or signs on the exterior or interior of the Building. If Tenant desires, Landlord shall list Tenant on the Building directory board, at Tenant's sole cost and expense. The signs listed in Schedule 33 hereto, and any replacements thereof, are hereby approved by Landlord.

34. **LOCKS**

No additional locks or similar devices shall be attached to any door or window without Landlord's prior written consent. Except for those keys provided by Landlord, no keys for any door shall be made. If more than two keys for one lock are desired, Landlord will provide the same upon payment by Tenant. Tenant shall close and securely lock the doors and windows, if operable, of the Premises before leaving the Building.

35. **EMPLOYMENT**

Tenant shall not contract for any work or service that might involve the employment of labor incompatible with the Building employees or employees of contractors doing work or performing services by or on behalf of Landlord.

36. **PLUMBING**

Tenant must observe strict care and caution that all water faucets and water apparatus are shut off before Tenant or its employees leave the Building to prevent waste or damage. Plumbing fixtures and appliances shall be used only for purposes for which constructed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or placed therein. Tenant shall pay for any damage resulting to any such fixtures or appliances from misuse by Tenant and Landlord shall not in any case be responsible for such damage.

37. **MISCELLANEOUS**

Landlord may occupy portions of the Building in the conduct of Landlord's business, in which event, all references herein to other tenants of the Building shall be deemed to include Landlord as occupant. All of the covenants of Tenant under this Lease shall be deemed and construed to be "conditions" as well as "covenants" as though the words specifically expressing or implying covenants and conditions were used in each separate instance. Any reference to the "provisions" or "terms" of this Lease shall mean every covenant, condition or agreement contained in this Lease. Any reference to "termination" of this Lease shall mean the expiration of the Term, the termination of Tenant's right to possess the Premises, the termination of this Lease by order of court, the earlier termination by Landlord or Tenant pursuant to the terms of this Lease or earlier termination by agreement of Landlord and Tenant. All obligations of either Landlord or Tenant shall be continuous during the Term of this Lease, unless a specific shorter duration is defined.

38. **RELATIONSHIP OF PARTIES**

This Lease shall create the relationship of landlord and tenant between Landlord and Tenant. The parties have no intention to create a joint venture, partnership or principal and agent relationship.

39. **GENDER AND NUMBER**

Whenever words are used herein in any gender, they shall be construed as though they were used in the gender appropriate to the context and the circumstances, and whenever words are used herein in the singular or plural form, they shall be construed as though they were used in the form appropriate to the context and the circumstances.

40. **TOPIC HEADINGS**

Headings and captions in this Lease are inserted for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease or constitute any part of this Lease and are not to be considered in the construction of this Lease.

41. **TENANT'S FINANCIAL STATEMENTS**

Upon request from Landlord, Tenant shall deliver to Landlord updated financial statements for itself. Tenant shall promptly report any material adverse change in its financial position, and any litigation that could materially adversely affect Tenant's ability to perform its obligations under this Lease.

42. **ATTORNEYS' FEES**

In any litigation between the parties regarding this Lease, the losing party shall pay to the prevailing party all reasonable expenses and court costs including attorneys' fees incurred by the prevailing party. A party shall be considered the "prevailing party" if: (a) it initiated the litigation and substantially obtains the relief it sought, either through a judgment or the losing party's voluntary action before trial or judgment; (b) the other party withdraws its action without substantially obtaining the relief it sought; or (c) it did not initiate the litigation and judgment is entered for either party, but without substantially granting the relief sought.

43. **COUNTERPARTS**

The parties may execute several copies of this Lease. All executed copies constitute one and the same Lease, binding upon all parties. If a variation or discrepancy among counterparts occur, Landlord's original copy of this Lease shall control.

44. **ENTIRE AGREEMENT**

This Lease contains the entire understanding between the parties and supersedes any prior understanding or agreements between them respecting the subject matter. No representations, arrangement, or understandings except those fully expressed herein, are or shall be binding upon the parties. No changes, alterations, modifications, additions or qualifications to the terms of this Lease shall be made or be binding unless made in writing and signed by each of the parties.

45. **RECORDING**

This Lease nor any memorandum of lease shall be recorded.

46. **GOVERNING LAW; INVALIDITY OF ANY PROVISIONS**

This Lease shall be subject to and governed by the laws of the jurisdiction in which the Property are located. If any Lease provision is rendered invalid or unenforceable, then that provision and the remainder of this Lease shall continue in effect and be enforceable to the fullest extent permitted by law.

47. **GRANTING CONSENT**

Unless expressly set forth in this Lease, whether to grant consent, and what criteria to use in evaluating Tenant's request shall be in Landlord's sole discretion. If any matter also requires Lender's approval, such Lender's denial of Tenant's request shall not be considered "unreasonable." Landlord shall not be required to consider a request for consent if a Tenant Default exists or if Tenant does not provide copies of all relevant documents or other information to evaluate the request for consent. Unless expressly set forth in this Lease, Landlord's failure to grant consent shall be deemed to be a denial of such consent. To the extent that Landlord requires third party consultants to evaluate the request or to document the consent, Landlord may charge Tenant the costs for such third party consultants, which shall be considered Other Charges.

48. **ACCEPTANCE OF THIS LEASE**

If Landlord or Landlord's agent offers this Lease to Tenant, such offer is made subject to Landlord's acceptance and approval. Notwithstanding Tenant's execution of this Lease, Tenant acknowledges that this Lease Agreement shall not be binding upon Landlord until such time as Landlord approves and executes this Lease, and Tenant receives a counterpart.

49. **MASTER LEASE**

This Sublease shall be expressly subject and subordinate to all of the terms, provisions, covenants, agreements and conditions of the Master Lease. This Sublease is also subject and subordinate to all instruments, agreements and other matters to which the Master Lease is or shall be subject or subordinate.

50. **GUARANTY**

This Lease is contingent upon receipt by Landlord of a guaranty in the form attached hereto as Schedule 50.

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

LANDLORD:

SULZER METCO (US) INC.

By: Charles J. Kemp

Its: VICE PRESIDENT

TENANT:

EXCEL IMPORTING CORP.

By: [illegible]

Its: President

~~G237940.2~~
G237940.3

SCHEDULE 2(cc)
FLOOR PLAN

SCHEDULE 2(dd)
LEGAL DESCRIPTION

SCHEDULE 14(a)

Janitorial Services

Daily Cleaning

1. Empty all trash and replace soiled liners
2. Sweep and mop all hard surface floors
3. Vacuum all carpeted areas
4. Dust furniture, files, fixtures and low reach areas
5. Polish all glass furniture tops
6. Damp wipe any spills
7. Dust all telephone receivers
8. Spot clean doors, door knobs, light switches and door frames
9. Dust all office partitions
10. Dust window ledges
11. Spot clean carpet

Weekly Cleaning

1. Spray buff vinyl composition

Monthly Cleaning

1. Clean partition glass and interior glass doors

Quarterly Cleaning

1. Dust all air conditioning diffusers
2. Dust the exterior surfaces of lighting fixtures
3. Brush/vacuum fabric partitions

Tenant shall not provide any janitorial service without Landlord's prior written consent. If Landlord consents to janitorial service provided by Tenant, the same shall be subject to the Building Rules and to Landlord's supervision, but at Tenant's sole cost and expense (without reduction in Base Rent or Additional Rent). Tenant shall cooperate with any janitorial service in keeping the Premises neat and clean. Landlord shall be in no way responsible to Tenant, its agents, employees or invitees, for any loss of property from the Premises or for any damage to property thereon, from any cause.

SCHEDULE 15

ESTOPPEL CERTIFICATE

RE: Premises:_____
Lease Dated:_____
Amendment(s) Dated:_____
Between_____ (Landlord)
and_____ (Tenant)
Square Footage Leased:_____
Floor(s)/Suite #(s):_____

The undersigned, under the above-referenced lease ("Lease"), certifies to the following:

1. Tenant has taken possession of and accepted the Premises described above, except as follows:
_____
_____
_____

2. The lease terms as described below are true and accurate, and the lease is in full force and effect:

Base Rent:_____ per year
Expense Stop:_____ per square foot
Escalations:_____
Free Rent:_____
Commencement Date:_____
Expiration Date:_____
Renewals:_____

3. No part of the Premises has been subleased or assigned except as follows:_____
_____
_____

4. The Rent has been paid through:_____

5. The security deposit is $_____

6. The undersigned is not in default of our obligations under the Lease. To undersigned's actual knowledge, the other party to the Lease is not in default of its obligations under the Lease, and no defense or counterclaim to the payment of Rent or other sums exists.

7. The undersigned individual is duly authorized to execute this certificate.

Date:_____, 200__

Signed:_____
(Signature

_____
(Print Name & Title)

SCHEDULE 50
Form of Guaranty

In consideration of SULZER METCO (US) INC. ("Landlord") entering into a lease dated as of October 1, 2003 (the "Lease") for the entire second (2nd) floor of the building located at 1101 Prospect Avenue, Westbury, New York 11590 with EXCEL IMPORTING CORP.("Tenant"), the undersigned, Mickelberry Communications, Incorporated ("Guarantor"), covenants and agrees with Landlord as follows:

1. Guarantor unconditionally guarantees that all rentals and all sums, costs, expenses, charges, payments and deposits (including sums payable as damages upon a default under the Lease) which are at any time payable by Tenant under the provisions of the Lease will be paid when due (whether at the stated due date or by acceleration or otherwise) in accordance with the provisions of the Lease during the original term of the Lease and any extensions or renewals thereof. If any default shall be made by Tenant under the Lease and subject to the notice and right to cure provision below, Guarantor shall pay, and hereby agrees to pay Landlord such rentals, sums, costs, expenses, charges, payments and deposits, and shall satisfy all covenants to be performed by Tenant thereunder.

2. Landlord shall not be required to take any steps to enforce any rights against Tenant or any other person to compel observation or performance of any of the covenants and conditions of the Lease prior to requiring Guarantor to observe and perform such covenants and conditions of the Lease.

3. Guarantor does further covenant and agree to pay all of Landlord's expenses, including attorneys' fees, incurred in enforcing Tenant's obligations or in enforcing this Guaranty.

4. Guarantor does further covenant and agree that the Landlord may from time to time during the term of the Lease or any extension or renewal thereof modify, change or alter any of the terms of the Lease by agreement with the Tenant without notice to the Guarantor and the Guarantor shall not be relieved of is liabilities hereunder as a result of such modifications, changes or alterations, it being expressly understood and agreed that Guarantor will recognize and by bound by any such modifications, changes or alterations to the extent as though each modification, change or alteration had been part of the Lease as originally drawn.

5. All of the provisions of this Guaranty shall inure to the benefit of Landlord, its successors or assigns.

6. Notwithstanding anything to the contrary contained in the Guaranty or the Lease, no breach or default of the Lease or of this Guaranty shall be deemed to have occurred until the Guarantor has received written notice of the alleged breach or event of default from the Landlord and Guarantor has had a right to cure said alleged breach or event of default for ten (10) for breaches or events of default to pay rent or for thirty (30) days to commence to cure all other breaches or events of default. Said notice shall be written and shall contain specific detail to adequately describe the alleged breach or event of default. All notices to Guarantor shall be sent to Mickelberry Communications Incorporated, ATTN: President, 405 Park Avenue, New York, New York, 10022; fax: 212-832-0554. All notices will be deemed to have been duly given and received when (i) delivered by hand (with written confirmation of receipt); (ii) sent by telecopier (with written confirmation of receipt) provided that a copy is mailed by certified mail, return receipt requested; (iii) when received if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate address and telecopier number or to the address and telecopier number that Guarantor may subsequently notify Landlord.

Dated this 1st day of October, 2003

GUARANTOR:
Mickelberry Communications Incorporated

By: _____

Title: President & COO

State of NY

County of NY

The foregoing instrument was acknowledged before me this 8th day of October, 2003.

Nancy Warlikowski

Notary Public

My Commission expires: NANCY J. WARLIKOWSKI
Notary Public, State of New York
No. 01WA6017135
Qualified in New York County
Cert. filed in New York County
Commission Expires August 30, 2007

Document comparison done by DeltaView on Thursday, September 25, 2003 16:48:08

Document 1	pcdocs://gcdoc_1/237940/2
Document 2	pcdocs://gcdoc_1/237940/3
Rendering set	Standard

Insertion
~~Deletion~~
~~Moved from~~
Moved to
Style change
Format change
~~Moved deletion~~
Inserted cell
Deleted cell
Moved cell
Split/Merged cell
Padding cell

	Count
Insertions	39
Deletions	15
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	54

IDA Lease Agreement

SULZER

Sulzer US Holding Inc.
555 Fifth Avenue
New York, NY 10017
Phone (212) 949-0999
Fax (212) 661-0533

FAX

Date: 7/28/03

# of pages ..... (including cover)

To: Denise Pursley

Fax # ...../.....

From: Rick Rudolf

Tel. # 212 / 381-.....
Fax # 212 / 661-0533

Copy: .....

The information in this facsimile message is confidential and intended only for the use of the individual identified above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the US Postal Service.

NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

AND

SULZER METCO (US) INC.

LEASE AGREEMENT

Dated as of June 1, 1998

Up to $10,000,000
Nassau County Industrial Development Agency
Industrial Development Revenue Bonds
(1998 Sulzer Metco (US) Inc. Project)

TABLE OF CONTENTS

Page

ARTICLE I
Definitions and Representations

Section 1.1.	Definitions	I-1
Section 1.2.	Construction	I-9
Section 1.3.	Representations and Warranties by Agency	I-10
Section 1.4.	Findings by Agency	I-10
Section 1.5.	Representations and Warranties by Lessee	I-10

ARTICLE II
The Project

Section 2.1.	The Project	II-1
Section 2.2.	Completion by Lessee	II-2
Section 2.3.	Issuance of Bonds	II-3
Section 2.4.	Title Insurance	II-4
Section 2.5	Limitation on Sales Tax Exemption	II-4

ARTICLE III
Lease of Facility and Rental Provisions

Section 3.1.	Lease of the Facility	III-1
Section 3.2.	Duration of Term	III-1
Section 3.3.	Rental Provisions; Pledge of Agreement and Rent	III-1
Section 3.4.	Obligation of Lessee Unconditional	III-2

ARTICLE IV
Maintenance, Taxes,
Payments in Lieu of Taxes
and Insurance

Section 4.1.	Maintenance, Alterations and Improvements	IV-1
Section 4.2.	Removal of Property from the Facility	IV-2
Section 4.3.	Payment in Lieu of Real Estate Taxes	IV-4
Section 4.4.	Taxes, Assessments and Charges	IV-4
Section 4.5.	Insurance	IV-5
Section 4.6.	Advances by Agency	IV-8
Section 4.7.	Compliance with Law	IV-8

Page

ARTICLE V
Damage, Destruction and Condemnation

Section 5.1. Damage, Destruction and Condemnation V-1

ARTICLE VI
Particular Covenants

Section 6.1. Restrictions on Lessee VI-1
Section 6.2. Indemnity VI-1
Section 6.3. Compensation and Expenses of Trustee, Bond Registrar, Paying Agents and Agency VI-4
Section 6.4. Retention of Title to Facility; Grant of Easements; Release of Certain Land VI-4
Section 6.5. [Reserved] VI-5
Section 6.6. Financial Statements; No-Default Certificates VI-5
Section 6.7. Discharge of Liens VI-6
Section 6.8. Agency's Authority; Covenant of Quiet Enjoyment VI-7
Section 6.9. No Warranty of Condition or Suitability VI-7
Section 6.10. Amounts Remaining in Funds VI-8
Section 6.11. Issuance of Additional Bonds VI-8
Section 6.12. [Reserved] VI-8
Section 6.13. Redemption Under Certain Circumstances; Special Covenants VI-8
Section 6.14. Further Assurances VI-9
Section 6.15. Employment Information; Equal Employment Opportunities VI-9
Section 6.16. Recording and Filing VI-10
Section 6.17. Right to Cure Agency Defaults VI-10

ARTICLE VII
Events of Default; Remedies

Section 7.1. Events of Default VII-1
Section 7.2. Remedies on Default VII-2
Section 7.3. Remedies Cumulative VII-4
Section 7.4. No Additional Waiver Implied by One Waiver VII-4
Section 7.5. Effect of Discontinuance of Proceedings VII-4
Section 7.6. Agreement to Pay Attorneys' Fees and Expenses VII-4

Page

ARTICLE VIII
Options

		VIII-1
Section 8.1.	Options	VIII-2
Section 8.2.	Conveyance on Exercise of Option to Purchase	VIII-3
Section 8.3.	Option to Purchase or Invite Tenders of Bonds	VIII-3
Section 8.4.	Termination of Agreement	VIII-3
Section 8.5.	Recapture of Agency Benefits	

ARTICLE IX
Miscellaneous

		IX-1
Section 9.1.	Indenture; Amendment	IX-1
Section 9.2.	Force Majeure	IX-1
Section 9.3.	Assignment or Sublease	IX-2
Section 9.4.	Priority of Indenture and PILOT Mortgage	IX-2
Section 9.5.	Benefit of and Enforcement by Bondholders	IX-2
Section 9.6.	Amendments	IX-3
Section 9.7.	Notices	IX-3
Section 9.8.	Prior Agreements Superseded	IX-3
Section 9.9.	Severability	IX-3
Section 9.10.	Inspection of Facility	IX-3
Section 9.11.	Effective Date; Counterparts	IX-3
Section 9.12.	Binding Effect	IX-4
Section 9.13.	Net Lease	IX-4
Section 9.14.	Law Governing	IX-4
Section 9.15.	Investment of Funds	IX-4
Section 9.16.	Investment Tax Credit	IX-4
Section 9.17.	Waiver of Trial by Jury	IX-5
Section 9.18.	Non-Discrimination	IX-5
Section 9.19.	No Recourse under This Agreement or on Bonds	
Section 9.20.	Date of Agreement for Reference Purposes Only	

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of June 1, 1998, by and between NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "Agency"), having its principal office at 1550 Franklin Avenue, Mineola, New York 11501, party of the first part, and SULZER METCO (US) INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware (the "Lessee"), having its principal office at 1101 Prospect Avenue, Westbury, New York 11590, party of the second part:

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes and which may include or mean an industrial pollution control facility to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act the Agency was established by Chapter 674 of the 1975 Laws of New York, as amended (together with the Enabling Act, the "Act") for the benefit of the County of Nassau and the inhabitants thereof; and

WHEREAS, to accomplish the purposes of the Act, the Agency has entered into negotiations with the Lessee to induce the Lessee to commence with the construction, renovation and equipping of two certain manufacturing facilities (collectively, the Facility) consisting of the construction of an approximately 30,000 square foot expansion to the Lessee's facility at 1101 Prospect Avenue, Westbury, New York (the "Westbury Facility"), the construction of renovations and improvements to each of the Westbury Facility and the Lessee's facility at 220 Miller Place, Hicksville, New York (the "Hicksville Facility"), and the acquisition and installation of machinery, equipment and furnishings at each of the Westbury Facility and the Hicksville Facility, all for use in the manufacturing of thermal energy systems and components and related products (collectively, the "Project"), for sale to the Agency and lease to the Lessee; and

WHEREAS, Agency financial assistance and related agency benefits are necessary to provide employment in, and are beneficial for the economy of, the County of Nassau and are reasonably necessary to induce the Lessee to proceed with the Project; and

WHEREAS, the Agency, in order to provide funds for a portion of the cost of the Project and for incidental and related costs thereto, will issue and sell its Industrial Development Revenue Bonds (1998 Sulzer Metco (US) Inc. Project) in the aggregate principal amount of $10,000,000 (the "Bonds") pursuant to the Act, a resolution of the Agency adopted on May 13, 1998, and an Indenture of Trust of even date herewith by and between the Agency and United States Trust Company of New York, as Trustee, securing said Bonds;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not subject the Agency to any pecuniary or other liability nor create a debt of the State of New York or of the County of Nassau, and neither the State of New York nor the County of Nassau shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals, revenues and receipts derived from or in connection with the Facility, including moneys received under this Lease Agreement):

ARTICLE I
Definitions and Representations

Section 1.1. Definitions. Terms not otherwise defined herein shall have the same meanings as used in the Indenture hereinbelow defined. The following terms shall have the following meanings in this Lease Agreement:

Act shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York), as amended, and Chapter 674 of the 1975 Laws of New York, as amended.

An Affiliate of a Person shall mean a Person which directly or indirectly through one or more intermediaries controls, or is under common control with, or is controlled by, such Person. The term "control" (including the related terms "controlled by" and "under common control with") means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, (ii) the ownership, either directly or indirectly, of at least 50% of the voting stock or other equity interest of such Person, and (iii) the possession, directly or indirectly, of the power to make decisions regarding the hiring, firing, compensating and promoting of the employees of such Person.

Agency shall mean the Nassau County Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agency's Reserved Rights shall mean, collectively,

(i) the right of the Agency in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Agency under this Agreement;

(ii) the right of the Agency to grant or withhold any consents or approvals required of the Agency under this Agreement;

(iii) the right of the Agency to enforce or otherwise exercise in its own behalf all agreements of the Lessee with respect to ensuring that the Facility shall always constitute a qualified "project" as defined in and as contemplated by the Act for the general purposes set forth in the recitals to this Agreement;

(iv) the right of the Agency in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise

exercise its rights under Sections 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 3.1, 3.2, 3.4, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 5.1, 6.1, 6.2, 6.3, 6.4, 6.6, 6.7(b), 6.11, 6.13, 6.14, 6.15, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 8.4, 8.5, 9.2, 9.3, 9.10, 9.13, 9.17, 9.18 and 9.19 of this Agreement;

(v) the right of the Agency, in its own absolute discretion, but only upon the prior written request of the Lessee, to issue Bonds in an aggregate principal amount not to exceed $10,000,000; and

(vi) the right of the Agency in its own behalf to declare an Event of Default under Section 7.1 of this Agreement with respect to any of the Agency's Reserved Rights.

Agreement shall mean this Lease Agreement, dated as of June 1, 1998, between the Agency and the Lessee, and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith and with the Indenture.

Authorized Representative shall mean, (i) in the case of the Agency, the Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary or Executive Director of the Agency, or any officer or employee of the Agency authorized to perform specific acts or to discharge specific duties, and (ii) in the case of the Lessee, the Chairman, any Vice Chairman, the President, the Chief Financial Officer, the Chief Executive Officer, the Chief Administrative Officer, the Chief Operating Officer, the Secretary, any Executive Vice President, any Senior Vice President, the General Counsel, the Treasurer, any Assistant Treasurer or any Vice President of the Lessee; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of this Agreement, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

Bonds shall mean the Agency's Industrial Development Revenue Bonds (1998 Sulzer Metco (US) Inc. Project) authorized to be issued from time to time, in one or more Series, pursuant to Certificates of Determination, the Bond Resolutions and the Indenture, in the aggregate principal amount not to exceed Ten Million Dollars ($10,000,000).

Bond Resolution shall mean the resolutions of the Agency adopted on May 13, 1998, authorizing, among other things, the issuance from time to time of the Bonds.

Bond Supplemental Indenture shall mean the Bond Supplemental Indenture of Trust of even date herewith between the Agency and the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Business Day shall mean any day which shall not be a Saturday, Sunday, legal holiday or a day on which banking institutions in The City of New York are authorized by law or executive order to close.

Certificate of Determination shall mean a Certificate of Determination of the Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Executive Director, Secretary or Assistant Secretary of the Agency, substantially in the form set forth in the Appendices attached to the Indenture as Form of Certificate of Determination, with respect to, and as a condition for the issuance of, a Series of Bonds.

Code shall mean the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

County shall mean the County of Nassau, New York.

Defeasance Securities shall mean Government Securities.

Eligible Materials shall mean all construction materials used in the construction of the Facility Realty and all tangible personal property, in each case acquired by the Lessee as agent for and on behalf of the Agency pursuant to the Sales Tax Letter in connection with the Project on or before the completion of the Project for incorporation in, or installation or use at, the Facility Realty.

Event of Default shall have the meaning specified in Section 7.1 hereof.

Excluded Property shall mean all machinery, equipment and other tangible personal property as constitute the Lessee's Property.

Existing Project Property shall have the meaning specified in Section 4.2(a) hereof.

Facility shall mean, collectively, the Facility Realty and the Facility Equipment of both the Westbury Facility and the Hicksville Facility.

Facility Equipment shall mean the machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property financed, paid or reimbursed in whole from the proceeds of the Bonds and the title to which shall be acquired by or on behalf of the Agency for use or installation, as the case may be, at the Facility Realty as part of the Project pursuant to Section 2.1 hereof, and described in the Description of Facility Equipment in the appendices attached hereto, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Equipment shall, in accordance with the provisions of Sections 4.2 and 5.1 hereof, include all property substituted for or replacing items of Facility Equipment and exclude all items of Facility Equipment so substituted for or replaced, and further exclude all

items of Facility Equipment removed (other than Temporary Removals) as provided in Section 4.2 hereof. Facility Equipment shall not include rolling stock.

Facility Realty shall mean, collectively, the land described in the Description of Facility Realty in the Appendices hereto, to the Indenture and to the PILOT Mortgage, and all rights or interests therein or appertaining thereto, together with all structures, buildings, foundations, related facilities, fixtures (other than trade fixtures) and other improvements now or at any time made, erected or situated thereon (including the improvements made pursuant to Section 2.1 hereof), and all replacements, improvements, extensions, substitutions, restorations, repairs or additions thereto, but excluding, however, any real property or interest therein released pursuant to Section 6.4 hereof. Facility Realty shall not include Excluded Property.

Federal Bankruptcy Code shall mean the Bankruptcy Reform Act of 1978, as amended (constituting Title 11, United States Code, as amended).

Fiscal Year of the Lessee shall mean a year of 365 or 366 days, as the case may be, commencing on January 1 and ending on December 31, or such other year of similar length as to which the Lessee shall have given prior written notice thereof to the Agency and the Trustee at least ninety (90) days prior to the commencement thereof.

Force Majeure shall have the meaning specified in Section 9.2 hereof.

Government Securities shall mean direct obligations of, or obligations fully guaranteed as to payment of principal and interest by, the United States of America.

Hicksville Facility shall mean the Lessee's facility at 220 Miller Place, Hicksville, New York, and as described in the Description of Facility Realty (Hicksville) in the Appendices hereto.

Indenture shall mean the Indenture of Trust of even date herewith by and between the Agency and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with Article XI of the Indenture.

Initial Bonds shall mean the first Series of Bonds issued under the Indenture.

Interest Payment Date shall mean each date upon which interest, with respect to a Series of Outstanding Bonds, shall be due and payable and shall be the last Business Day of every March, June, September and December.

Lease Commencement Date shall mean the date of original issuance of the Initial Bonds.

Lease Rental Payment Date shall mean each date upon which principal, interest, Redemption Price, if applicable, or other amounts shall be due under the Bonds and shall be three (3) Business Days prior to the Interest Payment Date.

Legal Requirements shall have the meaning specified in Section 4.7 hereof.

Lessee shall mean Sulzer Metco (US) Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, and its permitted successors and assigns pursuant to Sections 6.1 as 9.3 hereof (including any surviving, resulting or transferee corporation as provided in Section 6.1 hereof).

Lessee's Property shall have the meaning specified in Section 4.1(c) hereof.

Liens shall have the meaning specified in Section 6.7(a) hereof.

Loss Event shall have the meaning specified in Section 5.1(a) hereof.

Maximum Sales Tax Benefit shall mean a maximum aggregate amount of sales tax exemptions conferred upon the Lessee pursuant to the Sales Tax Letter and/or this Agreement in an amount not to exceed $981,750 until the earliest of (y) June 30, 2000, and (z) the date of completion of the Project as provided in Section 2.2 of this Agreement.

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount from any such proceeds, award, compensation or damages less all expenses (including attorneys' fees and any extraordinary expenses of the Agency or the Trustee) incurred in the collection thereof.

Opinion of Counsel shall mean a written opinion of counsel who may (except as otherwise expressly provided in the PILOT Agreement, the Lease Agreement or any other Security Document) be counsel for the Lessee or the Agency.

Outstanding, when used with reference to a Bond or Bonds of a particular Series, as of any particular date, shall mean all Bonds of such Series which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds of a Series cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation;

(ii) Any Bond of such Series (or portion of a Bond of such Series) for the payment or redemption of which, in accordance with Section 10.01 of the Indenture, there has been separately set aside and held in a separate account of the Bond Fund moneys and/or Defeasance Securities in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which interest on such Bond to the payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Securities to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice

of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article III of the Indenture.

Paying Agent shall mean any paying agent or co-paying agent for the Bonds (and may include the Trustee) and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture.

Permanent Removals shall have the meaning set forth in Section 4.2(c) hereof.

Permitted Encumbrances shall mean, as of any particular time,

(i) the PILOT Mortgage, the Lease Agreement, the Indenture and any other Security Documents;

(ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not in default;

(iii) utility, access and other easements and rights-of-way, restrictions and exceptions that an Authorized Representative of the Lessee certifies to the Agency and the Trustee will not interfere with or impair the Lessee's use of the Facility as provided in the Lease Agreement;

(iv) such minor defects, irregularities, encumbrances, easements, rights-of-way (including agreements with any railroad the purpose of which is to service a railroad siding) and clouds on title as normally exist with respect to property similar in character to the Facility and as do not, in the Opinion of Counsel, either singly or in the aggregate, materially impair the property affected thereby for the purpose for which it was acquired and held by the Agency under the Lease Agreement;

(v) those exceptions to title to the Facility Realty enumerated in the title insurance policies delivered pursuant to Section 2.4 of the Lease Agreement insuring the Agency's fee title interest in the Facility Realty, copies of which policies are on file at the principal corporate trust office of the Trustee and at the office of the Agency;

(vi) any mechanic's, workers', repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' lien or right in respect thereof if payment is not yet due and payable, all if and to the extent permitted by Section 6.7 of the Lease Agreement; and

(vii) any mortgage, lien, security interest or other encumbrance which exists in favor of the Trustee or to which the Trustee shall consent.

Person shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity.

PILOT Agreement shall mean, collectively, the Payment-in-Lieu-of-Taxes Agreement (Hicksville) and the Payment-in-Lieu-of-Taxes Agreement (Westbury), each of even date herewith, each between the Agency and the Lessee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

PILOT Mortgage shall mean, collectively, the Mortgage and Assignment of Leases and Rents (Hicksville) and the Mortgage and Assignment of Leases and Rents (Westbury), each of even date herewith, each from the Agency and the Lessee to the County with respect to the respective Facility Realty, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Project shall mean the construction and equipping of the Facility more particularly described in the Description of Project in the Appendices hereto.

Project Costs shall mean all costs paid or incurred by the Lessee:

(i) all costs of engineering and architectural services with respect to the Project, including the cost of test borings, surveys, estimates, plans and specifications and for supervising renovation, as well as for the performance of all other duties required by or consequent upon the proper construction of, and the making of alterations, renovations, additions and improvements in connection with, the completion of the Project;

(ii) all costs paid or incurred for labor, materials, services, machinery, equipment, supplies and other expenses and to contractors, suppliers, builders and materialmen in connection with the completion of the Project;

(iii) the interest on the Bonds during the construction of the Project;

(iv) all costs of contract bonds and of insurance that may be required or necessary during the period of Project construction;

(v) the cost of acquisition of the Facility Realty;

(vi) all costs of title insurance as provided in Section 2.4 of the Lease Agreement;

(vii) the payment of the fees and expenses of the Trustee during the period of construction of the Project, legal and financial fees and expenses, and all other costs and expenses incurred by or for the account of the Agency in connection with the preparation, authorization, sale, printing, and issuance of the Bonds, Blue Sky fees and

expenses, and the preparation and execution of the Lease Agreement and the Indenture and all other documents (including Security Documents) in connection therewith or herewith;

(viii) all costs which the Lessee shall be required to pay, under the terms of any contract or contracts, for the completion of the Project, including any amounts required to reimburse the Lessee for advances made for any item otherwise constituting a Project Cost or for any other costs incurred and for work done which are properly chargeable to the Project; and

(ix) all other costs and expenses relating to the completion of the Project.

"Project Costs" shall not include (i) counsel fees of the Lessee or any Affiliate of the Lessee, (ii) fees or commissions of real estate brokers, (iii) moving expenses, (iv) operational costs, (v) the costs of acquiring and installing any item of personalty unless such personalty is a capital tangible asset with a useful life of one year or more, (vi) charges for utilities services, (vii) working capital costs, (viii) management, development or leasing fees or commissions, (ix) costs for rolling stock, (x) costs paid or incurred prior to November 6, 1997, (xi) costs or expenses with respect to property not constituting part of the Facility, (xii) expenses for work done by officers or employees of the Lessee or any Affiliate thereof, (xiii) any costs of landscaping (including but not limited to the costs of acquiring and planting shrubs, trees, flowers, lawns and other plants, as well as the cost of landscape design services, (xiv) the costs of acquiring or leasing rolling stock, (xv) the cost of acquiring and installing fine art, objets d'art, or any other similar decorative items, and (xvi) to the extent not included in the preceding, operating and other working capital costs.

Redemption Price shall mean, with respect to any Bond, the principal amount thereof to be redeemed in whole or in part, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or the Indenture.

Retention Period shall have the meaning specified in Section 4.2(a) hereof.

Series shall mean all of the Bonds designated as being of the same Series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds of the same Series thereafter authenticated and delivered in lieu thereof or in substitution therefore pursuant to the Indenture and a Certificate of Determination.

Sales Tax Letter shall mean the Letter of Authorization for Sales Tax Exemption, which the Agency shall make available to the Lessee in accordance with and substantially in the form set forth in the appendices attached hereto, and shall include all amendments and restatements thereof.

Sales Taxes shall mean Nassau County and New York State sales taxes imposed pursuant to Sections 1105, 1107, 1109 and 1110 of the New York State Tax Law, as each of

the same may be amended from time to time (including any successor provisions to such statutory sections).

Sales Tax Savings shall mean all exemptions of sales taxes realized by the Lessee pursuant to the Sales Tax Letter by reason of the Agency's interest in the Facility or any part thereof.

State shall mean the State of New York.

Supplemental Indenture shall mean any indenture supplemental to or amendatory of the Indenture, executed and delivered by the Agency and the Trustee in accordance with Article XI of the Indenture.

Temporary Removals shall have the meaning specified in Section 4.2(b) hereof.

Trustee shall mean United States Trust Company of New York, New York, New York, in its capacity as Trustee, and its successors in such capacity and their assigns hereafter appointed in the manner provided in the Indenture.

Westbury Facility shall mean the Lessee's facility at 1101 Prospect Avenue, Westbury, New York, and as described in the Description of Facility Realty (Westbury) in the Appendices hereto.

Section 1.2. Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of the execution and delivery of this Agreement.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

Section 1.3. Representations and Warranties by Agency. The Agency makes the following representations and warranties:

(a) The Agency is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State, and is authorized and empowered to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action of its members, the Agency has duly authorized the execution and delivery of this Agreement.

(b) In order to finance a portion of the cost of the Project, the Agency proposes to issue the Bonds in the aggregate principal amount not to exceed Ten Million Dollars ($10,000,000) (subject to the Agency's Reserved Right, upon the prior written request of an Authorized Representative of the Lessee, to issue Bonds in an aggregate principal amount not to exceed $10,000,000) from time to time in various Series, pursuant to the Indenture, the Bond Resolution and a Certificate of Determination for each Series of Bonds. Each Series of Bonds will mature, bear interest, be redeemable and have the other terms and provisions set forth in the Indenture and related Certificate of Determination.

Section 1.4. Findings by Agency. The Agency, based upon the representations and warranties of the Lessee contained in this Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the Lessee to the Agency, hereby finds and determines that the financing of a portion of the costs of the Project by the Agency, the leasing thereof to the Lessee and the providing of certain benefit to the Lessee are reasonably necessary to induce the Lessee to proceed with the Project.

Section 1.5. Representations and Warranties by Lessee. The Lessee makes the following representations and warranties:

(a) The Lessee is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is duly qualified to do business and in good standing under the laws of the State of New York, is not in violation of any provision of its certificate of incorporation or by-laws, has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement. The Lessee is duly qualified to do business in every jurisdiction in which such qualification is necessary.

(b) The execution, delivery and performance of this Agreement, the PILOT Agreement, the PILOT Mortgage and the Sales Tax Letter and the consummation of the transactions herein contemplated have been duly authorized by all requisite corporate action on the part of the Lessee and will not violate any provision of law, any order of any court or agency of government, or the certificate of incorporation or by-laws of the Lessee, or any indenture, agreement or other instrument to which the Lessee is a party or by which it or any of its property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other

instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) Expenses for supervision by the officers or employees of the Lessee, and expenses for work done by such officers or employees in connection with the Project will be included as a Project Cost only to the extent that such Persons were specifically employed for such particular purpose, the expenses do not exceed the actual cost thereof and are to be treated on the books of the Lessee as a capital expenditure in conformity with generally accepted accounting principles applied on a consistent basis.

(d) The assistance of the Agency in the financing of a portion of the costs of the Project is reasonably necessary to induce the Lessee to proceed with the Project.

(e) The completion of the Project will not result in the removal of a plant or facility of the Lessee or any Affiliate from outside the County to within the County or in the abandonment of one or more of such plants or facilities of the Lessee within the State.

(f) The total cost of the Project being funded with the Bonds is at least $10,000,000, which represents only a portion of the total cost to the Lessee.

(g) Any costs incurred with respect to that part of the Project paid from the proceeds of the sale of the Bonds shall be treated on the books of the Lessee as capital expenditures in conformity with generally accepted accounting principles applied on a consistent basis.

(h) The property included in the Facility is either property of the character subject to the allowance for depreciation under Section 167 of the Code, or land.

(i) No part of the proceeds of the Bonds will be used to finance inventory or rolling stock or will be used for working capital or to finance any other cost not constituting a Project Cost.

(j) The Project is included within the definition of "project" under the Act.

(k) This Agreement, the PILOT Agreement, the PILOT Mortgage and the Sales Tax Letter constitute the legal, valid and binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms, except as such enforceability may be limited by equitable principles and by bankruptcy, moratorium, insolvency or other laws affecting creditors' rights generally.

(l) The Project has been designed. and the operation of the Project will be, in compliance with all applicable Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

(m) There is no action or proceeding pending or to the best knowledge of the Lessee threatened by or against the Lessee by or before any court or administrative agency that might adversely affect the ability of the Lessee to perform its obligations under this Agreement, the PILOT Agreement, the PILOT Mortgage and the Sales Tax Letter and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Lessee as of the date hereof in connection with the execution and delivery of this Agreement, the PILOT Agreement, the PILOT Mortgage and the Sales Tax Letter or in connection with the performance of the obligations of the Lessee hereunder and under each of the PILOT Agreement, the PILOT Mortgage and the Sales Tax Letter have been obtained.

(n) The Lessee intends to operate the Facility or cause the Facility to be operated in accordance with this Agreement and as a qualified "project" in accordance with and as defined under the Act.

(o) No part of the proceeds of the Bonds (and no sales or use tax exemptions will be made available under the Sales Tax Letter) will be used to finance a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one third of the total project cost. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under article twenty-eight of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the New York Tax Law; or (ii) sales of a service to such customers.

(p) It shall cause all costs for which a Sales Tax Saving is taken under the Sales Tax Letter to be paid for in whole and/or reimbursed in whole from the proceeds of the Bonds.

ARTICLE II
The Project

Section 2.1. The Project. (a) The Lessee shall cause to be conveyed to the Agency at the time of the delivery and payment of the Bonds good and marketable title in fee simple to the Facility Realty and to such items of the Facility Equipment as shall have been acquired at the time of such delivery and payment, in each case free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances, all against payment therefor by the Agency from the proceeds of the Bonds deposited in the Project Fund to the extent permitted in Section 2.2 hereof and Section 5.02 of the Indenture.

(b) As promptly as practicable after receipt of the proceeds of sale of the Bonds and out of said proceeds of sale, the Lessee will proceed to completion with the Project. The cost of the Project shall be paid from the Project Fund established under the Indenture or as otherwise provided in Section 2.2 hereof. All contractors, materialmen, vendors, suppliers and other companies, firms or persons furnishing labor, services or materials for or in connection with the Project shall be designated by the Lessee.

(c) In order to accomplish the purposes of the Agency, and to assure the effectuation of the Project in conformity with the requirements of the Lessee, the Lessee has undertaken to proceed with the design of the Project, the preparation of the Facility site and the completion of the Project work.

(d) The Lessee shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance and transfer of the Facility to the Agency, the delivery of any instruments and documents and their filing and recording, if required, (ii) all taxes and charges payable in connection with such conveyance and transfer, or attributable to periods prior to the conveyance and transfer, to the Agency as set forth in Section 2.1(a) hereof, and (iii) all shipping and delivery charges and other expenses or claims incurred in connection with the Project.

(e) The Lessee covenants that it will obtain or cause to be obtained all necessary approvals from any and all governmental agencies with respect to the Project, all of which will be done in compliance with all Federal, State and local laws, ordinances and regulations applicable thereto and with the conditions and requirements of all policies of insurance with respect to the Facility and this Agreement. Upon completion of the Project, the Lessee will promptly obtain or cause to be obtained all required occupancy and operation permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement and shall furnish copies of same to the Agency and the Trustee immediately upon receipt thereof.

(f) The Lessee shall take such action and institute such proceedings as shall be necessary to cause and require all contractors and material suppliers to complete their

contracts diligently in accordance with the terms of said contracts, including, without limitation, the correcting of any defective work, with all expenses incurred by the Lessee or the Agency in connection with the performance of their obligations under this Section to be considered a Project Cost. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, if recovered prior to the date of completion of the Project, shall be deposited into the Project Fund and made available for payment of Project Costs, or if recovered after such date of completion, be paid to the Lessee.

(g) Title to all materials, equipment, machinery and other property intended to be incorporated or installed as part of the Facility shall vest in the Agency immediately upon the execution of a contract, bill, invoice or purchase order therefor as agent for the Agency, or payment therefor, whichever shall be so provided in the related contract, invoice, bill or purchase order. The Lessee shall take all action necessary to so vest title to the Facility in the Agency and to protect such title against claims of any third parties.

Section 2.2. Completion by Lessee. The Lessee unconditionally covenants and agrees that it will complete the Project, or cause the Project to be completed, by June 30, 2000, and that such completion will be effected in a first-class workmanlike manner, using high-grade materials, free of defects in materials or workmanship (including latent defects), as applicable, and in accordance with this Agreement and the Indenture. In the event that moneys in the Project Fund are not sufficient to pay the costs necessary to complete the Project in full, the Lessee shall pay that portion of such costs of the Project as may be in excess of the moneys therefor in said Project Fund and shall not be entitled to any reimbursement therefor from the Agency, the Trustee or the Holders of any of the Bonds, nor shall the Lessee be entitled to any diminution of the rents payable or other payments to be made under this Agreement.

Upon the completion of the Project, the Lessee shall deliver to the Agency and the Trustee a certificate of an Authorized Representative of the Lessee stating, except any costs not then due and payable or the liability for payment of which is being contested or disputed in good faith by the Lessee (i) the date of completion of the Project, (ii) that the Project has been completed substantially in accordance with the plans and specifications therefor and in a good and workmanlike manner, and that all labor, services, machinery, equipment, materials and supplies used therefor have been paid for, (iii) that all other facilities necessary in connection with the Project have been completed and all costs and expenses incurred in connection therewith have been paid, (iv) that the Agency has good and valid title to all property constituting part of the Facility and all property of the Facility is subject to this Agreement, and all property of the Facility Realty is subject to the lien and security interest of the PILOT Mortgage, (v) that, in accordance with all applicable laws, regulations, ordinances and guidelines, the Facility has been made ready for occupancy, use and operation for its intended purposes, and (vi) the amount, if any, required in his opinion for the payment of any remaining part of the costs of the Project. Notwithstanding the foregoing, such certificate shall state (x) that it is given without prejudice to any rights of the Lessee against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and Section 5.02 of the Indenture, and (z) that no Person other than the Agency and the

Trustee may benefit therefrom. Such certificate of the Authorized Representative of the Lessee shall be accompanied by (i) a certificate of occupancy or a temporary certificate of occupancy, and any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement; (ii) proof that all real property taxes and assessments, or payment in lieu of taxes payments under the PILOT Agreement, against the Facility Realty have been paid; and (iii) a certificate of the Lessee that all costs of the Project have been paid in full, together with releases of mechanics' liens by all contractors and materialmen who supplied work, labor, services, materials or supplies in connection with the Project.

Section 2.3. Issuance of Bonds. Contemporaneously with the execution and delivery of this Agreement, the Agency proposes to issue the Bonds in the aggregate principal amount not to exceed Ten Million Dollars ($10,000,000) from time to time upon request therefor by an Authorized Representative of the Lessee, in various Series, pursuant to the Indenture, the Bond Resolution and a Certificate of Determination for each Series of Bonds. Each Series of Bonds will mature, bear interest, be redeemable and have the other terms and provisions set forth in the Indenture and the related Certificate and Determination.

(b) Contemporaneously with the execution and delivery of this Agreement, the Agency will sell and deliver the Initial Bonds under and pursuant to the Bond Resolution, a Certificate of Determination and the Indenture. The Lessee shall request the Agency to issue further Series of Bonds from time to time during the term of this Agreement pursuant to Section 2.03 of the Indenture, and the Lessee shall make such requests, deliver such documents, agreements and certificates (all as more fully set forth in the Indenture), and shall pay such costs and expenses as shall enable the Agency to issue each such additional Series of Bonds. It is the intention of the parties hereto to cause the issuance of multiple Series of Bonds beginning on the Lease Commencement Date with the Initial Bonds and thereafter as set forth in Section 2.3(c) below, for the payment and/or reimbursement of Project Costs provided, however, that no further Series of Bonds shall be required to be issued after the receipt by the Lessee of the Maximum Sales Tax Benefit. The proceeds of sale of the Bonds shall be deposited in the Project Fund and applied to the payment of Project Costs in accordance with the provisions of the Indenture. Pending such application, amounts in the Project Fund may be invested as provided in the Indenture.

(c) The Lessee shall cause the Agency to issue in accordance with the Indenture (i) on the Lease Commencement Date at least $100,000 in aggregate principal amount of Bonds, (ii) at least $1,000,000 in aggregate principal amount of Bonds by no later than seven (7) months after the Lease Commencement Date, and (iii) up to $8,900,000 in aggregate principal amount of Bonds by no later than thirteen (13) months after the Lease Commencement Date. Further, the Lessee shall cause the aggregate principal amount of Bonds Outstanding during the term of this Agreement to be not less than $2,000,000 on and after the second anniversary of the Lease Commencement Date.

(d) Subject to the terms of the related Series of Bonds, the Lessee shall have the right to redeem the Bonds in whole or in part, provided, however, that (y) no such

redemption shall cause the principal amount of Bonds remaining Outstanding to violate the provisions of Section 2.3(c) above, and (z) no Series of the Bonds shall be redeemable prior to two (2) years after the date of issuance of such Series of Bonds, except that the amount of such Series of Bonds which was issued to finance the Costs of Facility Equipment having a Retention Period of eighteen months may be so redeemed at the end of such Retention Period, and except in connection with a retirement of all Bonds upon termination of this Agreement in accordance with Articles VII and VIII hereof.

Section 2.4. Title Insurance. Prior to the delivery of the Initial Bonds to the original purchaser(s) thereof, the Lessee will obtain (a) fee title insurance in an amount not less than $1,000,000 insuring the Agency's title to the Facility Realty against loss as a result of defects in the title of the Agency, and (b) mortgagee title insurance in an amount not less than $1,000,000 insuring the County's interest under each respective PILOT Mortgage as holder of a mortgage lien on each respective parcel of the Facility Realty, in each case subject only to Permitted Encumbrances. Any proceeds of such fee title insurance shall be paid to the Lessee and applied to remedy the defect in title. If not so capable of being applied or if any amounts remain, such proceeds shall be paid to the Lessee. Any proceeds of such mortgagee title insurance insuring against loss as a result of defects affecting the County's interest as holder of a mortgage lien on the Facility Realty pursuant to the PILOT Mortgage shall be applied in satisfaction of the indebtedness secured thereby and the balance paid to the Lessee.

Section 2.5 Limitation on Sales Tax Exemption. (a) Any exemption from Sales Taxes resulting from or occasioned by the Agency involvement with the Project shall be limited to purchases of Eligible Materials effected in whole from Bond proceeds by the Lessee as agent for the Agency, it being the intent of the parties that no operating expenses of the Lessee and no purchases of building materials, equipment or other personal property (other than Eligible Materials) shall be subject to an exemption from Sales Taxes because of the Agency involvement with the Project.

(b) The Lessee covenants and agrees that it shall include the following language (through an attached rider or otherwise) in and as part of each contract, agreement, invoice, bill or purchase order entered into by the Lessee as agent for the Agency in connection with the Project:

> "This [contract, agreement, invoice, bill or purchase order] is being entered into by Sulzer Metco (US) Inc., a corporation organized and existing under the laws of the State of Delaware (the "Agent"), as agent for and on behalf of the Nassau County Industrial Development Agency (the "Agency") in connection with a certain project of the Agency for the Agent consisting of the construction of an approximately 30,000 square foot expansion to the Agent's facility at 1101 Prospect Avenue, Westbury, New York (the "Westbury Facility"), the Construction of renovations and improvements to each of the Westbury Facility and the Agent's facility at 220 Miller Place, Hicksville, New York (the

"Hicksville Facility"), and the acquisition and installation of machinery, equipment and furnishings at each of the Westbury Facility and the Hicksville Facility, all for use in the manufacturing of thermal energy systems and components and related products (the "Project"), for sale to the Agency and lease to the Agent. The construction materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property to be used for the Project which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and the County of Nassau if effected in accordance with the terms and conditions set forth in the attached Letter of Authorization for Sales Tax Exemption of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Letter of Authorization for Sales Tax Exemption. The liability of the Agency hereunder is limited as set forth in the Letter of Authorization for Sales Tax Exemption. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges the terms and conditions set forth in this paragraph."

If the Lessee shall fail to include, incorporate by reference or otherwise cause the contract, agreement, invoice, bill or purchase order to be, subject to the above applicable language in substantially the above form, such contract, agreement, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the benefits able to be conferred by the Agency, and the Lessee shall not claim any sales or use tax benefits or exemptions with respect to any such contract, agreement, invoice, bill or purchase order and the Lessee shall return to the Agency any such benefits or exemptions so taken, together with interest on such amount at the rate of twelve percent (12%) per annum, from the date of such taking.

(c) Concurrently with the execution of this Agreement, the Agency shall make available to the Lessee the Sales Tax Letter. The Agency, at the sole cost and expense of the Lessee, shall also execute such other authorizations, letters and documents (and such amendments to the Sales Tax Letter) as may be reasonably necessary to permit the Lessee to obtain the intended benefits hereunder. Subject to the terms of this Agreement, it is intended that the aggregate scope of the Sales Tax Savings received by the Lessee pursuant to this Agreement and the Sales Tax Letter shall be limited in both duration and amount by the Maximum Sales Tax Benefit:

(i) The Sales Tax Letter shall be dated the date of original issuance of the Bonds and shall be effective for a term commencing on its date and expiring upon the earliest of (1) June 30, 2000, (2) the completion of the Project as provided in Section 2.2 hereof, (3) the termination of the Sales Tax Letter pursuant to Section 7.2 hereof,

or (4) such time as the aggregate amount of Sales Tax Savings availed of by the Lessee pursuant to the Sales Tax Letter shall equal $981,750.

(ii) The authorizations set forth in the Sales Tax Letter shall automatically be suspended after notice to the Lessee that the Lessee shall be in default under this Agreement until the Lessee shall pay any amounts due, and perform all of its obligations, with respect to any such default.

(iii) The Sales Tax Savings to be provided pursuant to the Sales Tax Letter

(A) shall not be available for payment of any costs other than Project Costs for Eligible Materials for incorporation into, or installation or location at, the Facility Realty,

(B) shall only be utilized for Eligible Materials which shall be purchased, completed or installed for use only by the Lessee at the Facility Realty until the Maximum Sales Tax Benefit is achieved (and not with any intention to sell, transfer or otherwise dispose of any such Eligible Materials to another Person), it being the intention of the Agency and the Lessee that the Sales Tax Savings shall not be made available with respect to any item of Eligible Materials unless such item is used solely by the Lessee at the Facility Realty,

(C) shall only be available if that portion of the Project Costs for which the Sales Tax Saving is sought is paid for in whole and/or reimbursed in whole from the proceeds of the Bonds,

(D) shall not be available for any item of (i) rolling stock or watercraft, (ii) tangible personal property having a useful life of less than one year, or (iii) computer software unless the computer software is of a type that is capable of being capitalized in accordance with generally accepted accounting principles as a capital expenditure, for use only at the Facility Realty by the Lessee,

(E) shall not be available for any item subsequent to the conferral of the Maximum Sales Tax Benefit of aggregate Sales Tax Savings pursuant to the Sales Tax Letter and this Agreement,

(F) shall not be available for any date subsequent to which the Sales Tax Letter shall have been suspended as provided in Section 2.5(c)(ii) hereof; provided, however, that in the event the Lessee shall thereafter cure any defaults under this Agreement, or the Agency shall thereafter waive such suspension, as applicable, the Sales Tax Savings shall again continue from the date of such cure or such waiver,

(G) shall be available only if purchased by the Lessee as agent for the Agency for use by the Lessee at the Facility Realty,

(H) shall not be available for any tangible movable personal property (including computer software) or trade fixture for use by any Person other than the Lessee at the Facility Realty,

(I) shall not be available for any cost of utilities, cleaning service or supplies,

(J) shall not be available for any item the acquisition of which would otherwise be exempt from Sales Taxes absent involvement by the Agency,

(K) shall not be available subsequent to the termination of this Agreement, and

(L) shall only be available for those costs set forth in Exhibit A to the Sales Tax Letter.

(iv) In the event that the Lessee shall utilize the sales tax exemption authorization provided pursuant to the Sales Tax Letter in violation of the provisions of Section 2.5(c)(iii) hereof, the Lessee shall promptly deliver notice of same to the Agency, and the Lessee shall, upon demand by the Agency, pay to or at the direction of the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of twelve percent (12%) per annum from the date and with respect to the dollar amount for which each such unauthorized sales tax exemption was availed of by the Lessee.

(v) The Lessee shall, within sixty (60) days following the completion of the Project but not later than August 31, 2000, deliver to the Agency a certificate of an Authorized Representative of the Lessee certifying (i) as to each sales tax exemption availed of by the Lessee, the dollar amount of same and the date availed of, and the specific items of Project Costs to which they shall relate, (ii) that all such Sales Tax Savings so availed of were in compliance with the provisions of the Sales Tax Letter and Section 2.5(c) hereof, (iii) that all Project Costs to which Sales Tax Savings shall have been availed of by the Lessee have been paid and/or reimbursed in whole from the proceeds of the Bonds, and (iv) as to the cumulative dollar amount of all Sales Tax Savings availed of by the Lessee from the date of the Sales Tax Letter through the date of such certificate, and whether, and to what extent, the aggregate Sales Tax Savings exceeded the Maximum Sales Tax Benefit.

(vi) The sales tax exemption authorizations provided to the Lessee under the Sales Tax Letter and this Agreement availed of by the Lessee shall extend both to those Project Costs the payment for which shall first be made from the proceeds of the

Bonds as well as to those Project Costs the payment of which is to be reimbursed from the proceeds of the Bonds.

(vii) Upon request by the Agency of, and reasonable notice to, the Lessee, the Lessee shall make available at reasonable times to the Agency all such books and records of the Lessee and require all appropriate officers and employees of the Lessee to respond to reasonable inquiries by the Agency, as shall be necessary to indicate in reasonable detail those costs to which the Lessee shall have utilized the Sales Tax Letter and the dates and amounts so utilized.

(viii) The Lessee shall use its best efforts to obtain covenants to the Agency from each materialman, supplier, vendor or laborer to whom the Sales Tax Letter is presented by the Lessee to the effect that such materialman, supplier, vendor or laborer shall not utilize the Sales Tax Letter for any purpose other than for the acquisition of Eligible Materials for incorporation into, or installation or use at, the Facility Realty.

(d) The Lessee shall observe and comply with the terms and conditions of the Sales Tax Letter.

(e) The Lessee shall annually file a statement (Form ST-340 or any successor or additional mandated form) with the New York State Department of Taxation and Finance, on a form and in a manner and consistent with such regulations as is or may be prescribed by the Commissioner of the New York State Department of Taxation and Finance, of the value of all sales tax exemptions claimed by the Lessee or agents of the Lessee in connection with the Project and the Facility as required by Section 874(8) of the New York State General Municipal Law (as the same may be amended from time to time), including, but not limited to, consultants or subcontractors of such agents, under the authority granted pursuant to this Agreement. The Lessee shall furnish a copy of such annual statement to the Agency at the time of filing with the Department of Taxation and Finance. Should the Lessee fail to comply with the foregoing requirement, the Lessee shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked) without any further action of the parties, the Lessee shall be deemed to have automatically lost its authority as agent of the Agency to purchase Eligible Materials in the Agency's behalf, and shall desist immediately from all such activity, and shall immediately and without demand return to the Agency the Sales Tax Letter issued to the Lessee by the Agency which is in the Lessee's possession or in the possession of any agent of the Lessee. Nothing herein shall be construed as a representation by the Agency that any property acquired as part of the Project is or shall be exempt from sales taxes under the laws of the State.

ARTICLE III
Lease of Facility and Rental Provisions

Section 3.1. Lease of the Facility. The Agency hereby leases to the Lessee and the Lessee hereby leases from the Agency the Facility, all for and during the term herein provided and upon and subject to the terms and conditions herein set forth. The Lessee shall at all times during the term of this Agreement occupy, use and operate the Facility, or cause the Facility to be occupied, used and operated, as a warehousing and distribution facility in accordance with the provisions of the Act and for the general purposes specified in the recitals to this Agreement. The Lessee shall not occupy, use or operate the Facility or allow the Facility or any part thereof to be occupied, used or operated for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

Section 3.2. Duration of Term. The term of this Agreement shall commence on the date of execution and delivery of this Agreement and shall expire on July 1, 2008 or such earlier date as this Agreement may be terminated as hereinafter provided. The Agency hereby delivers to the Lessee and the Lessee hereby accepts sole and exclusive possession of the Facility.

Section 3.3. Rental Provisions; Pledge of Agreement and Rent. The Lessee covenants to make rental payments on each Lease Rental Payment Date directly to the Trustee for deposit in the Bond Fund. Such rental shall be paid during the term of this Agreement in immediately available funds on or prior to each due date for the payment of the principal of, interest and redemption premium, if any, on each Series of Bonds as set forth in the Indenture until the principal of, redemption premium, if any, and interest on the Bonds shall have been fully paid, or provision for the payment thereof shall have been made in accordance with the provisions of Section 10.01 of the Indenture. The amount of each such rental payment shall be an amount sufficient, together with any amounts then available in the Bond Fund at the time of payment of such rental, to enable the Trustee to make payment, on each date on which the payment of the principal of, redemption premium, if any, and interest on the Bonds shall be due, of an amount sufficient to pay when due the total amount of interest or interest and principal (whether at maturity or by redemption or by acceleration or otherwise as provided in the Indenture) and redemption premium, if any, on the Bonds. Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in the Bond Fund is not sufficient to pay the principal of, redemption premium, if any, and interest on the Bonds when due (whether at maturity or by redemption or by acceleration or otherwise as provided in the Indenture), the Lessee shall forthwith pay the amount of such deficiency in immediately available funds to the Trustee for deposit in the Bond Fund and such payment shall constitute rental payments under this Section 3.3. In the event the Lessee should fail to make or cause to be made any of the payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Lessee until the amount not so paid shall have been fully paid. The Lessee shall also pay any amounts stated under the Indenture to be paid by the Lessee.

Pursuant to the Indenture, the Agency shall pledge and assign to the Trustee as security for the Bonds all of the Agency's right, title and interest in this Agreement (except for the Agency's Reserved Rights), including all rental payments under Sections 3.3 and 8.1 hereof, and in furtherance of said pledge the Agency will unconditionally assign such rental payments to the Trustee for deposit in the Bond Fund, in accordance with the Indenture. The Lessee hereby consents to the above-described pledge and assignment.

The Lessee covenants and agrees that it will comply with the provisions of the Indenture with respect to the Lessee, and that the Trustee shall have the power, authority, rights and protections provided in the Indenture. The Lessee further covenants to use its best efforts to cause there to be obtained for the Agency any documents or opinions required of the Agency under the Indenture.

The Lessee shall have the right to make advance rental payments under Section 8.1 of this Agreement to the Trustee for deposit in the Bond Fund as and to the extent provided in the Indenture for redemption of the Bonds, subject to the provisions of Sections 2.6 and 8.1 hereof.

Section 3.4. Obligation of Lessee Unconditional. The obligation of the Lessee to pay the rent and all other payments provided for in this Agreement and to maintain the Facility in accordance with Section 4.1 of this Agreement shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction they or any of them might otherwise have against the Agency, the Trustee, the Holder of any Bond or any other Person whatsoever. For so long as any of the Bonds remain Outstanding, the Lessee will not suspend or discontinue any such payment or terminate this Agreement (other than such termination as is provided for hereunder) for any cause whatsoever, and the Lessee irrevocably waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Lessee under this Agreement except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the rentals or other payments hereunder.

ARTICLE IV
Maintenance, Taxes, Payments in Lieu of Taxes and Insurance

Section 4.1. Maintenance, Alterations and Improvements. (a) During the term of this Agreement, the Lessee will keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility in the manner for which it was designed and intended and contemplated by this Agreement, and will make all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) reasonably necessary to ensure the continuity of the operations of the Lessee at the Facility Realty for the purposes contemplated by this Agreement. All replacements, renewals and repairs shall be made and installed in compliance with the requirements of all governmental bodies. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility and the Lessee hereby agrees to assume full responsibility therefor.

(b) The Lessee shall have the privilege of making such alterations, replacements or repairs of, or additions to, the Facility or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that (i) the usefulness, structural integrity or operating efficiency of the Facility is not impaired, (ii) such additions, alterations, replacements or repairs are effected with due diligence, in a good and workmanlike manner and in compliance with all applicable Legal Requirements, (iii) such additions, alterations, replacements or repairs are promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor, and in order that the Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances, and (iv) such additions, alterations, replacements or repairs do not change the nature of the Facility so that it would not constitute a warehousing and distribution facility and a qualified "project" as defined in and as contemplated by the Act. All alterations of and additions to the Facility shall constitute a part of the Facility, subject to this Agreement, the Indenture and the PILOT Mortgage, and the Lessee shall deliver or cause to be delivered to the Agency appropriate documents as may be necessary to convey title to such property to the Agency and to subject such property to this Agreement and the lien and security interest of the Indenture and the PILOT Mortgage, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Lessee shall have the right to install or permit to be installed at the Facility Realty machinery, equipment and other personal property not constituting part of the Facility Equipment (the "Lessee's Property") without conveying title to such property to the Agency nor subjecting such property to this Agreement. The Agency shall not be responsible for any loss of or damage to the Lessee's Property. The Lessee shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Lessee's Property.

(d) The Lessee shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the Lessee in the Facility or this Agreement except for Permitted Encumbrances. The Lessee covenants that it shall take or cause to be taken all action, including all filing and recording, as may be necessary to ensure that the PILOT Mortgage shall constitute a first mortgage lien on the Facility Realty.

(e) To the extent required by the New York State Finance Law §137, prior to executing any contract with any party for any improvement (as such term is defined in the New York Lien Law) in connection with the Project or the Facility or the provision of any goods or services in connection therewith, and prior to authorizing any party to undertake such improvement (or the provision of such goods and services) without a contract, the Lessee shall deliver to the Agency a copy of the proposed contract therefor along with a bond, in compliance with State Finance Law §137 and otherwise satisfactory to the Agency, guaranteeing prompt payment of monies due all persons furnishing labor or materials for the contractor or his subcontractor in the prosecution of his work provided for in such contract. The Agency shall have no liability or responsibility for the cost of such bond(s). Should the Lessee fail to comply with the foregoing requirement, the Lessee shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked).

Section 4.2. Removal of Property from the Facility. (a) The Lessee acknowledges that the Agency is providing financial assistance for the Project and certain related real estate and sales tax exemptions and other benefits to the Lessee for the purpose of inducing the Lessee to proceed with the Project and to comply with the covenants contained in this Agreement. The aforementioned benefits are being provided solely for the purpose of inducing the Lessee to proceed with the Project in the County at the Facility Realty and not for the purpose of assisting any other facility or any other Person. To this end, the Lessee hereby represents, warrants and covenants to and with the Agency that none of the systems, improvements, machinery, equipment or other property constituting part of the Facility or as may be acquired by the Lessee from time to time in the name of the Agency for installation or location at the Facility Realty, but shall have not yet been delivered to and installed at the Facility Realty (in each case, the "Existing Project Property"), will ever be acquired for any purpose other than for installation and use at or location in the Facility Realty by the Lessee nor, except as permitted below in this Section 4.2, will any of the Existing Project Property ever be removed from the Facility Realty (either on a temporary or permanent basis) prior to the expiration of three years after the installation, incorporation or location of the respective item of Existing Project Property at the Facility Realty (the "Retention Period"), unless (i) in the case of Facility Equipment, simultaneously with such removal either an amount equal to the sales tax that would have been payable at the original time of such purchase with respect to the purchase of such item of Facility Equipment (based upon its fair market value at the time of its removal), but for the Sales Tax Letter, shall be paid by the Lessee to the Agency with respect to the item or items being removed; or (ii) such item of Existing Project Property is being sold or otherwise disposed of to a Person unrelated to the Lessee by reason of such item being obsolete or useless in the operations by the Lessee at the Facility Realty. After the expiration of the Retention

Period, the Lessee may remove, transfer, sell or dispose of any item of Existing Project Property from the Facility Realty at the end of the Retention Period, provided that Facility Equipment shall be deemed removed from the Facility Realty at the end of the Retention Period to the extent that such removal, transfer, sale or disposition will not violate any other covenant or agreement of the Lessee hereunder.

(b) Prior to the expiration of the Retention Period as to any item of Existing Project Property, the Lessee may remove such item from the Facility Realty on a temporary basis ("Temporary Removals") provided, that, no such Temporary Removal shall be effected if

(i) the Facility Realty ceases to be the "permanent location" to which the item of Existing Project Property is to be returned after its temporary off-location use or repair,

(ii) the Temporary Removal is not effected for a good faith business purpose consistent with the business conducted by the Lessee at the Facility Realty, and

(iii) the item of Existing Project Property is to be absent from the Facility Realty for a period in excess of ninety (90) days, subject, however, to any delays as a result of Force Majeure.

Notwithstanding the limitations set forth in paragraph (iii) above, upon the occurrence of an unforeseen event or circumstance unrelated to the financial or economic condition of the Lessee which, in the good faith business judgment of the Lessee has precipitated an emergency condition necessitating the extension of the 90-day Temporary Removal period referred to in clause (iii) above, such Temporary Removal period may be extended for thirty (30) days following the cessation of such emergency condition, provided that the Lessee delivers written notice to the Agency of the event or circumstance precipitating such emergency condition, and use good faith diligent efforts to effect the return of the item of Existing Project Property to the Facility Realty as expeditiously as possible under the circumstances.

(c) Prior or subsequent to the expiration of the Retention Period as to any item of Existing Project Property, the Lessee may remove, transfer, sell or otherwise dispose of such item from a Project Location on a permanent basis ("Permanent Removals") and thereby acquire such item of Existing Project Property from the Agency, provided, that,

(i) the Lessee shall acquire for installation at the Facility Realty (from sources other than the proceeds of Bonds and not through any sales tax exemption pursuant to the Sales Tax Letter) a substitute or replacement item of property having equal or greater utility and capability (or having a comparable lesser utility or capability if the Lessee's business needs have diminished) as the item of Existing Project Property being permanently removed from the Facility Realty, and conveys title to such substitute or replacement item of property to the Agency as part of the Facility and thereby subjects such property to the leasehold estate of this Agreement as if originally acquired as part of the Facility; or

(ii) if the Lessee shall seek to effect a Permanent Removal of Existing Project Property for reasons other than as permitted in Section 4.2(a)(ii) or 4.2(c)(i) above, and such Permanent Removal is occasioned by unforeseen circumstances but in accordance with a good faith business purpose on the part of the Lessee and not as part of any systematic or programmatic transfer of Existing Project Property from the Facility Realty, the Lessee may on an occasional and immaterial basis effect such Permanent Removal; provided that the Lessee shall deliver to the Agency, (y) a certificate of an Authorized Representative of the Lessee confirming that such Permanent Removal is being effected in a manner and for a purpose consistent with the conditions permitting such Permanent Removal as provided above in this Section 4.2(c)(ii) and not in violation of any other covenant, condition or agreement on the part of the Lessee hereunder, and (z) an amount, certified as correct by an Authorized Representative of the Lessee, of the sales tax that would have been payable at the time of original purchase based upon the fair market value thereof at the time of its removal.

(d) Notwithstanding the foregoing, the Lessee shall effect no Temporary Removals or Permanent Removals of Existing Project Property from the Facility Realty if any such removal would change the nature of the Facility as a warehousing and distribution and a qualified "project" as defined under the Act.

(e) Upon the written request of an Authorized Representative of the Lessee, the Agency shall deliver to the Lessee appropriate documents conveying to the Lessee all of the Agency's right, title and interest in any of the Existing Project Property removed from the Facility Realty pursuant to this Section 4.2. The Lessee shall pay all reasonable costs and expenses (including reasonable counsel fees) incurred in connection with such removal and any substitution or replacement.

(f) The removal from the Facility Realty of any Existing Project Property pursuant to the provisions of this Section 4.2 shall not entitle the Lessee to any abatement or reduction in the rentals and other amounts payable by the Lessee under this Agreement, the PILOT Agreement or the PILOT Mortgage.

Section 4.3. Payment in Lieu of Real Estate Taxes. The Lessee covenants and agrees to pay full real estate taxes on the Facility Realty until that date(s) upon which the Facility Realty shall become exempt real estate pursuant to the PILOT Agreement. The Lessee agrees to make all of its payments in lieu of real estate taxes and perform all of its obligations, covenants and agreements pursuant to the PILOT Agreement.

Section 4.4. Taxes, Assessments and Charges. The Lessee shall pay when the same shall become due all taxes (except to the extent that the Lessee shall have made payments in lieu in respect thereof as provided in the PILOT Agreement) and assessments, general and specific, if any, levied and assessed upon or against the Facility, this Agreement, any estate or interest of the Agency or the Lessee in the Facility, or the rentals hereunder during the term of this Agreement, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or

extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility, all of which are herein called "Impositions". The Agency shall promptly forward to the Lessee any notice, bill or other statement received by the Agency concerning any Imposition. The Lessee may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance. The Lessee acknowledges that the provisions of section 412-a of the New York Real Property Tax Law and section 874 of the New York General Municipal Law do not entitle the Agency to exemption from water and sewer charges, special assessments and special ad valorem levies.

In the event the Facility is exempt from Impositions solely due to the Agency's ownership of the Facility, the Lessee shall pay all Impositions to the appropriate taxing authorities equivalent to the Impositions which would have been imposed on the Facility if the Lessee were the owner of record of the Facility.

The Lessee may at its sole cost and expense and in good faith commence and prosecute proceedings to contest the amount or validity or application, in whole or in part, of any such Imposition (upon prior written notice to the Agency and the Trustee), provided, that, (i) if the Lessee withholds payment, such proceeding shall suspend the execution or enforcement of any lien arising from the non-payment of such Imposition against the Facility or any part thereof or any interest therein or in this Agreement or the PILOT Agreement of the Agency, the Lessee or the Trustee or against any of the rentals or other amounts payable under this Agreement or the PILOT Agreement, (ii) neither the Facility nor any portion thereof or interest therein would be in any danger of being sold, forfeited or lost, and (iii) neither the Lessee, the Agency nor the Trustee would be in any danger of any civil or any criminal liability for failure to pay such Imposition.

Section 4.5. Insurance.

(a) At all times throughout the term of this Agreement, including without limitation during any period of construction or reconstruction of the Facility, the Lessee shall maintain insurance, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Lessee, including, without limitation:

(i) Coverage therein for "completion and/or premises occupancy" during any period of construction or reconstruction of the Facility, and coverage for property damage insurance, all of which insurance shall include coverage for removal of debris, insuring the buildings, structures, facilities, fixtures and other property constituting a part of the Facility against loss or damage to the Facility by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall

be sufficient to prevent the Lessee, the Agency or the Trustee from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than 80% of the actual replacement value of the Facility as determined by a qualified insurance appraiser or insurer not less often than once every year, at the expense of the Lessee; any such insurance may provide that the insurer is not liable to the extent of the first $50,000 with the result that the Lessee is its own insurer to the extent of $50,000 of such risks;

(ii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Facility and the business thereby conducted in a minimum amount of $10,000,000, which insurance (A) will also provide coverage of the Lessee's obligations of indemnity under Section 6.2 hereof (excluding, however, those obligations of the Lessee set forth in Section 6.2(a)(i) and (v) hereof and, to the extent not otherwise reasonably available, in Section 6.2(c) hereof), and (B) may be effected under overall blanket or excess coverage policies of the Lessee or any Affiliate thereof, provided, however, that at least $1,000,000 is effected by a comprehensive liability insurance policy;

(iii) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Lessee or the Agency is required by law to provide covering loss resulting from injury, sickness, disability or death of the employees of the Lessee, or any contractor or subcontractor performing work with respect to the Facility; the Lessee shall require that all said contractors and subcontractors shall maintain all forms or types of insurance with respect to their employees required by laws; and

(iv) Such other insurance in such amounts and against such insurable hazards as the Agency or the Trustee from time to time may reasonably require.

(b) All insurance required by Section 4.5(a) above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall

(i) designate (except in the case of workers' compensation insurance) the Lessee, the Trustee and the Agency as additional insureds as their respective interests may appear;

(ii) provide that all insurance proceeds with respect to loss or damage to the property of the Facility be endorsed and made payable to the Lessee and shall name the Lessee as a loss payee under the standard loss payee clause, which insurance proceeds shall be paid over to the Lessee and applied as provided in Section 5.1 hereof;

(iii) provide that there shall be no recourse against the Agency or the Trustee for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iv) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency or the Trustee to the extent that such other insurance provides the Agency or the Trustee, as the case may be, with contingent and/or excess liability insurance with respect to its respective interest as such in the Facility;

(v) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency or the Trustee until at least thirty (30) days after receipt by the Agency and the Trustee, respectively, of written notice by such insurers of such cancellation, lapse, expiration, reduction or change;

(vi) waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy; and

(vii) contain such other terms and provisions as any owner or operator of facilities similar to the Facility would, in the prudent management of its properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Facility owned or operated by it.

(d) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Facility shall be paid to the Lessee and applied in accordance with Section 5.1 hereof.

(e) On the Lease Commencement Date, the Lessee shall deliver or cause to be delivered to the Agency and the Trustee duplicate copies of insurance policies and/or binders and/or certificates evidencing compliance with the insurance requirements of this Section 4.5. At least seven (7) Business Days prior to the expiration of any such policy, the Lessee shall furnish the Agency and the Trustee with evidence that such policy has been renewed or replaced or a certificate of an Authorized Representative of the Lessee to the effect that such insurance is no longer required by this Agreement.

(f) The Lessee shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Agency or the Trustee to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.5. The Lessee shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.5 would or might be suspended or impaired.

(g) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE BUSINESS OR INTEREST OF THE LESSEE.

Section 4.6. Advances by Agency. In the event the Lessee fails to make any payment or perform or observe any obligation required of it under this Agreement, the Agency, after first notifying the Lessee of any such failure on its part, may (but shall not be obligated to), and without waiver of any of the rights of the Agency under this Agreement, the PILOT Agreement, the Indenture or any other Security Documents, make such payment or otherwise cure any failure by the Lessee to perform and observe its other obligations hereunder. All amounts so advanced therefor by the Agency shall become an additional obligation of the Lessee to the Agency, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum from the date advanced, the Lessee will pay upon demand therefor by the Agency. Any remedy herein vested in the Agency, the Trustee or Bondholders for the collection of the rental payments or other amounts due hereunder shall also be available to the Agency for the collection of all such amounts so advanced.

Section 4.7. Compliance with Law. The Lessee agrees that it will, throughout the term of this Agreement and at its sole cost and expense, promptly observe and comply with all federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Lessee, any occupant, user or operator of the Facility or any portion thereof (including without limitation those relating to zoning, land use, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) (the "Legal Requirements"), and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessee will not, without the prior written consent of the Agency and the Trustee, initiate, join in or consent to any private restrictive covenant, zoning ordinance, or other public or private restrictions, limiting or defining the uses which may be made of the Facility or any part thereof. The Lessee shall indemnify and hold harmless the Indemnified Parties (as defined in Section 6.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure to comply with any Legal Requirement or (b) imposed upon the Lessee or any of the Indemnified Parties by any Legal Requirement; in case any action or proceedings is brought against any of the Indemnified Parties in respect to any Legal Requirement, the Lessee shall upon notice from any of the Indemnified Parties defend such action or proceeding by counsel reasonably satisfactory to the Indemnified Party.

The Lessee may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, and (ii) such contest shall not result

in the Lessee, the Agency or the Trustee being in any danger of any civil or criminal liability for failure to comply therewith.

ARTICLE V
Damage, Destruction and Condemnation

Section 5.1. Damage, Destruction and Condemnation.

(a) In the event that at any time during the term of this Agreement the whole or part of either of the Westbury Facility or the Hicksville Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement between the Agency and those authorized to exercise such right, or if the temporary use of either Facility shall be so taken by condemnation or agreement (a "Loss Event"):

(i) the Agency shall have no obligation to rebuild, replace, repair or restore such affected Facility,

(ii) there shall be no abatement, postponement or reduction in the rent or other amounts payable by the Lessee under this Agreement, the applicable PILOT Mortgage or the applicable PILOT Agreement, and

(iii) the Lessee will promptly give written notice of such Loss Event to the Agency and the Trustee, generally describing the nature and extent thereof.

(b) Upon the occurrence of a Loss Event, the Net Proceeds derived therefrom with respect to such affected Facility shall be paid to the Lessee, and the Lessee (except to the extent provided in Section 5.1(e) hereof), shall either exercise its option to purchase such Facility and make advance rental payments to redeem the allocable portion of the Bonds in whole and terminate this Agreement (to the extent provided in the Bond Supplemental Indenture), if appropriate, or at its own cost and expense (except to the extent paid from the Net Proceeds) or from other moneys available to it

(i) as to each item of damaged or destroyed Facility Equipment, either (y) promptly and diligently replace such item to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent utility, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Lessee shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency, the Trustee, any Holder of any of the Bonds or any other Person, nor shall the rent or other amounts payable by the Lessee under this Agreement, the applicable PILOT Mortgage or the applicable PILOT Agreement be abated, postponed or reduced, or (z) discard or otherwise dispose of such item for use other than by the Lessee or any Affiliate thereof, and not replace, repair or restore the same; and

(ii) as to either of the Facility Realty, promptly and diligently replace, repair or restore such Facility Realty to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent utility, value, operating efficiency

and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Lessee shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency, the Trustee, any Holder of any of the Bonds or any other Person, nor shall the rent or other amounts payable by the Lessee under this Agreement, the applicable PILOT Mortgage or the applicable PILOT Agreement be abated, postponed or reduced.

Not later than one ninety (90) days after the occurrence of a Loss Event, the Lessee shall advise the Agency and the Trustee in writing of the action to be taken by the Lessee under this Section 5.1(b), a failure to so timely notify being deemed an election to replace, repair or restore the Facility.

(c) All such rebuilding, replacements, repairs or restorations shall

(i) automatically be deemed a part of the applicable Facility and owned by the Agency and be subject to this Agreement and the lien and security interest of the respective PILOT Mortgage,

(ii) not change the nature of the Facility as a qualified "project" as defined in and as contemplated by the Act, and

(iii) be effected with due diligence in a good and workmanlike manner, in compliance with all applicable Legal Requirements and be promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor.

(d) The Agency, the Trustee and the Lessee shall cooperate and consult with each other in all matters pertaining to the settlement, compromising, arbitration or adjustment of any claim or demand on account of any Loss Event, and the settlement, compromising, arbitration or adjustment of any such claim or demand shall be subject to the approval of the Lessee and the Trustee (such approvals not to be unreasonably withheld).

(e) If all or substantially all of either of the Facility shall be taken or condemned, or if the taking or condemnation renders such Facility unsuitable for use by the Lessee as contemplated hereby, the Lessee shall exercise its option to purchase such Facility pursuant to Section 8.1 hereof, and the Lessee shall pay to the Trustee for deposit in the Bond Fund an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the allocable portion of the Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and to pay the expenses of redemption, the fees and expenses of the Agency, the Bond Registrar, the Trustee and the Paying Agents, together with all other amounts due under the Indenture, the applicable PILOT Agreement and under this Agreement, and such amount shall be applied, together with such other available moneys in such Bond Fund, if applicable, to such redemption or retirement of the allocable portion of the Bonds on said redemption or maturity date.

(f) The Lessee shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to improvements, machinery, equipment or other property installed on or about the applicable Facility Realty but which, at the time of such damage or taking, is not part of the applicable Facility nor subject to the respective PILOT Mortgage and is owned by the Lessee.

(g) The Lessee hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE VI
Particular Covenants

Section 6.1. Restrictions on Lessee. The Lessee agrees that at all times during the term of this Agreement it will (i) maintain its corporate existence; (ii) continue to be a corporation 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 as a foreign corporation in the State; (iii) not sell, transfer, pledge or otherwise encumber all or substantially all of the assets which constitute the Facility; (iv) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the execution and delivery of this Agreement; and (v) not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it. The Lessee may, however, without violating the foregoing, consolidate with or merge into another corporation, or permit one or more corporations to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such corporation (and thereafter liquidate, wind-up or dissolve or not, as the Lessee may elect) if (i) the Lessee is the surviving, resulting or transferee corporation, as the case may be, or (ii) in the event that the Lessee is not the surviving, resulting or transferee corporation, as the case may be, such corporation (A) is a solvent corporation 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 as a foreign corporation in the State, (B) assumes in writing all of the obligations of the Lessee contained in this Agreement, the PILOT Mortgage and the PILOT Agreement and in the Opinion of Counsel, such corporation shall be bound by all of the terms applicable to the Lessee of this Agreement, the PILOT Mortgage and the PILOT Agreement.

The Lessee further covenants and agrees that it is and throughout the term of this Agreement will continue to be duly qualified to do business in the State and that any corporation succeeding to the rights of the Lessee under this Agreement shall be and continue to be duly qualified to do business in the State.

Section 6.2. Indemnity. (a) The Lessee shall at all times protect and hold the Agency, the Trustee, the Bond Registrar and the Paying Agents (collectively, the "Indemnified Parties") harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to any Indemnified Party, losses arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or about the Facility or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Facility and the marketing, issuance, sale and remarketing of the Agency's Bonds for such purpose, (ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, (iii) any defects (whether latent or patent) in the Facility, (iv) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion thereof, or (v) this Agreement, the Sales

If SMUS
[illegible]

Tax Letter, the PILOT Agreement, the PILOT Mortgage, the Indenture or any other Security Document or other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby. Such indemnification set forth above shall be binding upon the Lessee for any and all claims, demands, expenses, liabilities and taxes set forth herein and shall survive the termination of this Agreement. No Indemnified Party shall be liable for any damage or injury to the person or property of the Lessee or its directors, officers, employees, agents or servants or persons under the control or supervision of the Lessee, or any other Person who may be about the Facility, due to any act or negligence of any Person other than for the gross negligence or willful misconduct of such Indemnified Party.

(b) The Lessee releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable for and agrees to indemnify and hold each Indemnified Party harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by such Indemnified Party with respect to any of the matters set forth in subdivision (i) through (v) of Section 6.2 (a) hereof or at the direction of the Lessee with respect to any of such matters above referred to. An Indemnified Party shall promptly notify the Lessee in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessee pursuant to this Section 6.2; such notice shall be given in sufficient time to allow the Lessee to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee under this Section 6.2.

(c) In addition to and without limitation of all other representations, warranties and covenants made by the Lessee under this Agreement, the Lessee further represents, warrants and covenants that the Lessee has not used Hazardous Materials (as defined hereinafter) on, from, or affecting the Facility in any manner which violates Federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best of the Lessee's knowledge, no prior owner of the Facility or any tenant, subtenant, prior tenant or prior subtenant have used Hazardous Materials on, from, or affecting the Facility in any manner which violates Federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. Without limiting the foregoing, the Lessee shall not cause or permit the Facility or any part of either thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Federal, state and local laws or regulations, nor shall the Lessee cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessee or any tenant or subtenant, a release of Hazardous Materials onto the Facility or onto any other property. The Lessee shall comply with and ensure compliance by all tenants and subtenants with all applicable Federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Lessee shall (i) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean

up and remove all Hazardous Materials, on, from, or affecting the Facility (x) in accordance with all applicable Federal, state and local laws, ordinances, rules, regulations, and policies, (y) to the satisfaction of the Agency and the Trustee, and (z) in accordance with the orders and directives of all Federal, state and local governmental authorities, and (ii) defend, indemnify, and hold harmless each Indemnified Party from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (w) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (x) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (y) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or (z) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Agency or the Trustee, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. In the event the PILOT Mortgage is foreclosed, or a deed in lieu of foreclosure is tendered, or this Agreement is terminated, the Lessee shall deliver the Facility free of any and all Hazardous Materials so that the conditions of the Facility shall conform with all applicable Federal, state and local laws, ordinances, rules or regulations affecting the Facility. For purposes of this paragraph, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et. seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Lessee may have to any Indemnified Party at common law, and shall survive the termination of this Agreement.

(d) The indemnifications and protections set forth in this Section 6.2 shall be extended, with respect to each Indemnified Party, to its members, directors, officers, employees, agents and servants and persons under its control or supervision.

(e) To effectuate the purposes of this Section 6.2, the Lessee will provide for and insure, in the public liability policies required in Section 4.5 hereof, not only its own liability in respect of the matters therein mentioned but also the liability pursuant to this Section 6.2 (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof, and with respect to Section 6.2(c) hereof, only to the extent such insurance is reasonably available). Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessee contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such

claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions herein specified.

(f) For the purposes of this Section 6.2, the Lessee shall not be deemed an employee, agent or servant of the Agency or the Trustee or a person under the control or supervision of the Agency or the Trustee.

Section 6.3. Compensation and Expenses of Trustee, Bond Registrar, Paying Agents and Agency. The Lessee shall, to the extent not paid out of the proceeds of the Bonds as financing expenses, pay the following annual fees, charges and expenses and other amounts (i) the initial and annual fees of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, including fees and expenses as Bond Registrar and in connection with preparation of new Bonds upon exchanges or transfers or making any investments in accordance with the Indenture, (ii) the reasonable fees and charges of the Trustee and any Paying Agents on the Bonds for acting as paying agents as provided in the Indenture, including the reasonable fees of its counsel, (iii) the reasonable fees and charges of the Trustee for extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture, including reasonable counsel fees, and (iv) the fees, costs and expenses of the Bond Registrar, and the fees, costs and expenses (including legal, accounting and other administrative expenses) of the Agency. The Lessee shall further pay the reasonable fees, costs and expenses of the Agency together with any reasonable fees and disbursements incurred by the Agency's Bond Counsel and General Counsel in performing services for the Agency in connection with this Agreement, the Sales Tax Letter, the Indenture or any other Security Document.

The Lessee further agrees to pay to the Agency a fee of $50,000 concurrently with the execution and delivery of this Agreement together with an annual fee of $1,000 payable initially on the execution and delivery of this Agreement and on each January 1 thereafter commencing January 1, 1999.

Section 6.4. Retention of Title to Facility; Grant of Easements; Release of Certain Land. The Agency shall not sell, assign, encumber (other than Permitted Encumbrances), convey or otherwise dispose of the Facility or any part thereof or interest therein during the term of this Agreement, except as set forth below and in Sections 4.2 and 7.2 hereof, without the prior written consent of the Lessee and the Trustee and any purported disposition without such consent shall be void.

The Agency will, however, at the written request of the Lessee, so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or under, the Facility Realty, or grant such permits or licenses in respect to the use thereof, free from the leasehold estate of this Agreement and the lien of the Indenture, as shall be necessary or convenient for the operation or use of the Facility, provided that such leases, rights-of-way, easements, permits or licenses shall not adversely affect the use or operation of the Facility. The Agency agrees, at the sole cost and expense of the Lessee, to execute and deliver and to cause and direct the Trustee to execute and deliver any and all instruments necessary or

ppropriate to confirm and grant any such right of way or easement or any such permit or ense and to release the same from the leasehold estate of this Agreement and the lien of the denture.

Notwithstanding any other provision of this Agreement, so long as there exists Event of Default hereunder, the Lessee may from time to time request in writing to the gency the release of and removal from this Agreement and the leasehold estate created hereby d the release from the lien of the Indenture of any unimproved part of the Facility Realty (on hich none of the improvements, including the buildings, structures, improvements, related cilities, major appurtenances, fixtures or other property comprising the Facility are situated) ovided that such release and removal will not adversely affect the use or operation of the cility. Upon any such request by the Lessee, the Agency shall, at the sole cost and expense the Lessee, execute and deliver and cause and direct the Trustee to execute and deliver any d all instruments necessary or appropriate to so release and remove such portion of the cility Realty and convey title thereto in fee simple to the Lessee subject to the following: any liens, easements, encumbrances and reservations to which title to said property was bject at the time of recording of this Agreement; (b) any liens, easements and encumbrances eated at the request of the Lessee or to the creation or suffering of which the Lessee nsented; (c) any liens and encumbrances or reservations resulting from the failure of the ssee to perform or observe any of the agreements on its part contained in this Agreement; Permitted Encumbrances (other than the lien of this Agreement and the Indenture) and any liens for taxes or assessments not then delinquent; provided, that, no such release shall effected unless there shall be delivered to the Agency and the Trustee a certificate of an thorized Representative of the Lessee to the effect that the portion of the Facility Realty and e release so proposed to be made is not needed for the operation of the Facility, will not versely affect the use or operation of the Facility and will not destroy the means of ingress ereto and egress therefrom.

No conveyance or release effected under the provisions of this Section 6.4 shall title the Lessee to any abatement or diminution of the rents payable under Section 3.3 hereof the other payments required to be made by the Lessee under this Agreement.

Section 6.5. [Reserved].

Section 6.6. Financial Statements; No-Default Certificates. (a) The Lessee agrees furnish to the Agency, as soon as available and in any event within one hundred-twenty (120) ys after the close of each fiscal year of the Lessee, a copy of the annual financial statements the Lessee, including balance sheets as at the end of such year, and the related statements of come, balances, earnings, retained earnings and changes in financial position for such fiscal ar, prepared in accordance with generally accepted accounting principles and practices, and viewed by an independent certified public accountant who is reasonably acceptable to the ustee.

(b) The Lessee shall deliver to the Agency and the Trustee with each delivery annual financial statements required by Section 6.6(a) hereof, (i) a certificate of an Authorized

Representative of the Lessee as to whether or not, as of the close of such preceding Fiscal Year of the Lessee, and at all times during such Fiscal Year, the Lessee was in compliance with all the provisions which relate to the Lessee in this Agreement, the Sales Tax Letter, the PILOT Agreement and the PILOT Mortgage, and if such Authorized Representative shall have obtained knowledge of any default in such compliance or notice of such default, he shall disclose in such certificate such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed to be taken by the Lessee with respect thereto, and (ii) a certificate of an Authorized Representative of the Lessee that the insurance it maintains complies with the provisions of Section 4.5 of this Agreement, that such insurance has been in full force and effect at all times during the preceding Fiscal Year of the Lessee, and that duplicate copies of all policies or certificates thereof have been filed with the Agency and the Trustee and are in full force and effect. In addition, upon twenty (20) days' prior request by the Agency or the Trustee, the Lessee will execute, acknowledge and deliver to the Agency and the Trustee a certificate of an Authorized Representative of the Lessee either stating that to his knowledge no default or breach exists hereunder, under the PILOT Agreement, under the PILOT Mortgage or under the Sales Tax Letter or specifying each such default or breach of which he has knowledge.

(c) The Lessee shall immediately notify the Agency and the Trustee of the occurrence of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under the PILOT Agreement, the PILOT Mortgage, this Agreement or any other Security Document of which it has knowledge. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Lessee and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Lessee shall state this fact on the notice.

Section 6.7. Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "Liens"), whether or not valid, is made against the Facility or any part thereof or the interest therein of the Agency, the Lessee or the Trustee or against any of the rentals or other amounts payable under this Agreement or the PILOT Agreement or the interest of the Lessee under this Agreement or the PILOT Agreement other than Liens for Impositions (as defined in Section 4.4 hereof) not yet payable, Permitted Encumbrances, or Liens being contested as permitted by Section 6.7(b), the Lessee forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and the Trustee and take all action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Facility.

(b) The Lessee may at its sole cost and expense contest (after prior written notice to the Agency and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Facility or any part thereof or interest therein, or in the Lease Agreement or the PILOT Agreement of the Agency, the Lessee or the Trustee or against any of the rentals or other amounts payable under this Agreement or the PILOT Agreement, (2) neither the Facility nor any interest therein would be in any danger of being sold, forfeited or lost, and (3) neither the Lessee, the Agency nor the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith.

Section 6.8. Agency's Authority; Covenant of Quiet Enjoyment. The Agency covenants and agrees that it has full right and lawful authority to enter into this Agreement for the full term hereof, including the right to grant the options to purchase herein contained, and that, subject to the terms and provisions of the PILOT Mortgage, the Indenture and Permitted Encumbrances, so long as the Lessee shall pay the rent and all other sums payable by it under this Agreement and shall duly observe all the covenants, stipulations and agreements herein contained obligatory upon it and an Event of Default shall not exist hereunder, the Lessee shall have, hold and enjoy, during the term hereof, peaceful, quiet and undisputed possession of the Facility, and the Agency (at the sole cost and expense of the Lessee) shall from time to time take all necessary action to that end, subject to Permitted Encumbrances.

Section 6.9. No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE LESSEE OR THE EXTENT TO WHICH PROCEEDS DERIVED FROM THE SALE OF THE BONDS WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. THE LESSEES ACKNOWLEDGE THAT THE AGENCY IS NOT THE MANUFACTURER OF THE FACILITY EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. NEITHER THE LESSEE (NOR ANY AFFILIATE OR PERSON UNDER THE CONTROL OF THE LESSEE) SHALL ASSERT A CLAIM AGAINST THE AGENCY ON THE BASIS THAT THE FACILITY IS NOT SUITABLE OR FIT FOR ITS PURPOSES. THE LESSEE IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR ITS PURPOSES. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEE OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION

OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 6.10. Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in any of the Funds and Accounts held by the Trustee under the Indenture upon the expiration or sooner or later termination of the term of this Agreement as provided in this Agreement, after payment in full of the Bonds (in accordance with Section 10.01 of the Indenture), the fees, charges and expenses of the Trustee, the Bond Registrar, the Paying Agents and the Agency in accordance with the Indenture and after all rents and all other amounts payable hereunder and under the PILOT Agreement, the PILOT Mortgage and the Indenture, shall have been paid in full, belong to and be paid to the Lessee by the Trustee as overpayment of rents.

Section 6.11. Issuance of Additional Bonds. The Agency and the Lessee recognize that under the provisions of and subject to the conditions set forth in the Indenture, the Agency is authorized, with the consent of the Lessee and the Holders of 100% in aggregate principal amount of the Bonds Outstanding, to enter into a Supplemental Indenture and issue one or more series of Additional Bonds on a parity with the Bonds for the purpose of (i) completing the Project, (ii) providing funds in excess of the Net Proceeds of insurance or eminent domain to repair, relocate, replace, rebuild or restore the Facility in the event of damage, destruction or taking by eminent domain, or (iii) providing extensions, additions or improvements to the Facility. If the Lessee is not in default hereunder, the Agency will consider the issuance of Additional Bonds in a principal amount as is specified in a written request in accordance with the applicable provisions set forth in the Indenture. If Additional Bonds are to be issued pursuant to the Indenture, the Agency and the Lessee shall enter into an amendment to this Agreement providing, among other things, for the payment by the Lessee of such additional rentals as are necessary in order to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith.

Any such completion, repair, relocation, replacement, rebuilding, restoration, additions, extensions or improvements shall become a part of the Facility and shall be included under this Agreement to the same extent as if originally included hereunder.

Section 6.12. [Reserved]

Section 6.13. Redemption Under Certain Circumstances; Special Covenants. (a) Upon the determination by resolution of the members of the Agency that the Lessee is operating the Facility or any portion thereof, or is allowing the Facility or any portion thereof to be operated, in violation of applicable material law or not as a qualified "project" in accordance with the Act, and the failure of the Lessee within sixty (60) days (or such longer period as may be established pursuant to the proviso to this sentence) of the receipt by the Lessee of written notice of such noncompliance from the Agency to cure such noncompliance together with a copy of such resolution (a copy of which notice shall be sent to the Trustee), the Lessee covenants and agrees that it shall immediately pay to the Trustee advance rentals in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole

at the Redemption Price of 100% of the aggregate principal amount of the Outstanding Bonds together with interest accrued thereon to such redemption date, provided, however, that if such noncompliance cannot be cured within such period of sixty (60) days with diligence (and is capable of being cured) and the Lessee promptly commences the curing of such non-compliance and thereafter prosecutes the curing thereof with diligence and to the Agency's reasonable satisfaction, such period of time within which the Lessee may cure such failure shall be extended for such additional period of time as may be necessary to cure the same with diligence and the Agency shall notify the Trustee of any such extension. The Agency shall give prior written notice of the meeting at which the members of the Agency are to consider such resolution to the Lessee and the Trustee, which notice shall be no less than Sixty (60) days prior to such meeting.

(b) Upon (i) the occurrence of an Event of Default under this Agreement (with respect to any of the Agency's Reserved Rights hereunder), the PILOT Mortgage or the PILOT Agreement, which has not been cured within the applicable grace period set forth therein, (ii) Bonds not being Outstanding under the Indenture in the minimum principal amount required under Section 2.6 hereof, or (iii) the Agency ceasing to have title to the Facility Realty, the Agency shall have the right, on thirty (30) days prior written notice to the Lessee and the Trustee, to require that the Lessee pay to the Trustee on the thirtieth (30th) day following the date of such notice, advance rentals in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of 100% of the principal amount of the Outstanding Bonds, together with interest accrued thereon to the date of redemption.

Section 6.14. Further Assurances. The Lessee will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including Uniform Commercial Code financing statements, at the sole cost and expense of the Lessee, as the Agency or the Trustee deems reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency or the Trustee hereunder, under the PILOT Agreement or under the Indenture.

Section 6.15. Employment Information; Equal Employment Opportunities. (a) The Lessee shall ensure that all employees and applicants for employment with regard to the Facility are afforded equal employment opportunities without discrimination. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project shall be listed by the Lessee with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Facility Realty is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Lessee agrees, where practicable, to first consider persons eligible to participate in the Federal Job Training Partnership Act (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such Act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

(b) Nothing herein shall be construed to require the Lessee to violate any existing collective bargaining agreement with respect to the hiring of new employees.

(c) The Lessee agrees that, upon request of the Agency, the Lessee shall furnish to the Agency such information as the Agency shall reasonably request with respect to present and future employment by the Lessee and Affiliates with respect to the Facility, including, without limitation, information with respect to the number of employees and minority employees at the Facility and the number of executive and administrative personnel of the Lessee and Affiliates at the Facility.

Section 6.16. Recording and Filing. This Agreement as originally executed or a memorandum thereof shall be recorded by the Lessee subsequent to the recordation of the PILOT Mortgage and the Indenture, in the appropriate office of the Clerk of the County, or in such other office as may at the time be provided by law as the proper place for the recordation thereof. The security interest of the Agency created herein and the assignment of such security interest to the Trustee shall be perfected by the filing of financing statements by the Lessee which fully comply with the New York State Uniform Commercial Code - Secured Transactions in the office of the Secretary of State of the State, in the City of Albany, New York and in the appropriate office of the Clerk of the County. The Lessee shall file or cause to be filed all necessary continuation statements (and additional financing statements) within the time prescribed by the New York State Uniform Commercial Code - Secured Transactions in order to continue (or attach and perfect) the security interest created by this Agreement, to the end that the rights of the Agency, the Holders of the Bonds and the Trustee in the rentals payable under this Agreement shall be fully preserved as against creditors or purchasers for value from the Agency or the Lessee. The Agency and the Trustee are authorized, if permitted by applicable law, to file one or more Uniform Commercial Code financing statements disclosing any security interest in the sums due under this Agreement, without the signature of the Lessee or signed by the Agency or the Trustee as attorney-in-fact for the Lessee.

Section 6.17. Right to Cure Agency Defaults. The Agency hereby grants the Lessee full authority for account of the Agency to perform any covenant or obligation the non-performance of which is alleged to constitute a default in any notice received by the Lessee, in the name and stead of the Agency, with full power of substitution.

ARTICLE VII
Events of Default; Remedies

Section 7.1. Events of Default. Any one or more of the following events shall stitute an "Event of Default" hereunder:

(a) Failure of the Lessee to pay any rental that has become due and payable the terms of Section 3.3 hereof which results in an Event of Default under the Indenture;

(b) Failure of the Lessee to pay any amount (except the obligation to pay rent er Section 3.3 hereof) that has become due and payable or to observe and perform any enant, condition or agreement on its part to be performed under Sections 2.2, 2.5, 2.6, 4.2, 4.4, 4.5, 4.6, 4.7, 6.2, 6.3, 6.13 or 6.15 hereof and continuance of such failure for a od of thirty (30) days after receipt by the Lessee of written notice specifying the nature of default from the Agency, the Trustee or the Holders of more than twenty-five per centum %) in aggregate principal amount of the Bonds Outstanding;

(c) Failure of the Lessee to observe and perform any covenant, condition or ement on its part to be performed under Section 6.1 or 9.3 (as to transfers or assignments) of;

(d) If no Bonds shall be Outstanding under the Indenture, or if Bonds shall not sued and Outstanding under the Indenture in the minimum principal amount specified in on 2.6 hereof;

(e) Failure of the Lessee to observe and perform any covenant, condition or ement hereunder on its part to be performed (except as set forth in Section 7.1(a), (b), (c)) hereof) and (1) continuance of such failure for a period of thirty (30) days after receipt e Lessee of written notice specifying the nature of such default from the Agency, the ee or the Holders of more than twenty-five per centum (25%) in aggregate principal amount Bonds Outstanding, or (2) if by reason of the nature of such default the same can be led, but not within the said thirty (30) days, the Lessee fails to proceed with reasonable nce after receipt of said notice to cure the same or fails to continue with reasonable nce its efforts to cure the same;

(f) The Lessee shall (i) apply for or consent to the appointment of or the of possession by a receiver, liquidator, custodian or trustee of itself or of all or a ntial part of its property, (ii) admit in writing its inability, or be generally unable, to pay ts as such debts generally become due, (iii) make a general assignment for the benefit of ditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or ter in effect), (v) file a petition seeking to take advantage of any other law relating to ptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, ke any action for the purpose of effecting any of the foregoing, or (vii) be adjudicated a pt or insolvent by any court;

Lease Comm
date
6/17/98

(g) A proceeding or case shall be commenced, without the application or consent of the Lessee, in any court of competent jurisdiction, seeking: (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts; (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Lessee or of all or any substantial part of its assets; (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing against the Lessee shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or (iv) the Lessee shall fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code or any order for relief against the Lessee shall be entered in an involuntary case under such Bankruptcy Code or any order for relief against the Lessee shall be entered in an involuntary case under such Bankruptcy Code; the terms "dissolution" or "liquidation" of the Lessee as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof;

(h) Any material representation or warranty made by or on behalf of the Lessee (i) in the application, commitment letter and related materials submitted to the Agency or the initial purchaser(s) of the Bonds for approval of the Project or its financing, or (ii) herein, in the PILOT Agreement, in the PILOT Mortgage or in any of the other Security Documents, or (iii) in the Letter of Representation and Indemnity Agreement delivered to the Agency, the Trustee and the original purchaser(s) of the Bonds, or (iv) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall in any case prove to be false, misleading or incorrect in any material respect as of the date made;

(i) Any failure of title of the Agency with respect to the Facility Realty;

(j) Any abandonment of all or substantially all of the Facility Realty by the Lessee; or

(k) An "Event of Default" under the PILOT Agreement, the PILOT Mortgage, the Indenture or under any other Security Document shall occur and be continuing.

Section 7.2. Remedies on Default. Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Agency, or the Trustee where so provided, may, take any one or more of the following remedial steps:

(a) The Trustee (at the direction of the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding except if the Trustee shall be enforcing defaults for its own benefit under Sections 6.2 or 6.3 hereof or any other provision of this Agreement the uncured default under which exposes the Trustee to any imminent civil or criminal liability), (x) may take any action permitted under the Indenture with respect to an Event of Default thereunder, (y) as and to the extent provided in Article VIII of the Indenture, may take any action permitted under the Indenture with respect to an Event of Default thereunder including causing all principal installments of rent payable under Section 3.3 hereof

for the remainder of the term of this Agreement to be immediately due and payable, whereupon the same, together with the accrued interest thereon, shall become immediately due and payable; provided, however, that upon the occurrence of an Event of Default under Section 7.1(f) or (g) hereof, all principal installments of rent payable under Section 3.3 hereof for the remainder of the term of this Agreement, together with the accrued interest thereon, shall immediately become due and payable without any declaration, notice or other action of the Agency, the Trustee, the Holders of the Bonds or any other Person being a condition to such acceleration; or (z) may take whatever action at law or in equity as may appear necessary or desirable to collect the rent then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee under this Agreement;

(b) The Agency, with the prior written consent of the Trustee (except as provided in Section 7.2(c) below), or the Trustee, may terminate this Agreement, in which case this Agreement and all of the right, title and interest herein granted or vested in the Lessee shall cease and terminate (except for the Lessee's rights under Section 8.1 hereof) unless prior to such termination all accrued and unpaid rent (exclusive of any such rent accrued solely by virtue of the acceleration of the due date of the Bonds as provided in Section 8.01 of the Indenture), shall have been paid and all such defaults shall have been fully cured. No such termination of this Agreement shall relieve the Lessee of its liabilities and obligations hereunder and such liabilities and obligations shall survive any such termination; and

(c) Upon the occurrence of an Event of Default under the Project Agreement or with respect to any of the Agency's Reserved Rights, the Agency, without the consent of the Trustee, any Holder of Bonds or any other Person, may proceed to enforce the Agency's Reserved Rights by (i) terminating this Agreement (with the effect (y) as set forth in Section 7.2(b) hereof and without relieving the Lessee of its liabilities and obligations under this Agreement, which liabilities and obligations shall survive such termination, and (z) that the term of this Agreement shall be deemed to have expired on such date of termination as if such date were the original expiration date of the term of this Agreement), and/or (ii) bringing an action for damages, injunction or specific performance, and/or (iii) conveying all of the Agency's right, title and interest in the Facility to the Lessee in accordance with Section 8.2 hereof, suspending or terminating the Sales Tax Letter and/or requiring the Lessee to surrender the Sales Tax Letter to the Agency for cancellation, and requiring the Lessee to redeem the Bonds in whole, and/or (iv) taking whatever action at law or in equity as may appear necessary or desirable to collect payment of amounts due under this Agreement, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee under this Agreement.

In any conveyance by the Agency of all of its right, title and interest in the Facility to the Lessee, the Agency may accomplish the same by executing and recording, at the sole cost and expense of the Lessee, a deed therefor as required by law, and a bill of sale, and the Lessee hereby waives delivery and acceptance of such deed and bill of sale as a condition to its validity, and appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary

to accomplish the recording of such deed and delivery and receipt by the Lessee of such bill of sale.

In the event that the Lessee fails to make any rental payment required in Section 3.3 hereof, the installment so in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid.

No action taken pursuant to this Section 7.2 (including termination of this Agreement pursuant to this Section 7.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessee from its obligations hereunder, all of which shall survive any such action.

Section 7.3. Remedies Cumulative. Except as specifically provided in this Agreement, the rights and remedies of the Agency or the Trustee under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency or the Trustee allowed by law with respect to any default under this Agreement. Failure by the Agency or the Trustee to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessee hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Lessee with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessee be continued or repeated.

Section 7.4. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by any party and thereafter waived by the other parties, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the parties making such waiver. No course of dealing between the Agency and/or the Trustee and the Lessee or any delay or omission on the part of the Agency and/or the Trustee in exercising any rights hereunder, under the PILOT Agreement, under the PILOT Mortgage, under the Indenture or under any other Security Document shall operate as a waiver.

Section 7.5. Effect of Discontinuance of Proceedings. In case any proceeding taken by the Trustee or the Agency under the Indenture, this Agreement, or any other Security Document on account of any Event of Default hereunder or under the Indenture or any other Security Document shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then, and in every such case, the Agency, the Trustee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Agency and the Trustee shall continue as in effect prior to the commencement of such proceedings.

Section 7.6. Agreement to Pay Attorneys' Fees and Expenses. In the event the Lessee should default under any of the provisions of this Agreement, and the Agency or the Trustee should employ attorneys or incur other expenses for the collection of rentals or other

nounts payable hereunder or the enforcement of performance or observance of any obligation agreement on the part of the Lessee herein contained, the Lessee will on demand therefor pay the Agency or the Trustee the reasonable fees and disbursements of such attorneys and such her expenses so incurred.

ARTICLE VIII
Options

Section 8.1. Options. (a) Subject to the provisions of Section 2.6 hereof, the Lessee has the option to make advance rental payments for deposit in the Bond Fund to effect the retirement of the Bonds in whole or the redemption in whole or in part of the Bonds of any Series, all in accordance with the terms of the Indenture and the related Certificate of Determination of the Series of Bonds to be redeemed (except that no partial redemption of the Bonds shall be effected if less than the applicable minimum principal amount of Bonds as set forth in Section 2.6 hereof shall remain Outstanding by reason thereof). The Lessee shall further have the option of causing money and/or Defeasance Securities to be deposited in the Bond Fund so long as such deposit shall not cause less than the applicable minimum principal amount of Bonds as set forth in Section 2.6 hereof to cease to be Outstanding. The Lessee shall exercise its option to make such advance rental payments by delivering a written notice of an Authorized Representative of the Lessee to the Trustee in accordance with the Indenture, with a copy to the Agency, setting forth (i) the amount of the advance rental payment, (ii) the Series of the Bonds to be redeemed, (iii) the principal amount of Bonds Outstanding of such Series requested to be redeemed with such advance rental payment (which principal amount shall be in such minimum amount or integral multiple of such amount as shall be permitted in the Indenture), and (iv) the date on which such principal amount of Bonds of such Series is to be redeemed. Such date of redemption may be any date during the term of this Agreement (subject to the terms of Section 2.3 hereof), and shall be a date sufficient to enable the Trustee to deliver such notice of redemption in the time period required for the respective Series of Bonds being redeemed. Such advance rental payment shall be paid to the Trustee in legal tender on or before the redemption date (subject to Section 2.6 hereof) and shall be an amount which, when added to the amount on deposit in the Bond Fund and available therefor, will be sufficient to pay the Redemption Price of such Series of the Bonds to be redeemed, together with interest to accrue to the date of redemption and all expenses of the Agency, the Bond Registrar, the Trustee and the Paying Agents in connection with such redemption. In the event the Bonds are to be redeemed in whole or otherwise retired, the Lessee shall further pay on or before such redemption date, in legal tender, to the Agency, the Trustee, the Bond Registrar and the Paying Agents, as the case may be, all fees and expenses owed such party or any other party entitled thereto under this Agreement and the Indenture together with all other amounts due and payable under the PILOT Agreement, the PILOT Mortgage, this Agreement and the other Security Documents.

(b) The Lessee shall have the option to purchase the Facility commencing on that date upon which the Bonds may first optionally be redeemed in whole and on any date thereafter permitted therefor as provided in Section 2.03 of the Indenture and in Section 2.03 of the Bond Supplemental Indenture but subject to Section 2.6 hereof.

(c) The Lessee, in exercising its option to purchase the Facility and redeem all Bonds (but subject to Section 2.6 hereof), shall pay to the Trustee as the purchase price, in legal tender, advance rental payments, for deposit in the Bond Fund (if payment in full of the principal of or the Redemption Price, if any, as the case may be, of, and interest on, all the

Outstanding Bonds, and the interest thereon at maturity or upon earlier redemption has not yet been made) equal to the sum of the following:

(1) an amount which, when added to the amount on deposit in the Bond Fund and available therefor, will be sufficient to pay, retire and redeem the Outstanding Bonds in accordance with the provisions of the Indenture, including, without limitation, the principal of or the Redemption Price (as the case may be) of, together with interest to maturity or redemption date (as the case may be) on, the Outstanding Bonds;

(2) expenses of redemption, the fees and expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents and all other amounts due and payable under this Agreement and the Indenture;

(3) any amounts required to be paid pursuant to the PILOT Agreement and the PILOT Mortgage; and

(4) one dollar.

(d) Upon the payment in full of the principal of and interest on the Outstanding Bonds (whether at maturity or earlier redemption), the Lessee shall have the option to purchase the Facility and shall exercise such option by (1) delivering to the Agency prior written notice of an Authorized Representative of the Lessee no more than thirty (30) days after the payment in full of the Bonds of the exercise of such option to purchase, which notice shall set forth a requested closing date for the purchase of the Facility which shall be not later than sixty (60) days after the payment in full of the Bonds, and (2) paying on such closing date a purchase price equal to the sum of one dollar, the fees and expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents and all other amounts due and payable (including reasonable attorneys' fees and expenses) under this Agreement, the PILOT Agreement, the PILOT Mortgage and the Indenture. Upon the written request of the Lessee, the Agency may approve the extension or waiver of any of the time periods set forth in this paragraph.

(e) The Lessee shall not, at any time, assign or transfer its option to purchase the Facility as contained in this Section 8.1 separate and apart from a permitted assignment of this Agreement pursuant to Section 9.3 hereof without the prior written consent of the Agency.

Section 8.2. Conveyance on Exercise of Option to Purchase. At the closing of any purchase of the Agency's interest in the Facility pursuant to Section 8.1 hereof, the Agency will, upon payment of the purchase price, deliver or cause to be delivered to the Lessee (a) a release, satisfaction or termination of the mortgage lien and security interest of the Indenture on the Facility and (b) other documents conveying to the Lessee good and marketable title to the machinery, equipment and other personal property constituting part of the Facility Equipment and, by bargain and sale deed without covenant against grantor's acts, good and marketable title in fee simple to the real property of the Facility Realty being purchased, as all such property then exists, and all rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or otherwise appertaining, subject to the following: (1) the nature, quality and

extent to which title to said property shall have been vested in the Agency; (2) any Permitted Encumbrances to which title to said property was subject when conveyed to the Agency; (3) any liens, easements, security interests, claims, charges and encumbrances created at the request of the Lessee or to the creation or suffering of which the Lessee consented; (4) any liens, security interests, claims, charges and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Agreement; (5) any liens for taxes or assessments not then delinquent; and (6) the rights, if any, of any condemning authority, and (c) documents releasing and conveying to the Lessee all of the Agency's rights and interests in and to any rights of action, and to any insurance proceeds or condemnation award, with respect to the Facility. Concurrently with the delivery of such title documents, there shall be delivered by the Agency to the Trustee any instructions or other instruments required by Section 10.01 of the Indenture to defease and pay the Bonds.

Upon conveyance of the Facility pursuant to this Section 8.2, this Agreement and all obligations of the Lessee hereunder shall be terminated except the obligations of the Lessee under Sections 4.3 (until such time as the Lessee shall again pay taxes as the record owner of the Facility Realty), 6.2, 8.5 and 9.17 hereof shall survive such termination.

Section 8.3. Option to Purchase or Invite Tenders of Bonds. The Lessee shall have the option, at any time during the term of this Agreement, to purchase Bonds for its own account, whether by direct negotiation, through a broker or dealer, or by making a tender offer to the Holders thereof. The Bonds so purchased by the Lessee or by any Affiliate of either thereof shall be delivered to the Trustee for cancellation within fifteen (15) days of the date of purchase. The Agency shall at all times make available or cause to be made available to the Lessee its registration books (maintained at the principal corporate trust office of the Trustee) containing the names and addresses of the Bondholders if known.

Section 8.4. Termination of Agreement. After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with Section 10.01 of the Indenture, the Lessee shall terminate this Agreement by paying the fees and expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agent and all other amounts due and payable under this Agreement, the PILOT Agreement, the PILOT Mortgage and the other Security Documents, and by giving the Agency notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to the survival of the obligations of the Lessee under Sections 4.3 (until such time as the Lessee shall again pay taxes as the record owner of the Facility Realty), 6.2, 8.5 and 9.17 hereof.

Section 8.5. Recapture of Agency Benefits. In recognition of the public benefits to be conferred upon the Lessee by reason of the Agency's participation in the financing of the Project, the Lessee agrees with the Agency that in the event the Lessee prepays its Bonds and sells any of the Facility Realty to an unrelated party:

(i) prior to the completion of the Project, 100% of the Benefits (as defined below) will be paid back to the Agency in the event of such sale, and

(ii) after the completion of the Project, the corresponding percentage of Benefits in accordance with the following schedule will be paid back to the Agency in the event of such sale:

Number of Years After Project Completion in Which Sale Occurs	Percentage of Benefits Received to be Paid Back to the Agency
3	100%
4	95
5	90
6	80
7	70
8	60
9	50
10	40
More than 10	0

The term "Benefits" shall mean, collectively, (i) all real estate tax benefits which ve accrued to the benefit of the Lessee during such time as the Agency was the owner of such cility Realty, such tax benefits to be computed by subtracting the payments in lieu of real ate taxes paid by the Lessee from those payments which the Lessee would have been required pay during the term of this Agreement had the Lessee been the record owner of such Facility alty during the term of this Agreement, and (ii) all miscellaneous benefits derived from the ticipation of the Agency in the financing of the costs of the Project, including, but not limited exemption from mortgage recording tax, sales tax and filing and recording fees.

The term "Benefits" shall not include any benefits that the Lessee would otherwise entitled to absent the Agency's involvement. Further, in the event any such sale occurs by son of casualty or condemnation with respect to all or a substantial part of the Facility, the see shall not be required to repay Benefits.

The above obligation of the Lessee will continue until ten (10) years after Project npletion, notwithstanding an earlier redemption of the Bonds.

The provisions of this Section 8.5 are not in substitution nor do they limit the es and Regulations of the Agency, a copy of which is attached in the Appendices hereto, and ch the Lessee hereby covenants and agrees to comply with.

ARTICLE IX
Miscellaneous

Section 9.1. Indenture; Amendment. The Lessee shall have and may exercise all the rights, powers and authority stated to be in the Lessee in the Indenture and in the Bonds, and the Indenture and the Bonds shall not be modified, altered or amended in any manner which adversely affects such rights, powers and authority so stated to be in the Lessee or otherwise adversely affects the Lessee without the written consent of the Lessee.

Section 9.2. Force Majeure. In case by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Lessee to make the rental payments or other payments required under the terms hereof, or to comply with Sections 4.3, 4.5, 4.7 or 6.2 hereof), so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of existing or impending strikes, lockouts or other industrial disturbances shall be entirely within the discretion of the party having the difficulty and that the above requirements that any force majeure shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be fulfilled even though such existing or impending strikes, lockouts and other industrial disturbances may not be settled but could have been settled by acceding to the demands of the opposing person or persons.

Section 9.3. Assignment or Sublease. The Lessee may not at any time assign or transfer this Agreement, or sublet the whole or any part of the Facility without the prior written consent of the Agency (which consent may be unreasonably withheld); provided further, that if the Agency shall consent to any such assignment, transfer or subletting, (1) the Lessee shall nevertheless remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Agreement, the PILOT Agreement, the PILOT Mortgage and the Sales Tax Letter, (2) any assignee or transferee of the Lessee in whole of the Facility shall have assumed in writing and have agreed to keep and perform all of the terms of this Agreement, the PILOT Agreement, the PILOT Mortgage and the Sales Tax Letter on the part of the Lessee to be kept and performed, shall be jointly and severally liable with the Lessee for the performance thereof, shall be subject to service of process in the State, and, if

corporation, shall be qualified to do business in the State, (3) in the Opinion of Counsel, such assignment, transfer or sublease shall not legally impair in any respect the obligations of the Lessee for the payment of all rents nor for the full performance of all of the terms, covenants and conditions of this Agreement, the PILOT Agreement, the PILOT Mortgage, the Sales Tax Letter or of any other Security Document to which the Lessee shall be a party, nor impair or limit in any respect the obligations of any obligor under any other Security Document, (4) any assignee, transferee or sublessee shall utilize the Facility as a qualified "project" and as a warehousing and distribution facility within the meaning of the Act, (5) such assignment, transfer or sublease shall not violate any provision of this Agreement, the PILOT Agreement, the PILOT Mortgage, the Sales Tax Letter, the Indenture or any other Security Document, (6) such assignment, transfer or sublease shall in no way diminish or impair the Lessee's obligation to carry the insurance required under Section 4.5 of this Agreement and the Lessee shall furnish written evidence satisfactory to the Agency and the Trustee that such insurance coverage shall in no manner be limited by reason of such assignment, transfer or sublease, and (7) each such assignment, transfer or sublease contains such other provisions as the Agency may reasonably require. The Lessee shall furnish or cause to be furnished to the Agency a copy of any such assignment, transfer or sublease in substantially final form at least twenty (20) days prior to the date of execution thereof.

Any consent by the Agency to any act of assignment, transfer or sublease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessee, or the successors or assigns of the Lessee, to obtain from the Agency consent to any other or subsequent assignment, transfer or sublease, or as modifying or limiting the rights of the Agency under the foregoing covenant by the Lessee.

Section 9.4. Priority of Indenture and PILOT Mortgage. Pursuant to the PILOT Mortgage, the Agency will grant a mortgage lien on and a security interest in the Facility Realty, and pursuant to the Indenture, the Agency will pledge and assign the rentals and certain other moneys receivable under this Agreement to the Trustee as security for payment of the principal or Redemption Price, if applicable, of and interest on the Bonds, and this Agreement shall be subject and subordinate to the PILOT Mortgage and the Indenture and such mortgage lien, security interest, pledge and assignment thereunder.

Section 9.5. Benefit of and Enforcement by Bondholders. The Agency and the Lessee agree that this Agreement is executed in part to induce the purchase by others of the Bonds and for the further securing of the Bonds, and accordingly all covenants and agreements on the part of the Agency and the Lessee as set forth in this Agreement are hereby declared to be for the benefit of the Holders from time to time of the Bonds and may be enforced as provided in Article VIII of the Indenture on behalf of the Bondholders by the Trustee.

Section 9.6. Amendments. This Agreement may be amended only with the concurring written consent of the Trustee given in accordance with the provisions of the Indenture and only if the Lessee shall assume in writing the obligations of such amended Agreement.

Section 9.7. Notices. All notices, certificates or other communications hereunder shall be sufficient if sent by registered or certified United States mail, postage prepaid, addressed, if to the Agency, to the Chairman, Nassau County Industrial Development Agency, 1550 Franklin Avenue, Mineola, New York 11501 with a copy to the Executive Director of the Agency at the same address, if to the Lessee, to Sulzer Metco (US) Inc., 1101 Prospect Avenue, Westbury, New York 11590, Attention: Vice President of Finance, with a copy to Sulzer US Holding Inc., 200 Park Avenue, New York, New York 10166, Attention: Richard G. Rudolf, Esq., and if to the Trustee, to United States Trust Company of New York, 114 West 47th Street, New York, New York 10036, Attention: Corporate Trust Administration. The Agency, the Lessee and the Trustee may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given as of the date it shall have been mailed.

Section 9.8. Prior Agreements Superseded. This Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral (other than the PILOT Agreement or any Security Documents), between the Agency and the Lessee relating to the subject matter hereof.

Section 9.9. Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 9.10. Inspection of Facility. The Lessee will permit the Trustee, or its duly authorized agents, at all reasonable times upon written notice to enter upon the Facility Realty and to examine and inspect the Facility and exercise their rights hereunder, under the Indenture and under the other Security Documents with respect to the Facility. The Lessee will further permit the Agency, or its duly authorized agent, at all reasonable times to enter upon the Facility but solely for the purpose of assuring that the Lessee is operating the Facility, or is causing the Facility to be operated, as a qualified "project" under the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency, and not for any purpose of assuring the proper maintenance or repair of the Facility as such other obligation is and shall remain solely the obligation of the Lessee.

Section 9.11. Effective Date; Counterparts. This Agreement shall become effective upon its delivery. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.12. Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Lessee and their respective successors and assigns.

Section 9.13. Net Lease. It is the intention of the parties hereto that this Agreement be a "net lease" and that all of the rent payable under Section 3.3, 6.13, 7.2 and 8.1 will be available for debt service on the Bonds, and this Agreement shall be construed to effectuate such intent.

Section 9.14. Law Governing. This Agreement shall be governed by, and construed in accordance with, the laws of the State.

Section 9.15. Investment of Funds. Any moneys held as part of the Project Fund or the Bond Fund or in any special fund provided for in this Agreement or in the Indenture to be invested in the same manner as in any said Fund shall, at the written request of an Authorized Representative of the Lessee, be invested and reinvested by the Trustee as provided in the Indenture. Neither the Agency nor the Trustee nor any of their members, directors, officers, agents, servants or employees shall be liable for any depreciation in the value of any such investments or for any loss arising therefrom.

Interest and profit derived from such investments shall be credited and applied as provided in the Indenture, and any loss resulting from such investments shall be similarly charged.

Section 9.16. Investment Tax Credit. It is the intention of the parties that any investment tax credit or comparable credit which may ever be available accrue to the benefit of the Lessee and the Lessee shall, and the Agency upon advice of counsel may, make any election and take other action in accordance with the Code as may be necessary to entitle the Lessee to have such benefit.

Section 9.17. Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Facility or any matters whatsoever arising out of or in any way connected with this Agreement.

The provision of this Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Agreement.

Section 9.18. Non-Discrimination. (a) At all times during the construction, maintenance and operation of the Facility, the Lessee shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Lessee shall use its best efforts to ensure that employees and applicants for employment with the Lessee or any subtenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Lessee shall furnish to the Agency all information required by the Agency pursuant to this Section and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section.

Section 9.19. No Recourse under This Agreement or on Bonds. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing the Bonds.

Section 9.20. Date of Agreement for Reference Purposes Only. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was executed and delivered on the date of original issuance and delivery of the Bonds.

IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed by its duly authorized Chairman, Vice Chairman, Treasurer or Assistant Treasurer and attested under the seal of the Agency by its Assistant Secretary and the Lessee has caused its name to be subscribed hereto by an authorized officer and attested to under its corporate seal by its Secretary or Assistant Secretary pursuant to a resolution duly adopted by its Board of Directors, all being done as of the year and day first above written.

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

(SEAL)

Attest:

By _____
David G. Salten,
Chairman

_____
Leonard H. Shapiro,
Assistant Secretary

SULZER METCO (US) INC.,
as Lessee

(SEAL)

Attest:

By _____
Name:
Title:

_____
Name:
Title:

IN WITNESS WHEREOF, the Agency has caused its corporate name to be subscribed by its duly authorized Chairman, Vice Chairman, Treasurer or Assistant Treasurer and attested under the seal of the Agency by its Assistant Secretary and the Lessee has caused its name to be subscribed hereto by an authorized officer and attested to under its corporate seal by its Secretary or Assistant Secretary pursuant to a resolution duly adopted by its Board of Directors, all being done as of the year and day first above written.

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By_____
David G. Salten,
Chairman

(SEAL)

Attest:

_____
Leonard H. Shapiro,
Assistant Secretary

SULZER METCO (US) INC.,
as Lessee

By_____
Daniel Moraschetti,
Vice President

(SEAL)

Attest:

_____
Philip T. Hauser,
Secretary

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

On the 11 day of June, in the year one thousand nine hundred ninety-eight, before me personally came David G. Salten, to me known, who being by me duly sworn, did depose and say that he resides at 34 Third Avenue, Port Washington, New York 11050; that he is the Chairman of **NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, the Agency described in and which executed the above instrument; that he knows the seal of said Agency; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the board of directors of said Agency, and that he signed his name thereto by like authority.

A. TERRY ANDERSON
Notary Public, State of New York
No. 4708600
Qualified in Nassau County
Term Expires June 30, ~~19~~ 2000

A. Terry Anderson
Notary Public

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

On the 12th day of June, in the year one thousand nine hundred ninety-eight, before me personally came Daniel Moraschetti, to me known, who being by me duly sworn, did depose and say that he has an office at 1101 Prospect Avenue, Westbury, New York; that he is the Vice President of **SULZER METCO (US) INC.**, the Lessee described in and which executed the above instrument; that he knows the seal of said Lessee; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the Board of Directors of said Lessee, and that he signed his name thereto by like authority.

Notary Public

SUSAN V. BERDEL
Notary Public, State of New York
No. 01BE4968503
Qualified in Nassau County
Commission Expires June 25, 1996

APPENDICES

RULES AND REGULATIONS OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

The Nassau County Industrial Development Agency, in order to better secure the integrity of the projects it sponsors, declares that it is in the public interest to ensure the continuity of such projects and to prevent the conversion of the use of the premises upon which a sponsored project is to be constructed or renovated and to limit and prevent unreasonable profitering or exploitation of a funded project does hereby find, declare and determine as follows:

FIRST:

Upon the approval and funding of a sponsored project, the Nassau County Industrial Development Agency, (hereinafter "N.C.I.D.A.") shall take title to all premises upon which an N.C.I.D.A. sponsored project is to be constructed or renovated, and shall lease the premises to the applicant for a term commensurate with the projected life of the bond.

SECOND:

At such time as a change in the use or ownership of the premises be effectuated during the life of the bond which is inconsistent with the original application, and such use or change of ownership does not meet the N.C.I.D.A. approval, a lease termination payment will be required to be paid by the lessees to the N.C.I.D.A.

(a) Factors to be used in determining the value of lease termination payment shall include but not limited to tax benefits conferred upon the premises by the use of N.C.I.D.A. sponsorship and the net profits realized by an applicant from a change in use or ownership of the premises.

(b) In determining the amount and sufficiency of a lease termination payment, the N.C.I.D.A. and the applicant shall seek to resolve same by negotiating promptly with each other in good faith in face-to-face negotiations.

(c) If the parties are unable to arrive at a mutually agreeable lease termination payment within a reasonable period of time, the matter shall be resolved through compulsory binding arbitration.

THIRD:

At such time as a project is reviewed, the applicant and members of the N.C.I.D.A. must disclose any blood, marital or business relationship they, or members of their families have had with the applicant.

FOURTH:

All applicants and their attorneys must disclose whether they have been appointed, elected or employed by New York State, any political subdivision of New York State or any other governmental agency.

NEW YORK STATE FINANCIAL AND EMPLOYMENT REPORTING REQUIREMENTS FOR INDUSTRIAL DEVELOPMENT AGENCIES

A. The Private Activity Bond Allocation Act of 1993 requires the completion of page 12 and a year end employment plan status report to be filed by the IDA with the New York State Department of Economic Development on January 15. This status report will be requested from you before the end of the year.

In consideration of the issuance of bonds of Nassau County Industrial Development Agency, the applicant agrees to list any new employment opportunities created, with the N.Y. Department of Labor Job Service Division and with the local service delivery area office.

B. You will be required to annually file a statement with the State Department of Taxation of the value of all sales tax exemptions claimed on the project.

C. Please be advised that chapter 692 of the Laws of 1989 require additional financial reporting requirements from all IDA's in New York State.

1. All bonds issued, outstanding or retired during the year must indicate the following:

Month and Year issued; Interest rate at year end; outstanding beginning of year; Issued during year; principal payments during year; outstanding at end of year and final maturity date. This information will be requested from your trustee in January of each year.

2. All bonds issued since 1990 require the following supplemental information:

Name address and owner of the project; tax exemptions separated by State and local sales tax, County and school taxes; Mortgage recording; Payments in lieu of taxes; Total real estate taxes on the project before exemption; number of jobs created and retained plus other economic benefits. This is required each year and will be requested from you in January.

Failure to provide any of the aforesaid information will be deemed a DEFAULT under the Installment Sales Agreement.

Please sign below to indicate that you have read and understood the above and will provide information on a timely basis.

Chief Executive Officer of Applicant

6/28/96
Date

DESCRIPTION OF PROJECT

The Project consists of the construction, renovation and equipping of two certain manufacturing facilities owned by Sulzer Metco (US) Inc. (the "Company") consisting of the construction of an approximately 30,000 square foot expansion to a facility owned by Sulzer Metco (US) Inc. (the "Company") at 1101 Prospect Avenue, Westbury, New York (the "Westbury Facility"), the construction of renovations and improvements to each of the Westbury Facility and the Company's facility at 220 Miller Place, Hicksville, New York (the "Hicksville Facility"), and the acquisition and installation of machinery, equipment and furnishings at each of the Westbury Facility and the Hicksville Facility, all for use in the manufacturing of thermal energy systems and components and related products.

DESCRIPTION OF FACILITY REALTY

Hicksville Facility

THAT CERTAIN PLOT, PIECE, OR PARCEL OF LAND, SITUATE, LYING, AND BEING AT KSVILLE, TOWN OF OYSTER BAY, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED DESCRIBED AS FOLLOWS:

INNING AT A POINT ON THE WESTERLY SIDE OF MILLER ROAD (MILLER PLACE) DISTANT .55 FEET NORTHERLY AS MEASURED ALONG THE WESTERLY SIDE OF MILLER ROAD FROM CORNER FORMED BY THE INTERSECTION OF THE WESTERLY SIDE OF MILLER ROAD WITH NORTHERLY SIDE OF MILLER PLACE, AS WIDENED;

NNING THENCE ALONG THE WESTERLY SIDE OF MILLER ROAD, NORTH 3 DEGREES 47 NUTES EAST A DISTANCE OF 322.47 FEET;

ENCE WESTERLY AT RIGHT ANGLES TO THE WESTERLY SIDE OF MILLER ROAD, AND ALONG E SOUTHERLY SIDE OF LAND OF R.W. PERKINS A DISTANCE OF 420.84 FEET TO THE STERLY SIDE OF THE LONG ISLAND RAILROAD;

HENCE ALONG THE EASTERLY SIDE OF LAND OF THE LONG ISLAND RAILROAD, SOUTH 17 EGREES 57 MINUTES 30 SECONDS WEST A DISTANCE OF 240.32 FEET TO A RAILROAD ONUMENT IN THE EASTERLY SIDE OF LAND OF THE LONG ISLAND RAILROAD AND LAND NOW R FORMERLY OF JOHN D. HEWLETT AND PHOEBE E.H. WILLETS;

THENCE ALONG THE EASTERLY SIDE OF LAND OF HEWLETT AND WILLETS SOUTH 5 DEGREES 46 MINUTES 19 SECONDS WEST A DISTANCE OF 89.46 FEET;

THENCE SOUTH 86 DEGREES 13 MINUTES EAST A DISTANCE OF 479.64 FEET TO THE WESTERLY SIDE OF MILLER ROAD, AT THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY SECTION 12, BLOCK A, LOT 855.

Westbury Facility

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT NEW CASSEL, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED DISTANT 550.20 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST JOHN STREET AS WIDENED AND THE WESTERLY SIDE OF CATIAGUE LANE;

RUNNING THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS WEST ALONG THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED 611.18 FEET TO THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION;

THENCE NORTH 27 DEGREES 53 MINUTES 16 SECONDS WEST ALONG THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION, 470.14 FEET;

NORTH 75 DEGREES 09 MINUTES 50 SECONDS EAST 717.35 FEET;

SOUTH 14 DEGREES 50 MINUTES 10 SECONDS EAST, 458 FEET TO THE NORTHERLY WEST JOHN STREET, AS WIDENED, AT THE POINT OR PLACE OF BEGINNING.

ON ONLY: SECTION: 11 BLOCK: 329 LOT: 369

DESCRIPTION OF FACILITY EQUIPMENT

All machinery, equipment, fixtures (other than trade fixtures) and other property located or to be located on or in real property described in the Description of the Facility Realty attached to the Lease Agreement, dated as of June 1, 1998, between Nassau County Industrial Development Agency and Sulzer Metco (US) Inc.

LETTER OF AUTHORIZATION FOR SALES TAX EXEMPTION

June __, 1998

WHOM IT MAY CONCERN

Re: Nassau County Industrial Development Agency
(1998 Sulzer Metco (US) Inc. Project)

dies and Gentlemen:

The Nassau County Industrial Development Agency (the "Agency"), by this notice, reby advises you as follows:

1. The Agency constitutes a corporate governmental agency and a public nefit corporation under the laws of the State of New York, and therefore, in the exercise of governmental functions, including the issuance of its bonds or notes, is exempt from the position of any New York State or Nassau County sales and use tax. As an exempt vernmental entity, no exempt organization identification number has been issued to the Agency s one required.

2. Pursuant to a resolution adopted by the Agency on May 13, 1998 and a se Agreement, dated as of June 1, 1998 (the "Lease Agreement"), between the Agency and lzer Metco (US) Inc., a Delaware corporation (the "Company"), the Agency has authorized Company to act as its agent to construct an approximately 30,000 square foot expansion to Company's facility at 1101 Prospect Avenue, Westbury, New York (the "Westbury cility"), construct renovations and improvements to each of the Westbury Facility and the mpany's facility at 220 Miller Place, Hicksville, New York (the "Hicksville Facility"; ether with the Westbury Facility, the "Facility"), and the acquisition and installation of chinery, equipment and furnishings at each of the Westbury Facility and the Hicksville cility, all for use in the manufacturing of thermal energy systems and components and related ojects (the "Project"), for sale to the Agency and lease to the Company.

3. In connection with such resolution and the Lease Agreement and pursuant the authority therein granted, the Agency authorizes the Company to act as its agent in nnection with the acquisition, construction and equipping of the Project and authorizes the mpany to use this letter as its agent only for the payment of the costs of such acquisition, nstruction and equipping of the Project, all as limited and to the extent set forth in Exhibit A ached hereto.

4. As agent for the Agency, the Company agrees that each contract, agreement, order or purchase order entered into by the Company as agent for the Agency for the construction or equipping of the Project shall include language in substantially the

"This [contract, agreement, invoice, bill or purchase order] is being entered into by Sulzer Metco (US) Inc., a corporation organized and existing under the laws of the State of Delaware (the "Agent"), as agent for and on behalf of the Nassau County Industrial Development Agency (the "Agency") in connection with a certain project of the Agency for the Agent consisting of the construction of an approximately 30,000 square foot expansion to the Agent's facility at 1101 Prospect Avenue, Westbury, New York (the "Westbury Facility"), the construction of renovations and improvements to each of the Westbury Facility and the Agent's facility at 220 Miller Place, Hicksville, New York (the "Hicksville Facility"), and the acquisition and installation of machinery, equipment and furnishings at each of the Westbury Facility and the Hicksville Facility, all for use in the manufacturing of thermal energy systems and components and related products (the "Project"), for sale to the Agency and lease to the Agent. The construction materials, machinery, equipment, trade fixtures, furniture, furnishing and other tangible personal property to be used for the Project which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and the County of Nassau if effected in accordance with the terms and conditions set forth in the attached Letter of Authorization for Sales Tax Exemption of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Letter of Authorization for Sales Tax Exemption. The liability of the Agency hereunder is limited as set forth in the Letter of Authorization for Sales Tax Exemption. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges the terms and conditions set forth in this paragraph."

5. The acquisition, construction and equipping of facilities, capital improvements, systems, trade fixtures, tangible personal property, equipment and machinery constituting a part of the Project shall be exempt from the sales and use tax levied by the State of New York and the County of Nassau on the condition that (i) such materials and capital improvements are separately identifiable property of the Agency, and (ii) any capital machinery, equipment or other tangible personal property shall have a useful life of one year or more, and shall solely be for the use of the Company at the Facility, and for no other entity and at no other location, and be effected by and at the sole cost of the Company, and (iii) the cost of such property is purchased or paid from, or reimbursed with, in whole, the proceeds of bond issued by the Agency for the financing of the Project.

6. The liability of the Agency under any contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency hereunder shall be limited only to the proceeds of the bonds of the Agency as may be used to finance the cost of the Project; and the Agency shall have no liability or performance obligations under any such contract, agreement, invoice, bill or purchase order. In the event that such bonds are not issued

proceeds of such bonds are insufficient to pay or reimburse all or any part of such costs, 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, the Company shall be the sole party liable thereunder.

7. By execution by the Company of its acceptance of the terms of this letter, Company agrees to accept the terms hereof and represents and warrants to the Agency that use of this letter by the Company is strictly for the purposes above stated.

8. Accordingly, until the earlier of (i) June 30, 2000, (ii) the completion of the ject as provided in the Lease Agreement, and (iii) the receipt by the Company of the imum Sales Tax Benefit (as defined in the Lease Agreement), all vendors, contractors and contractors are hereby authorized to rely on this letter (or on a photocopy or fax of this er) as evidence that purchases of items of property described in Exhibit A hereto, to the ent effected by the Company (or by a contractor or subcontractor engaged by the Company) agent for the Agency, are exempt from all New York State and Nassau County sales taxes.

The signature of a representative of the Company where indicated below will icate that the Company has accepted the terms hereof.

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By_____
David G. Salten,
Chairman

CEPTED AND AGREED TO BY:

ZER METCO (US) INC.

_____
me:
e:

CONSENT, REAFFIRMATION, CERTIFICATION
AND AMENDMENT OF LEASE

THIS CONSENT, REAFFIRMATION, CERTIFICATION AND AMENDMENT OF LEASE dated as of November 26, 2003 (this "Consent"), by the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York, having an office at 400 County Seat Drive, Mineola, New York 11501 (the "Agency") in favor of SULZER METCO (US) INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware, having an office at 1101 Prospect Avenue, Westbury, New York 11590 (the "Lessee") and EXCEL IMPORTING CORP., a corporation organized and existing under and by virtue of the laws of the State of New York, having an office at 1101 Prospect Avenue, Westbury, NY 11590 (the "Subtenant").

WITNESSETH :

WHEREAS, on or about June 1, 1998, November 30, 1998 and August 12, 1999, Lessee entered into a series of transactions with the Agency under the New York State Industrial Development Agency Act (the "Act"), in which the Agency issued its Industrial Development Revenue Bonds (1998 Sulzer Metco (US) Inc. Project), Series A, B and C (collectively, the "Bonds") with respect to a project (the "Project") which Project includes a building (the "Building") located at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau and State of New York (the "Land", which is more fully described in Exhibit A hereto); and

WHEREAS, in connection with the Bonds issued with respect to the Project, the following documents, among others, were entered into, all dated as of June 1, 1998:

(a) a Lease Agreement by and between the Agency, as lessor, and Lessee, as lessee (the "Lease Agreement");

(b) Indenture of Trust and Bond Supplemental Indenture of Trust between the Agency and United States Trust Company of New York, as Trustee;

(c) two (2) Payment-in-Lieu-of-Taxes Agreements by and between the Agency and Lessee (together, the "PILOT Agreement");

(d) two (2) Mortgages and Assignments of Leases and Rents from the Agency and Lessee to the County of Nassau (NY), as mortgagee (together, the "PILOT Mortgage"); and

(e) the various documents contemplated by the foregoing

(all of the foregoing being collectively referred to herein as the "Project Documents"); and

WHEREAS, Lessee seeks to create a subleasehold interest (the "Leasehold Interest") in certain space comprising an approximately 13,300 square foot area on the second floor of the Building (the "Demised Premises", which Demised Premises are more fully set forth in Exhibit B hereto); and

WHEREAS, to create said Leasehold Interest in the Demised Premises, Lessee, as landlord, entered into a certain Sublease Agreement (the "Sublease") with Subtenant, as tenant; and

WHEREAS, in order for Lessee to validly enter into the Sublease, the Agency must provide its consent pursuant to the requirements of Section 9.3 of the Lease Agreement; and

WHEREAS, it is necessary to provide for reaffirmation of certain agreements, the certification of certain facts and the amendment of certain agreements; and

NOW, THEREFORE, for and in consideration of the premises and covenants and representations, the parties hereto respectively consent, reaffirm, certify and amend as follows:

1. All terms not defined in this Consent shall have the meanings ascribed thereto in the Lease Agreement.

2. Lessee hereby certifies, warrants and agrees that:

(a) It has caused to be delivered to the Agency the opinion of counsel described in Section 9.3(3) of the Lease Agreement.

(b) Notwithstanding the execution and delivery of the Sublease, Lessee, as lessee under the Lease Agreement, shall remain primarily liable to the Agency for the payment of all Rental Payments under the Lease Agreement and for the full performance of all of the terms, covenants and conditions of the Lease Agreement and all other Project Documents to which it is a party.

(c) The Sublease does not violate any provision of the Lease Agreement or any other Project Document (taking into account the execution and delivery of this Consent).

(d) The Sublease does not diminish or impair Lessee's obligation to carry the insurances required under Section 4.5 of the Lease Agreement.

(e) Lessee is in compliance with the Project Documents and no events of default have occurred and are continuing thereunder.

(f) The number of employees of Lessee at the Building is at least one hundred eighty (180) full time job equivalents, and this number of employees will not be effected by Lessee entering into the Sublease for the Demised Premises. Lessee covenants to maintain such employment throughout the term of the Lease Agreement.

(g) The Sublease is not a sublease of the whole of the Facility.

3. Subtenant hereby certifies, warrants and agrees that:

(a) Subtenant shall utilize the portion of the Facility contained within the Demised Premises as an approved Facility and a qualified "project" within the meaning of the Act and that no portion of the Demised Premises shall be used for the retail sale of goods or services.

(b) Throughout the term of the Sublease, Subtenant shall maintain such policies of insurance as required therein, which policies shall name the Agency as an additional insured thereunder.

(c) The Sublease is not a sublease of the whole of the Facility.

4. The parties hereto certify, warrant and agree that the Sublease shall not be assigned, modified or amended without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed.

5. The Agency and Lessee agree that the Lease Agreement shall be, and is hereby, amended such that approved Facility shall include not only Lessee's distribution and warehousing facility contemplated by Section 3.1 of the Lease Agreement, but shall also include Subtenant's use of the Facility as set forth in the Sublease.

6. Taking into account the certifications, waiver, amendments and consents set forth in this Consent, Lessee hereby reaffirms its covenants and obligations and the terms of each of the Project Documents.

7. The Agency hereby consents to the execution and delivery of the Sublease by Lessee, as landlord, and Subtenant, as tenant. A copy of the Sublease is attached as Exhibit C hereto. The Agency acknowledges that the Sublease is not a sublease of the whole of the Facility and that Section 9.3(2) of the Lease Agreement does not apply thereto.

8. Lessee and Subtenant, by their acceptance of this Consent, acknowledge and agree that the Sublease is and shall be subject and subordinate to the Lease Agreement and to the matters to which the Lease Agreement is and shall be subject and subordinate, including, without limitation, the PILOT Mortgage.

9. All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given on the earlier of: (a) three (3) business days after being sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery; or (b) the date on which delivery is refused by the addressee, as evidenced by the affidavit of the person who attempted to effect such delivery.

The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO LESSEE:

Sulzer Metco (US) Inc.
1101 Prospect Avenue
Westbury, NY 11590

IF TO SUBTENANT:

Excel Importing Corp.
1101 Prospect Avenue
Westbury, NY 11590

With a copy to:

Mickelberry Communications Incorporated
Attn: President
405 Park Avenue
New York, NY 10022

IF TO THE AGENCY:

Nassau County Industrial Development Agency
400 County Seat Drive
Mineola, New York 11501
Attention: Executive Director

WITH A COPY TO:

Phillips Lytle LLP
1100 Franklin Avenue, 4th Floor
Garden City, New York 11530
Attention: Milan K. Tyler, Esq.

Any party may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

10. This Consent shall be governed by, and construed in accordance with, the laws of the State of New York, as the same may from time to time be in effect, without regard to its principles of conflicts of laws.

11. If any one or more of the provisions of this Consent shall be ruled invalid by any court of competent jurisdiction, the invalidity of such provision(s) shall not affect any of the remaining provisions hereof, but this Consent shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

12. No provision, covenant or agreement contained in this Consent or any obligation herein imposed upon the Agency shall be construed to create privity of estate or of contract between the Agency and Subtenant.

13. Neither the giving of the consents herein nor anything contained in the Sublease shall serve to modify the Lease Agreement, increase the obligations or diminish the rights of Agency under the Lease Agreement, or in any way be construed as giving Subtenant any greater rights under the Sublease with respect to the Demised Premises than Lessee would be entitled to under the Lease Agreement.

14. The giving of this Consent by Agency shall not serve to waive, and is given subject to the requirement of obtaining Agency's consent to: (a) any further subletting of the Demised Premises under the Sublease, or any portion of the Land under the Lease Agreement; or (b) any assignment or amendment of the Sublease.

15. In the event Agency collects any rent and/or additional rent due under the Sublease directly from the Subtenant for any reason whatsoever, the collection of such rent and/or additional rent shall not be deemed an acceptance of the Subtenant as a tenant under the Lease Agreement, nor shall it be deemed to release Lessee of any or all of the terms, covenants and conditions under the Lease Agreement or the Sublease.

16. This Consent may be executed in any number of counterparts, each of which shall, when executed, be deemed to be an original and all of which shall be deemed to be one and the same.

17. Nothing shall be construed herein to extend the term of the Sublease beyond the term of the Lease Agreement.

18. (a) The obligations and agreements of the Agency contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than Lessee), servant or employee of the Agency in his or her individual capacity, and the members, officers, agents (other than Lessee), servants and employees, past, present and future of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby.

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York, the County of Nassau, the Town

of North Hempstead or the Westbury Unified School District, New York, and neither the State of New York, the County of Nassau, the Town of North Hempstead nor the Westbury Unified School District, New York shall be liable hereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable, if at all, solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (except for revenues derived by the Agency with respect to the Agency's Reserved Rights (as defined in the Lease Agreement)).

(c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless: (i) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) business days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) business days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten (10) business day period) or failed to respond within such notice period; (ii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such fees and expenses; and (iii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than Lessee), servants or employees, past, present or future, shall be subject to potential liability, the party seeking such order or decrees shall: (A) agree to indemnify, defend (with counsel selected by the Agency) and hold harmless the Agency and its members, officers, agents (other than Lessee), attorneys, servants and employees, past present and future, against any liability incurred as a result of its compliance with such demand; and (B) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than Lessee), servants and employees, past, present and future, against all liability expected to be incurred as a result of compliance with such request.

19. All costs incidental to this Consent, including, without limitation, an Agency consent fee and the attorney's fees and disbursements of the Agency's counsel, including the fees and disbursements of the Agency's Special Counsel, Phillips Lytle LLP, are to be paid by Lessee upon the Agency's request therefor. Lessee hereby agrees to reimburse the Agency for all expenses and disbursements incurred by or on behalf of the Agency in connection herewith.

IN WITNESS WHEREOF, to evidence its consent the Agency has caused its name to be subscribed hereto by its authorized officer and the other parties hereto have agreed to and accepted the respective terms and covenants set forth herein, all being done as of the year and day first above written.

CONSENT GIVEN:
NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Name: Joseph Gioino
Title: Executive Director

AGREED TO AND ACCEPTED:

SULZER METCO (US) INC.

By: _____
Name: Charles J. Haugh
Title: Vice President

EXCEL IMPORTING CORP.

By: _____
Name: Robert Garrett
Title: President

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

On the 27th day of ~~November~~ January, in the year two thousand ~~three~~ four, before me, the undersigned, a Notary Public in and from said State, personally appeared Joseph Gioino, 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 the behalf of whom the individual acted, executed the instrument.

Notary Public

MILAN K. TYLER
Notary Public, State of New York
No. 24-4849790
Qualified in Kings County
Commission Expires April 17, 2007

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

On the 26th day of November, in the year two thousand three, before me, the undersigned, a Notary Public in and from said State, personally appeared Charles J. Haugh, 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 the behalf of whom the individual acted, executed the instrument.

Notary Public

SUZANNE M. BODGER
NOTARY PUBLIC State of New York
No. 01BO4889638
Qualified in Suffolk County
Commission Expires April 13, 2007

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

On the 26th day of November, in the year 2003, before me, the undersigned, a Notary Public in and from said State, personally appeared Robert Garrett, 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 the behalf of whom the individual acted, executed the instrument.

Notary Public

SUZANNE M. BODGER
NOTARY PUBLIC State of New York
No. 01BO4889638
Qualified in Suffolk County
Commission Expires April 13, 2007

EXHIBIT A

DESCRIPTION OF THE LAND

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT NEW CASSEL, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED DISTANT 550.20 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST JOHN STREET AS WIDENED AND THE WESTERLY SIDE OF CATIAGUE LANE;

RUNNING THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS WEST ALONG THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED 611.18 FEET TO THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION;

THENCE NORTH 27 DEGREES 53 MINUTES 16 SECONDS WEST ALONG THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION, 470.14 FEET;

THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS EAST 717.35 FEET;

THENCE SOUTH 14 DEGREES 50 MINUTES 10 SECONDS EAST, 458 FEET TO THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED, AT THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION 11 BLOCK: 329 LOT: 369

EXHIBIT B

DESCRIPTION OF THE
DEMISED PREMISES

13,300 net rentable square feet comprising the entire 2nd floor of 1101 Prospect Avenue, Westbury, New York.

NIXON PEABODY LLP
ATTORNEYS AT LAW

50 Jericho Quadrangle
Suite 300
Jericho, New York 11753-2728
(516) 832-7500
Fax: (516) 832-7555

Denise D. Pursley
Direct Dial: (516) 832-7542
E-Mail: dpursley@nixonpeabody.com

September 16, 2008

Ms. Natacha Cordova
Contract Administrator
Sulzer Metco (US) Inc.
1101 Prospect Avenue
Westbury, New York 11590

Re: PILOT Amendment between the Nassau County Industrial Development Agency and Sulzer Metco (US) Inc.

Dear Natacha:

Enclosed please find the closing binder pertaining to the above-referenced transaction.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Denise D. Pursley

DDP:ya
Encl.

cc: Richard Rudolf, Esq.

11151259.1

TROUTMAN SANDERS LLP
ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NEW YORK 10174
www.troutmansanders.com
TELEPHONE: 212-704-6000
FACSIMILE: 212-704-6288

Andrew Komaromi
Andrew.Komaromi@troutmansanders.com

Direct Dial: 212-704-6099
Direct Fax: 212-704-5981

September 12, 2008

Nixon Peabody LLP
50 Jericho Quadrangle
Suite 300
Jericho, NY 11753

Attn.: Denise Pursley, Esq.

RE: PILOT Amendment between the Nassau County Industrial Development Agency and Sulzer Metco (US) Inc.

Dear Denise:

I have enclosed two (2) closing binders for the above mentioned transaction.

Please do not hesitate to call me with any questions.

Sincerely yours,

Andrew Komaromi

AK/

Encs.

cc: Joseph Gioino, Esq. (via e-mail w/o encl.)
Cara Longworth, Esq. (via e-mail w/o encl.)
Robert J. Chanis, Esq. (via e-mail w/o encl.)

NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

PILOT AMENDMENT

with

SULZER METCO (US) INC.

Closing Date: As of July 1, 2008

==========

NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

PILOT AMENDMENT

with

SULZER METCO (US) INC.

Closing Date: As of July 1, 2008

Place of Closing:

Troutman Sanders LLP
The Chrysler Building
405 Lexington Avenue, 9th Floor
New York, NY 10174

==========

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PILOT AMENDMENT

with

SULZER METCO (US) INC.

Closing Date: As of July 1, 2008

Definitions:

Agency:	Nassau County Industrial Development Agency
Obligor:	Sulzer Metco (US) Inc.

Index of Documents:

1. First Amendment to Payment in Lieu of Taxes Agreement between the Agency and Company
2. Application for Amended Real Property Tax Exemption (RP-412-a) and Notification to the Tax Assessors
3. Agency Report of Public Hearing
4. Agency Consent Resolution
5. Agency Notice of Public Hearing
6. Agency PILOT Deviation Letters

FIRST AMENDMENT TO PAYMENT IN LIEU OF TAXES AGREEMENT

THIS FIRST AMENDMENT TO PAYMENT IN LIEU OF TAXES AGREEMENT (this "Amendment"), made as of the 1st day of July 2008 by and between **NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State of New York, having its principal office at 1100 Franklin Avenue, Suite 300, Garden City, NY 11530 (the "Agency"), and **SULZER METCO (US) INC.**, a corporation duly organized and validly existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign corporation, having its principal office at 1101 Prospect Avenue, Westbury, New York 11590 (the "Company"). Capitalized terms used in this Amendment but not defined herein shall have the meanings assigned to such terms in the Lease Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, the Agency was created by Chapter 1030 of the Laws of 1969 of the State of New York, being Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 674 of the Laws of 1975 of the State of New York, as amended (collectively, the "Act"); and

WHEREAS, on or about June 1, 1998, the Company entered into a transaction with the Agency under the Act, pursuant to which the Agency issued its industrial development revenue bonds, Series A in the original principal amount of $100,000, Series B in the original principal amount of $1,000,000 and Series C in the original principal amount of $8,900,000 (collectively, the "Bonds"), with respect to the construction, renovation and equipping of, among other things, a certain manufacturing facility consisting of the construction of an approximately 30,000 square foot expansion to the Company's facility at 1101 Prospect Avenue, Westbury, Town of North Hempstead, Nassau County, New York, more particularly described on Exhibit A attached hereto, and the improvements thereon (collectively, the "Westbury Facility"), the construction of renovations and improvements to the Westbury Facility, and the acquisition and installation of machinery, equipment and furnishings at the Westbury Facility, all for use in the manufacturing of thermal energy systems and components and related products (collectively, the "Project"); and

WHEREAS, the Agency has appointed the Company as agent of the Agency to undertake the acquisition, construction and installation the Project and the Agency has leased the Westbury Facility to the Company, all pursuant to the terms and conditions set forth in the Lease Agreement dated as of June 1, 1998 between the Company and the Agency (as amended, modified, supplemented or restated to date, including, without limitation, pursuant to that certain Second Amendment to Lease Agreement dated October 1, 2004, the "Lease Agreement"); and

WHEREAS, pursuant to Section 874 of the Act, the Agency is exempt from the payment of all taxes and assessments imposed upon real property and improvements acquired by it or under its jurisdiction or control or supervision, other than special ad valorem levies and special assessments; and

WHEREAS, the Agency and the Company wish to amend that certain Amended and Restated Payment in Lieu of Taxes Agreement, dated October 1, 2004 between the Company and the Agency with respect to the Westbury Facility (as further amended, modified, supplemented or restated from time to time, the "Existing PILOT Agreement"), which amended and restated the terms of the Payment in Lieu of Taxes Agreement, dated June 1, 1998;

NOW, THEREFORE, in consideration of the promises, mutual covenants hereinafter contained and other good and valuable consideration, the parties hereto mutually agree as follows:

1. The Existing PILOT Agreement shall be amended by adding Section 2.B.(3), containing the following language:

> "Any provision of this Agreement to the contrary notwithstanding, the amount of the payments-in-lieu-of-taxes and assessments (each a PILOT Payment, and collectively, the "PILOT Payments") set forth in Section 2.B.(1) hereof for each fiscal tax year shall be reduced by the amount, if any, of special assessments and special ad valorem levies assessed against or levied upon the Westbury Facility for such fiscal tax year (collectively, "Special Assessments"), whether by the Nassau County Tax Assessor's Office or otherwise, which Special Assessments would otherwise be payable by the Company pursuant to this Agreement. The amount of any such reduction of a PILOT Payment shall be set forth on the applicable PILOT bill issued with respect to such fiscal tax year, if any, but the failure of the Company to receive such bill shall in no event affect the Company's obligation to pay such PILOT Payment. In the event that (i) the amount of Special Assessments for a particular fiscal tax year exceeds the amount of the PILOT Payment for such fiscal tax year (such excess is hereinafter referred to as an "SA Credit"), or (ii) the amount of PILOT Payments for a particular fiscal tax year are not reduced by the amount of Special Assessments for such fiscal tax year (the amount of such Special Assessments is hereinafter referred to as an "SA Reduction"), then the amount of such SA Credit or SA Reduction, as the case may be, shall be carried over as a credit for the following fiscal tax year(s); provided, however, that if there is an unused SA Credit at the end of the term of the PILOT Payments hereunder, then the Company shall not be entitled to (a) take such SA Credit against any further payments hereunder or against real property taxes assessed against the Westbury Facility, or (b) an extension of the term of this Agreement."

2. The Existing PILOT Agreement shall be deemed to be modified and amended in accordance with the provisions of this Amendment and the respective rights, duties and obligations of the Company shall remain to be determined, exercised and enforced under the Existing PILOT Agreement subject in all respects to such modifications and amendments in writing executed by all parties thereto, and all the terms and conditions of this Amendment shall be part of the terms and conditions of the Existing PILOT Agreement for any and all purposes. All the other terms of the Existing PILOT Agreement shall continue in full force and effect subject to the amendments set forth herein.

3. The Company represents and warrants to the Agency as follows:

(a) The representations and warranties of the Company contained in the Existing PILOT Agreement (i) were true and correct when made, and (ii) after giving effect to this Amendment, continue to be true and correct on the date hereof (except to the extent of changes resulting from transactions contemplated or permitted by the Agreement, as amended hereby, and changes occurring in the ordinary course of business that singly or in the aggregate are not materially adverse, and to the extent that such representations and warranties relate expressly to an earlier date).

(b) The execution and delivery by the Company of this Amendment and the performance by the Company of all of its agreements and obligations under this Amendment are within its corporate, partnership or limited liability company authority, have been duly authorized by all necessary corporate, partnership or membership action and do not and will not: (i) contravene any provision of its organizational documents or any amendment thereof; (ii) conflict with, or result in a breach of any material term, condition or provision of, or constitute a default under or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of its respective property under any agreement, deed of trust, indenture, mortgage or other instruments to which it is a party or by which any of its properties are bound including, without limitation, any of other agreements; (iii) violate or contravene any provision of any law, statute, rule or regulation to which the Company is subject or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official applicable to the Company; (iv) require any waivers, consents or approvals by any of its creditors which have not been obtained; or (v) require any approval, consent, order, authorization or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency under any provision of any law.

4. The Existing PILOT Agreement, as amended hereby, constitutes the legal, valid and binding obligations of the Company enforceable against the Company in accordance with its terms, provided that: (i) enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws of general application affecting the rights and remedies of creditors; and (ii) the availability of the remedies of specific performance and injunctive relief may be subject to the discretion of the court before which any proceedings for such remedies may be brought.

5. No provision, covenant or agreement contained in this Amendment or any obligation herein imposed upon the Agency or the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit.

6. All covenants, stipulations, promises, agreements and obligations of the Agency contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Agency and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for the payment thereof or for

any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing this Amendment on behalf of the Agency

7. Whenever the Company fails to comply with any provision of the Existing PILOT Agreement, as amended hereby, the Agency may, but shall not be obligated to, take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under the Existing PILOT Agreement, as amended hereby.

8. The Existing PILOT Agreement, as amended hereby, shall be governed by and construed in accordance with the internal laws of the State of New York, as the same may be in effect from time to time, without regard to its principles of conflicts of laws.

9. The Company agrees to hold the Agency harmless from and against any liability arising from any default by the Company in performing its obligations hereunder or any expense incurred hereunder, including, without limitation, any expenses of the Agency and attorneys' fees and disbursements.

10. The Existing PILOT Agreement, as amended hereby, may be modified only by written instrument duly executed by the parties hereto.

11. The Existing PILOT Agreement, as amended hereby, shall be binding upon and inure to the benefit of the parties and their respective successors, heirs, distributees and assigns.

12. If any provision of the Existing PILOT Agreement, as amended hereby, shall for any reason be held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent, and the remainder of the Existing PILOT Agreement, as amended hereby, shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

13. If the Company fails to make any payment when due, the Agency, in addition to any remedy or right it or any taxing authority may have pursuant to the Existing PILOT Agreement, as amended hereby, shall have the rights and remedies set forth in the Lease Agreement.

14. This Amendment may be executed in any number of counterparts and by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment.

15. References to the Existing PILOT Agreement in the Lease Agreement and the other agreements, documents and instruments heretofore, now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the Lease Agreement, are hereby amended so that any reference to the Existing PILOT Agreement, shall be deemed to mean the Existing PILOT Agreement, as amended by this Amendment.

16. This Amendment is given in amendment of, and not in extinguishment, termination or replacement of, the Existing PILOT Agreement. The Company represents and warrants to the Agency that the Company has no right of setoff, defense, claim or counterclaim with respect to its obligations under the Existing PILOT Agreement.

17. Except as expressly provided herein, this Amendment shall not be construed to be a waiver or modification, express or implied, of any of the terms or provisions of the Existing PILOT Agreement, the Lease Agreement or any other agreement, document or instrument executed and/or delivered in connection with any of the foregoing, or of any of the Agency's rights thereunder, all of which are and shall remain in full force and effect, nor to result in a loss of priority of the lien of the PILOT Mortgage over the rights of any junior lienor. This Amendment shall not be construed to constitute consent to other or further action by the Company or to entitle the Company to any other consent.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Joseph Gioino
Executive Director

SULZER METCO (US) INC.

By: _____
Janis Gzik
V.P. of Finance

By: _____
Charles Haugh
Vice President

STATE OF NEW YORK)
) ss:
COUNTY OF NASSAU)

On the 17th day of ~~June~~ July in the year 2008 before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph Gioino, 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 or entity on behalf of which the individual acted, executed the instrument.

Notary Public

ROBERT J. LIBONATI
Notary Public, State of New York
No. 01LI5023347
Qualified in Westchester County
Commission Expires Feb. 7, 2010

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

On the 23 day of June in the year 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared Janis Gzik, 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 or entity on behalf of which the individual acted, executed the instrument.

Denise Pursley
Notary Public

DENISE PURSLEY
Notary Public, State of New York
No. 02PU5008092
Qualified in Nassau County
Commission Expires February 16, ~~19~~ 2011

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

On the 23 day of June in the year 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles Haugh, 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 or entity on behalf of which the individual acted, executed the instrument.

Denise Pursley
Notary Public

DENISE PURSLEY
Notary Public, State of New York
No. 02PU5008092
Qualified in Nassau County
Commission Expires February 16, ~~19~~ 2011

EXHIBIT A

Attached hereto

EXHIBIT A

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT NEW CASSEL, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED DISTANT 550.20 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST JOHN STREET AS WIDENED AND THE WESTERLY SIDE OF CATIAGUE LANE;

RUNNING THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS WEST ALONG THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED 611.18 FEET TO THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION;

THENCE NORTH 27 DEGREES 53 MINUTES 16 SECONDS WEST ALONG THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION, 470.14 FEET;

THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS EAST 717.35 FEET;

THENCE SOUTH 14 DEGREES 50 MINUTES 10 SECONDS EAST, 458 FEET TO THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED, AT THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION: 11 BLOCK:329 LOT: 369

NYS BOARD OF REAL PROPERTY SERVICES

RP-412-a(1/95)

INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name Nassau County Industrial Development Agency

Street 1100 Franklin Avenue, Suite 300

City Garden City, NY 11530

Telephone no. Day (516) 571-4160

Evening (___)

Contact Joseph Gioino

Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)
(If more than one occupant attach separate listing)

Name Sulzer Metco (US) Inc.

Street 1101 Prospect Avenue

City Westbury, NY

Telephone no. Day (516) 338-2326

Evening (___)

Contact Mark Levine

Title Vice President

3. DESCRIPTION OF PARCEL

a. Assessment roll description (tax map no.,/roll year)
Section: 11; Block: 329, Section: 369

b. Street address 1100 Prospect Avenue

c. City, Town or Village North Hempstead

d. School District Westbury UFSD

e. County Nassau

f. Current assessment Unknown

g. Deed to IDA (date recorded; liber and page)
Previously recorded

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

a. Brief description (include property use) Commercial manufacturing facility

b. Type of construction ------

c. Square footage N/A

d. Total cost N/A

e. Date construction commenced N/A

f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)
7/1/13

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION
(Attach copy of the agreement or extract of the terms relating to the project).

a. Formula for payment See attached First Amendment to Payment in Lieu of Taxes Agreement

b. Projected expiration date of agreement 6/30/13

c. Municipal corporations to which payments will be made

	Yes	No
County	✓	
Town/City	✓	
Village		✓
School District	✓	

d. Person or entity responsible for payment

Name Mark Levine
Title Vice President

Address 1101 Prospect Avenue
Westbury, NY 11590

Telephone (516) 338-2326

e. Is the IDA the owner of the property? ☐ **YES** ☐ **NO**
If "No" identify owner and explain IDA rights or interest in an attached statement.

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) ✓ Yes ☐ No

If yes, list the statutory exemption reference and assessment roll year on which granted:
exemption GML 874 assessment roll year _____

7. A copy of this application, including all attachments, has been mailed or delivered on or about the date hereof (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, Joseph Gioino (Name), Executive Director (Title) of Nassau County Industrial Development Agency (Organization) hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

_____ Date

_____ Signature

FOR USE BY ASSESSOR

1. Date application filed _____
2. Applicable taxable status date _____

3a. Agreement (or extract) date _____

3b. Projected exemption expiration (year) _____

4. Assessed valuation of parcel in first year of exemption $ _____
5. Special assessments and special as valorem levies for which the parcel is liable:

_____

_____

_____ Date

_____ Assessor's signature

THOMAS R. SUOZZI
COUNTY EXECUTIVE

GARY WEISS
VICE CHAIRMAN

PETER J. RUFFNER
SECRETARY

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
1100 FRANKLIN AVENUE, SUITE 300
GARDEN CITY, NY 11530
TELEPHONE (516) 571-4160 FAX (516) 571-4161
www.nassauida.org

HOWARD FENSTERMAN
CHAIRMAN

JOHN PUCKHABER
TREASURER

MARK GOLDBERG
ASSISTANT TREASURER

JOSEPH GIOINO
EXECUTIVE DIRECTOR

July 22, 2008

BY HAND DELIVERY

Hon. Harvey Levinson
County Assessor
County of Nassau
240 Old Country Road
Mineola, NY 11501

Re: 1101 Prospect Avenue, Westbury, Town of North Hempstead, Nassau County, New York; Section: 11; Block: 329; Section: 369

Dear Mr. Levinson:

On or about June 1, 1998 the Nassau County Industrial Development Agency (the "Agency") acquired the above-captioned realty, which is further described in Exhibit A attached hereto, pursuant to the provisions of the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, Chapter 1030 of the 1969 Laws of New York), as amended, and Chapter 674 of the 1975 Laws of New York, as amended (collectively, the "Act"), and pursuant to a Lease Agreement, dated as of June 1, 1998 (the "Lease Agreement"), between the Agency and Sulzer Metco (US) Inc. (the "Company"), the Lease Agreement or a memorandum of the Lease Agreement was recorded in the office of the Clerk of the County of Nassau, New York, the Agency leased said realty to the Company. The Agency notified the County Assessor of these transactions by letter dated on or about that date.

The Company was required under the Lease Agreement to make payments in lieu of real property taxes and assessments in the manner and amounts set forth in the Payment in Lieu of Taxes Agreement, dated as of June 1, 1998 (the "Existing PILOT Agreement"), between the Agency and the Company.

Please be advised that, on or about the date hereof, the Agency and the Company have entered into a First Amendment to Payment in Lieu of Taxes Agreement dated as of July 1, 2008 (the "Amended PILOT Agreement"), pursuant to which the Agency and the Company have amended the Existing PILOT Agreement in its entirety. A copy of the Amended PILOT Agreement is attached hereto as Exhibit B, together with the required Application for Amended Real Property Exemption. Please change your records accordingly.

Thank you for your attention to this matter.

Very truly yours,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By _____
Joseph Gioino
Executive Director

cc: County Clerk
County Attorney

NEWYORK01 1292328v2 043676-000012

EXHIBIT A

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT NEW CASSEL, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED DISTANT 550.20 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST JOHN STREET AS WIDENED AND THE WESTERLY SIDE OF CATIAGUE LANE;

RUNNING THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS WEST ALONG THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED 611.18 FEET TO THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION;

THENCE NORTH 27 DEGREES 53 MINUTES 16 SECONDS WEST ALONG THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION, 470.14 FEET;

THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS EAST 717.35 FEET;

THENCE SOUTH 14 DEGREES 50 MINUTES 10 SECONDS EAST, 458 FEET TO THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED, AT THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION: 11 BLOCK:329 LOT: 369

NYS BOARD OF REAL PROPERTY SERVICES

RP-412-a(1/95)

INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name Nassau County Industrial Development Agency

Street 1100 Franklin Avenue, Suite 300

City Garden City, NY 11530

Telephone no. Day (516) 571-4160

Evening ( )

Contact Joseph Gioino

Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)
(If more than one occupant attach separate listing)

Name Sulzer Metco (US) Inc.

Street 1101 Prospect Avenue

City Westbury, NY

Telephone no. Day (516) 338-2326

Evening ( )

Contact Mark Levine

Title Vice President

3. DESCRIPTION OF PARCEL

a. Assessment roll description (tax map no.,/roll year)
Section: 11; Block: 329, Section: 369

b. Street address 1100 Prospect Avenue

c. City, Town or Village North Hempstead

d. School District Westbury UFSD

e. County Nassau

f. Current assessment Unknown

g. Deed to IDA (date recorded; liber and page)
Previously recorded

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

a. Brief description (include property use) Commercial manufacturing facility

b. Type of construction ----

c. Square footage N/A

d. Total cost N/A

e. Date construction commenced N/A

f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)
7/1/13

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION
(Attach copy of the agreement or extract of the terms relating to the project).

a. Formula for payment See attached First Amendment to Payment in Lieu of Taxes Agreement

b. Projected expiration date of agreement 6/30/13

c. Municipal corporations to which payments will be made

	Yes	No
County	☑	☐
Town/City	☑	☐
Village	☐	☑
School District	☑	☐

d. Person or entity responsible for payment

Name Mark Levine
Title Vice President

Address 1101 Prospect Avenue
Westbury, NY 11590

Telephone (516) 338-2326

e. Is the IDA the owner of the property? ☐ YES ☐ NO
If "No" identify owner and explain IDA rights or interest in an attached statement.

6. Is the property receiving or has the property ever received any other exemption from real property taxation?
(check one) ☑ Yes ☐ No

If yes, list the statutory exemption reference and assessment roll year on which granted:
exemption GML 874 assessment roll year _____

7. A copy of this application, including all attachments, has been mailed or delivered on or about the date hereof (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, Joseph Gioino (Name), Executive Director (Title) of Nassau County Industrial Development Agency (Organization) hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

Date _____ Signature _____

FOR USE BY ASSESSOR

1. Date application filed _____
2. Applicable taxable status date _____
3a. Agreement (or extract) date _____
3b. Projected exemption expiration (year) _____
4. Assessed valuation of parcel in first year of exemption $ _____
5. Special assessments and special as valorem levies for which the parcel is liable:

_____

_____

Date _____ Assessor's signature _____

FIRST AMENDMENT TO PAYMENT IN LIEU OF TAXES AGREEMENT

THIS FIRST AMENDMENT TO PAYMENT IN LIEU OF TAXES AGREEMENT (this "Amendment"), made as of the 1st day of July 2008 by and between **NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State of New York, having its principal office at 1100 Franklin Avenue, Suite 300, Garden City, NY 11530 (the "Agency"), and **SULZER METCO (US) INC.**, a corporation duly organized and validly existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign corporation, having its principal office at 1101 Prospect Avenue, Westbury, New York 11590 (the "Company"). Capitalized terms used in this Amendment but not defined herein shall have the meanings assigned to such terms in the Lease Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, the Agency was created by Chapter 1030 of the Laws of 1969 of the State of New York, being Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 674 of the Laws of 1975 of the State of New York, as amended (collectively, the "Act"); and

WHEREAS, on or about June 1, 1998, the Company entered into a transaction with the Agency under the Act, pursuant to which the Agency issued its industrial development revenue bonds, Series A in the original principal amount of $100,000, Series B in the original principal amount of $1,000,000 and Series C in the original principal amount of $8,900,000 (collectively, the "Bonds"), with respect to the construction, renovation and equipping of, among other things, a certain manufacturing facility consisting of the construction of an approximately 30,000 square foot expansion to the Company's facility at 1101 Prospect Avenue, Westbury, Town of North Hempstead, Nassau County, New York, more particularly described on Exhibit A attached hereto, and the improvements thereon (collectively, the "Westbury Facility"), the construction of renovations and improvements to the Westbury Facility, and the acquisition and installation of machinery, equipment and furnishings at the Westbury Facility, all for use in the manufacturing of thermal energy systems and components and related products (collectively, the "Project"); and

WHEREAS, the Agency has appointed the Company as agent of the Agency to undertake the acquisition, construction and installation the Project and the Agency has leased the Westbury Facility to the Company, all pursuant to the terms and conditions set forth in the Lease Agreement dated as of June 1, 1998 between the Company and the Agency (as amended, modified, supplemented or restated to date, including, without limitation, pursuant to that certain Second Amendment to Lease Agreement dated October 1, 2004, the "Lease Agreement"); and

WHEREAS, pursuant to Section 874 of the Act, the Agency is exempt from the payment of all taxes and assessments imposed upon real property and improvements acquired by it or under its jurisdiction or control or supervision, other than special ad valorem levies and special assessments; and

WHEREAS, the Agency and the Company wish to amend that certain Amended and Restated Payment in Lieu of Taxes Agreement, dated October 1, 2004 between the Company and the Agency with respect to the Westbury Facility (as further amended, modified, supplemented or restated from time to time, the "Existing PILOT Agreement"), which amended and restated the terms of the Payment in Lieu of Taxes Agreement, dated June 1, 1998;

NOW, THEREFORE, in consideration of the promises, mutual covenants hereinafter contained and other good and valuable consideration, the parties hereto mutually agree as follows:

1. The Existing PILOT Agreement shall be amended by adding Section 2.B.(3), containing the following language:

> "Any provision of this Agreement to the contrary notwithstanding, the amount of the payments-in-lieu-of-taxes and assessments (each a PILOT Payment, and collectively, the "PILOT Payments") set forth in Section 2.B.(1) hereof for each fiscal tax year shall be reduced by the amount, if any, of special assessments and special ad valorem levies assessed against or levied upon the Westbury Facility for such fiscal tax year (collectively, "Special Assessments"), whether by the Nassau County Tax Assessor's Office or otherwise, which Special Assessments would otherwise be payable by the Company pursuant to this Agreement. The amount of any such reduction of a PILOT Payment shall be set forth on the applicable PILOT bill issued with respect to such fiscal tax year, if any, but the failure of the Company to receive such bill shall in no event affect the Company's obligation to pay such PILOT Payment. In the event that (i) the amount of Special Assessments for a particular fiscal tax year exceeds the amount of the PILOT Payment for such fiscal tax year (such excess is hereinafter referred to as an "SA Credit"), or (ii) the amount of PILOT Payments for a particular fiscal tax year are not reduced by the amount of Special Assessments for such fiscal tax year (the amount of such Special Assessments is hereinafter referred to as an "SA Reduction"), then the amount of such SA Credit or SA Reduction, as the case may be, shall be carried over as a credit for the following fiscal tax year(s); provided, however, that if there is an unused SA Credit at the end of the term of the PILOT Payments hereunder, then the Company shall not be entitled to (a) take such SA Credit against any further payments hereunder or against real property taxes assessed against the Westbury Facility, or (b) an extension of the term of this Agreement."

2. The Existing PILOT Agreement shall be deemed to be modified and amended in accordance with the provisions of this Amendment and the respective rights, duties and obligations of the Company shall remain to be determined, exercised and enforced under the Existing PILOT Agreement subject in all respects to such modifications and amendments in writing executed by all parties thereto, and all the terms and conditions of this Amendment shall be part of the terms and conditions of the Existing PILOT Agreement for any and all purposes. All the other terms of the Existing PILOT Agreement shall continue in full force and effect subject to the amendments set forth herein.

3. The Company represents and warrants to the Agency as follows:

(a) The representations and warranties of the Company contained in the Existing PILOT Agreement (i) were true and correct when made, and (ii) after giving effect to this Amendment, continue to be true and correct on the date hereof (except to the extent of changes resulting from transactions contemplated or permitted by the Agreement, as amended hereby, and changes occurring in the ordinary course of business that singly or in the aggregate are not materially adverse, and to the extent that such representations and warranties relate expressly to an earlier date).

(b) The execution and delivery by the Company of this Amendment and the performance by the Company of all of its agreements and obligations under this Amendment are within its corporate, partnership or limited liability company authority, have been duly authorized by all necessary corporate, partnership or membership action and do not and will not: (i) contravene any provision of its organizational documents or any amendment thereof; (ii) conflict with, or result in a breach of any material term, condition or provision of, or constitute a default under or result in the creation of any mortgage, lien, pledge, charge, security interest or other encumbrance upon any of its respective property under any agreement, deed of trust, indenture, mortgage or other instruments to which it is a party or by which any of its properties are bound including, without limitation, any of other agreements; (iii) violate or contravene any provision of any law, statute, rule or regulation to which the Company is subject or any decree, order or judgment of any court or governmental or regulatory authority, bureau, agency or official applicable to the Company; (iv) require any waivers, consents or approvals by any of its creditors which have not been obtained; or (v) require any approval, consent, order, authorization or license by, or giving notice to, or taking any other action with respect to, any governmental or regulatory authority or agency under any provision of any law.

4. The Existing PILOT Agreement, as amended hereby, constitutes the legal, valid and binding obligations of the Company enforceable against the Company in accordance with its terms, provided that: (i) enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws of general application affecting the rights and remedies of creditors; and (ii) the availability of the remedies of specific performance and injunctive relief may be subject to the discretion of the court before which any proceedings for such remedies may be brought.

5. No provision, covenant or agreement contained in this Amendment or any obligation herein imposed upon the Agency or the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit.

6. All covenants, stipulations, promises, agreements and obligations of the Agency contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Agency and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for the payment thereof or for

any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing this Amendment on behalf of the Agency

7. Whenever the Company fails to comply with any provision of the Existing PILOT Agreement, as amended hereby, the Agency may, but shall not be obligated to, take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under the Existing PILOT Agreement, as amended hereby.

8. The Existing PILOT Agreement, as amended hereby, shall be governed by and construed in accordance with the internal laws of the State of New York, as the same may be in effect from time to time, without regard to its principles of conflicts of laws.

9. The Company agrees to hold the Agency harmless from and against any liability arising from any default by the Company in performing its obligations hereunder or any expense incurred hereunder, including, without limitation, any expenses of the Agency and attorneys' fees and disbursements.

10. The Existing PILOT Agreement, as amended hereby, may be modified only by written instrument duly executed by the parties hereto.

11. The Existing PILOT Agreement, as amended hereby, shall be binding upon and inure to the benefit of the parties and their respective successors, heirs, distributees and assigns.

12. If any provision of the Existing PILOT Agreement, as amended hereby, shall for any reason be held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent, and the remainder of the Existing PILOT Agreement, as amended hereby, shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

13. If the Company fails to make any payment when due, the Agency, in addition to any remedy or right it or any taxing authority may have pursuant to the Existing PILOT Agreement, as amended hereby, shall have the rights and remedies set forth in the Lease Agreement.

14. This Amendment may be executed in any number of counterparts and by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment.

15. References to the Existing PILOT Agreement in the Lease Agreement and the other agreements, documents and instruments heretofore, now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the Lease Agreement, are hereby amended so that any reference to the Existing PILOT Agreement, shall be deemed to mean the Existing PILOT Agreement, as amended by this Amendment.

16. This Amendment is given in amendment of, and not in extinguishment, termination or replacement of, the Existing PILOT Agreement. The Company represents and warrants to the Agency that the Company has no right of setoff, defense, claim or counterclaim with respect to its obligations under the Existing PILOT Agreement.

17. Except as expressly provided herein, this Amendment shall not be construed to be a waiver or modification, express or implied, of any of the terms or provisions of the Existing PILOT Agreement, the Lease Agreement or any other agreement, document or instrument executed and/or delivered in connection with any of the foregoing, or of any of the Agency's rights thereunder, all of which are and shall remain in full force and effect, nor to result in a loss of priority of the lien of the PILOT Mortgage over the rights of any junior lienor. This Amendment shall not be construed to constitute consent to other or further action by the Company or to entitle the Company to any other consent.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Joseph Gioino
Executive Director

SULZER METCO (US) INC.

By: _____
Janis Gzik
V.P. of Finance

By: _____
Charles Haugh
Vice President

STATE OF NEW YORK)
) ss:
COUNTY OF NASSAU)

On the 17th day of ~~June~~ July in the year 2008 before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph Gioino, 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 or entity on behalf of which the individual acted, executed the instrument.

Notary Public

ROBERT J. LIBONATI
Notary Public, State of New York
No. 01LI5023347
Qualified in Westchester County
Commission Expires Feb. 7, 20 10

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

On the 23 day of June in the year 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared Janis Gzik, 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 or entity on behalf of which the individual acted, executed the instrument.

Denise Pursley
Notary Public

DENISE PURSLEY
Notary Public, State of New York
No. 02PU5008092
Qualified in Nassau County
Commission Expires February 16, 2011

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

On the 23 day of June in the year 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles Haugh, 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 or entity on behalf of which the individual acted, executed the instrument.

Denise Pursley
Notary Public

DENISE PURSLEY
Notary Public, State of New York
No. 02PU5008092
Qualified in Nassau County
Commission Expires February 16, 2011

EXHIBIT A

Attached hereto

EXHIBIT A

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT NEW CASSEL, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED DISTANT 550.20 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST JOHN STREET AS WIDENED AND THE WESTERLY SIDE OF CATIAGUE LANE;

RUNNING THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS WEST ALONG THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED 611.18 FEET TO THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION;

THENCE NORTH 27 DEGREES 53 MINUTES 16 SECONDS WEST ALONG THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION, 470.14 FEET;

THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS EAST 717.35 FEET;

THENCE SOUTH 14 DEGREES 50 MINUTES 10 SECONDS EAST, 458 FEET TO THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED, AT THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION: 11 BLOCK:329 LOT: 369

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Report of Public Hearing

I, Cara Longworth, Hearing Officer for the Nassau County Industrial Development Agency ("Agency") confirm that (i) a Notice of Public Hearing was published in *Newsday* on April 18, 2008 concerning the proposed amendment to the Payment in Lieu of Taxes Agreement ("PILOT Agreement") between the Agency and Sulzer Metco (US) Inc., or its successor ("Applicant"), with respect to an amendment to the PILOT Agreement for the Project as referenced in the Notice of Public Hearing, (ii) I held such public hearing on May 20, 2008, at the Town Hall in the Town of North Hempstead, 220 Plandome Road, Manhasset, New York, commencing at 3:00 p.m., and (iii) no members of the public requested to be heard or submitted written comments with regard to the Project and the proposed amendment to the PILOT Agreement.

Name: Cara Longworth
Title: Chief Financial Officer

DATED: May 20, 2008

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 1100 Franklin Avenue, Suite 300, Garden City, County of Nassau, New York on May 29, 2008, at 6:00 p.m., local time.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Agency were:

PRESENT:

Howard Fensterman	Chairman
John E. Puckhaber	Treasurer
Peter J. Ruffner	Secretary
Mark Goldberg	Asst. Treasurer

ABSENT:

Gary Weiss	Vice Chairman

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph Gioino, Esq.	Executive Director
Cara Longworth, Esq.	Chief Financial Officer
Colleen Pereira	Administrative Director
Robert J. Chanis, Esq.	Bond/Transaction Counsel
Andras D. Komaromi, Esq.	Bond/Transaction Counsel
Milan K. Tyler, Esq.	Special Counsel

The attached resolution no. 2008-32 was offered by Peter J. Ruffner, seconded by John E. Puckhaber:

Resolution No. 2008-32

RESOLUTION OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING CERTAIN MATTERS WITH RESPECT TO THE AMENDMENT OF PAYMENT IN LIEU OF TAXES AGREEMENTS REFERENCED IN EXHIBIT A HERETO, TO BENEFIT THE ENTITIES REFERENCED IN EXHIBIT A HERETO AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, civic, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, each entity referenced on Exhibit A hereto (each an "Applicant" and collectively, the "Applicants"), has heretofore entered into a transaction with the Agency under the Act, pursuant to which the Agency extended certain "financial assistance" within the meaning of Section 854 of the Act to each such Applicant with respect to the acquisition, construction, renovation and/or equipping of a "project" within the meaning of Section 854 of the Act for each Applicant (each a "Project"); and

WHEREAS, in connection with each Project, among others documents, the Agency and each Applicant has entered into a Payment in Lieu of Taxes Agreement, as amended to the date hereof (each a "PILOT Agreement")(which document, together with all other documents, instruments and agreements executed and/or delivered in connection therewith, as all of such documents, instruments and agreements have been amended, modified or supplemented from time to time, are referred to herein as the applicable "Project Documents"); and

WHEREAS, the Agency intends to amend each PILOT Agreement to adjust the amount payable pursuant to such PILOT Agreement for each fiscal tax year by the amount, if any, of

special assessments and special ad valorem levies assessed against the applicable Project for such fiscal tax year (collectively, "Special Assessment") (each a "PILOT Amendment").

WHEREAS, the aggregate amount payable by each Applicant annually after the amendment of the PILOT Agreement, including any Special Assessments, will equal the amount of the Applicant's annual payment originally agreed to under the PILOT Agreement.

WHEREAS, the reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Applicants separately for Special Assessments.

WHEREAS, each PILOT Amendment would represent a deviation from the Agency's uniform tax exemption policy with respect to the making of payments in lieu of real property taxes; and

WHEREAS, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Public Hearing") to hear all persons interested in the PILOT Amendment contemplated by the Agency with respect to each Project, to be mailed on the date as referenced on Exhibit A hereto to the chief executive officer of Nassau County, New York and of each other affected tax jurisdiction within which the applicable facility is located, (B) caused notice to the Public Hearing to be published on the date as referenced on Exhibit A hereto in the Nassau edition of *Newsday*, a newspaper of general circulation available to residents of the County of Nassau, New York, (C) conducted the Public Hearing on the date as provided on Exhibit A hereto, at the location as referenced on Exhibit A hereto within Nassau County, New York, and (D) prepared a report of the Public Hearing (the "Report") which fairly summarizes the views presented at the Public Hearing and distributed the Report to the members of the Agency; and

WHEREAS, the Executive Director of the Agency (A) caused notice of a meeting of the Agency (the "IDA Meeting") with respect to the proposed deviation from the Agency's uniform tax exemption policy and guidelines to be mailed on the date as referenced on Exhibit A hereto to the chief executive officer of each affected tax jurisdiction, and (B) conducted the IDA Meeting on the date hereof, reviewed and responded to any comments or correspondence received from the affected tax jurisdictions at or before the IDA Meeting regarding the proposed deviation from the Agency's uniform tax exemption policy, and the Agency approved the proposed deviation at the IDA Meeting; and

WHEREAS, as preconditions to each PILOT Amendment, it is necessary to provide for reaffirmation of certain agreements, the certification of certain facts and the amendment of certain agreements; and

WHEREAS, to accomplish the foregoing there has been presented to this meeting in connection with each PILOT Amendment a form of PILOT Amendment, together with certain reaffirmations, consents, certifications and amendments with respect to the applicable Project

Documents (collectively, the "Amendment Documents") for authorization, approval and, where appropriate, execution and delivery by the Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the applicable lease agreement, installment sale agreement, or sublease agreement executed in connection with each PILOT Agreement.

Section 2. The Agency hereby makes the following findings and determinations with respect to each Project:

(a) consenting to and providing for each PILOT Amendment and thereby granting additional financial assistance, to the extent any, with respect to each Applicable Project will be an inducement to the each Applicant to maintain its Project in Nassau County;

(b) no PILOT Amendment will result in the removal of a facility or plant of an Applicant or any other occupant or user of each Project from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of each Applicant or any other occupant or user of the each Project located within the State;

(c) none of the Projects constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project;

(d) each PILOT Amendment will serve the public purposes of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State; and

(e) the granting of the additional Financial Assistance, to the extent any, by the Agency with respect to each Project will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Nassau County, New York and the State and improve their standard of living, and prevent unemployment and economic deterioration, and thereby serve the public purposes of the Act.

Section 3. The Agency determines that each Applicant's request for a previously approved and unchanged Project and the Agency's consent to each PILOT Amendment is a Type II Action pursuant to SEQRA involving "continuing agency administration" which does not involve "new programs or major reordering of priorities that may affect the environment" (6

NYCRR §617.5(c)(20)) and therefore no Findings or determination of significance are required under Article 8 of the New York Environmental Conservation Law.

Section 4. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 5. Having considered fully all comments received at or in connection with each Public Hearing, the Agency hereby further determines to proceed with each PILOT Amendment and thereby the granting of the additional Financial Assistance, to the extent any, subject to the terms hereof.

Section 6. Each PILOT Amendment is hereby authorized and approved. The Chairman, Vice Chairman and Executive Director of the Agency, acting individually or jointly, are each hereby authorized to execute, acknowledge and deliver each applicable Amendment Document requiring execution by the Agency, and the Secretary, Assistant Secretary and Executive Director of the Agency, if required, acting individually or jointly, are each hereby authorized to affix the seal of the Agency on any such Amendment Document and attest the same. The execution and delivery of any such Amendment Document by any one of said officers shall be conclusive evidence of due authorization and approval.

Section 7. The Chairman, Vice Chairman and Executive Director of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and the transactions contemplated herein.

Section 8. Reserved

Section 9. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and the Amendment Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred, and duties and liabilities imposed, upon the Agency or the members thereof by the provisions of this Resolution and the Amendment Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the any Amendment Document shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent (other than the Company) or employee of the Agency in his or her individual capacity and neither the members of the Agency nor any officer executing any Amendment Document shall be liable personally on such Amendment Document or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 10. The Agency hereby authorizes the Chairman, Vice Chairman and Executive Director of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by such officers of the Amendment Documents containing such modifications.

Section 11. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Howard Fensterman	VOTING	AYE
Gary Weiss	ABSENT	
Peter J. Ruffner	VOTING	AYE
John E. Puckhaber	VOTING	AYE
Mark Goldberg	VOTING	AYE

The foregoing Resolution was thereupon declared duly adopted.

EXHIBIT A

Project Name corresponding to each PILOT Agreement	Company/Sublessee(s)/Obligor(s) (as the case may be)	Notice Published	Date Notices were Sent to Tax Jurisdictions in connection with Public Hearing and IDA Meeting	Hearing Location	Hearing Date and Time
57 Seaview Realty Associates, LLC a/k/a Kiss	57 Seaview Realty Associates, LLC, Kiss Nail Products, Inc. and J.C. Solution, Inc.	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
75 Commercial Realty, LLC a/k/a WE Transport	75 Commercial Realty LLC and WE Transport, Inc.	April 18, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am
Admin For the Professions	Adminstrators for Professions, Inc.	April 18, 2008	April 18, 2008	Village of Roslyn	May 20, 2008 - 1:30 pm
Amsterdam	Amsterdam House Continuing Care Retirement Community, Inc.	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Avanti a/k/a NHP Realty	New Hyde Realty Group LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
B&R Machine	Manter LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Ben Elias Industries Corp.	40 Inip Drive Associates LLC	April 23, 2008	April 23, 2008	Offices of the Agency	May 27, 2008 - 2:00 pm
Ben Elias Industries Corp.	71 Inip Drive LLC	April 23, 2008	April 23, 2008	Offices of the Agency	May 27, 2009 - 2:00 pm
Ben Elias Industries Corp.	100 Inip Drive Associates LLC	April 23, 2008	April 23, 2008	Offices of the Agency	May 27, 2008 - 2:00 pm
BFS Realty, LLC	BFS Realty, LLC, Sandata Technologies, Inc., National Medical Health Card Systems, Inc., Identification Data & Imaging, LLC, PW Capital, LLC, Northeast Equity Management, LLC and Medical Arts Office Services, Inc.	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Blue Cassel Site A	Blue Cassel Site A Realty, LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm

Project Name corresponding to each PILOT Agreement	Company/Sublessee(s)/Obligor(s) (as the case may be)	Notice Published	Date Notices were Sent to Tax Jurisdictions in connection with Public Hearing and IDA Meeting	Hearing Location	Hearing Date and Time
Brush Hollow	Brush Hollow Inn LLC	April 18, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am
Bryant Landing of Roslyn	Bryant Landing of Roslyn, LLC	April 18, 2008	April 18, 2008	Village of Roslyn	May 20, 2008 - 1:30 pm
Chartwell Massapequa formerly EBS Massapequa	CSH Massapequa LP	April 20, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am
Chartwell North Hills formerly known as EBS North Hills	CSH North Hills LP	April 18, 2008	April 18, 2008	Village of North Hills	May 20, 2008 - 2:30 pm
Chartwell Westbury formerly known as EBS Westbury	CSH Westbury LP	April 23, 2008	April 23, 2008	Village of Westbury	May 27, 2008 - 12:30 pm
Geismar, LLC	Geismar LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Granite Building2	Granite Building 2, LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Hempstead Properties	Hempstead Properties LLC	April 23, 2008	April 23, 2008	Village of Hempstead	May 27, 2008 - 11:00 am
Hornell Brewing Co.	60 Crossways, L.L.C. and Hornell Brewing Co., Inc.	April 18, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am
Jade Corporation	Manley Holdings, Inc.	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Koch Realty, L.P.	Koch Realty, L.P. and Koch Entertainment Distribution LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Lufthansa	Deutsche Lufthansa AG	April 23, 2008	April 23, 2008	Offices of the Agency	May 27, 2008 - 2:00 pm
Lunar Module	Lunar Module Park, LLC	April 18, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am

Project Name corresponding to each PILOT Agreement	Company/Sublessee(s)/Obligor(s) (as the case may be)	Notice Published	Date Notices were Sent to Tax Jurisdictions in connection with Public Hearing and IDA Meeting	Hearing Location	Hearing Date and Time
Meyer Farms	Stella Meyer and Peter Meyer III	April 18, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am
Mill River Housing	Mill River Residences, L.P.	April 23, 2008	April 23, 2008	Village of Rockville Centre	May 27, 2008 - 10:00 am
MONY	MONY at Lake Success, LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Neptune	Neptune Regional Transmission System, LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
NPD Group	NPD Realty Company, LLC	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Roadway Inn	333 South Service RD. LLC	April 18, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am
Rockville Centre Housing	Rockville Centre Housing Associates, L.P.	April 23, 2008	April 23, 2008	Village of Rockville Centre	May 27, 2008 - 10:00 am
Roslyn Gatehouse	Roslyn Gatehouse, LLC	April 18, 2008	April 18, 2008	Village of Roslyn	May 20, 2008 - 1:30 pm
Sleepys	Steel Circuit, LLC, South Oyster Bay Realty, LLC and Sleepys, LLC	April 18, 2008	April 18, 2008	Town of Oyster Bay	May 20, 2008 - 10:00 am
Stone Ridge	Prospect Avenue Apartments Limited Partnership	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm
Sulzer Metco (US), Inc.	Sulzer Metco (US) Inc.	April 18, 2008	April 18, 2008	Town of North Hempstead	May 20, 2008 - 3:00 pm

STATE OF NEW YORK)
) SS :
COUNTY OF NASSAU)

I, the undersigned Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 29, 2008, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 29th day of May, 2008

Secretary

(SEAL)

Sulzer Metco

NEWSDAY

AFFIDAVIT OF PUBLICATION

NASSAU CNTY INDUSTRIAL AGY
1100 FRANKLIN AVE #300
GARDEN CITY NY 11530-1601

STATE OF NEW YORK) Legal 15703100
:SS.:
COUNTY OF SUFFOLK)
R. LOPES

of Newsday, Inc., Suffolk County, N.Y., being duly sworn, says that such person is, and at the time of publication of the annexed Notice was a duly authorized custodian of records of Newsday, Inc., the publisher of NEWSDAY, a newspaper published in the County of Suffolk, County of Nassau, County of Queens, and elsewhere in the State of New York and other places, and that the Notice of which the annexed is a true copy, was published in the following editions/ counties of said newspaper on the following dates:

FRIDAY APRIL 18 2008 Nassau

Sworn To Before Me This
18 day of April , 2008
Notary Public

Guy P. Wasser
Notary Public, State of New York
No. 01WA6045924
Commission Expires 08/07/2010
Qualified in Suffolk County

Legal Notice 15703100

NOTICE OF PUBLIC HEARING
REGARDING
PILOT AMENDMENT

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the General Municipal Law, as amended ("Act"), will be held by the Nassau County Industrial Development Agency ("Agency") on May 20, 2008, at 3:00 p.m., local time at the Town Hall in the Town of North Hempstead, 220 Plandome Road, Manhasset, New York, with respect to the existing project for Sulzer Metco (US) Inc., or its successor ("Applicant") with respect to (i) the manufacturing facility at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau, New York ("Facility"); (ii) certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the Facility; and (iii) the lease, license or sale of the Facility to the Applicant or such other entity as may have been designated by the Applicant and agreed to by the Agency (the Applicant or such other entity is hereafter referred to as the "Company").

The above referenced project ("Project") is, or was initially, owned, operated and/or managed by the Company and the Company has received financial assistance from the Agency, which included exemptions or partial exemptions from real property taxes with respect to the Facility. In connection therewith, the Company and the Agency entered into a Payment In Lieu of Taxes Agreement ("PILOT Agreement"). The Agency and the Company now intend to amend the PILOT Agreement to adjust the amount payable by the Company pursuant to the PILOT Agreement for each fiscal tax year by the amount, if any, of special assessments and special ad valorem levies assessed against the Project Facility for such fiscal tax year (collectively, "Special Assessment"). Accordingly, after the amendment of the PILOT Agreement, the aggregate amount payable by the Company annually, including any Special Assessments, will equal the amount of the Company's annual payment originally agreed to under the PILOT Agreement. The reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Company separately for Special Assessments.

Copies of the original application, including an analysis of the original costs and benefits of the Project, are available for review at the offices of the Agency at 1100 Franklin Avenue, Suite 300, Garden City, New York.

A representative of the Agency will be at the public hearing to hear and accept comments from all persons with views with respect to the Project or any of the foregoing. Interested parties may present their views both orally and in writing.

Dated: April 18, 2008

NASSAU COUNTY
INDUSTRIALDEVELOPMENT
AGENCY

By: Joseph Gloino,
Executive Director

NEWSDAY PROOF

Customer: NASSAU CNTY INDUSTRIAL AGY Contact: COLLEEN PEREIRA Phone: 5165714160

Ad Number: 15703100 Start Date:04/18/2008 End Date: 04/18/2008 Times: 1

Price: $329.41 Size: 1 x 98 Section: CL Class: 11100

Printed By: L002 Date: 04/16/2008

Signature of Approval: _____ Date: _____

Zones:

THOMAS R. SUOZZI
COUNTY EXECUTIVE

GARY WEISS
VICE CHAIRMAN

PETER J. RUFFNER
SECRETARY

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
1100 FRANKLIN AVENUE, SUITE 300
GARDEN CITY, NY 11530
TELEPHONE (516) 571-4160 FAX (516) 571-4161
www.nassauida.org

HOWARD FENSTERMAN
CHAIRMAN

JOHN PUCKHABER
TREASURER

MARK GOLDBERG
ASSISTANT TREASURER

JOSEPH GIOINO
EXECUTIVE DIRECTOR

April 18, 2008

CERTIFIED MAIL, RETURN RECEIPT
REQUESTED and FIRST CLASS MAIL

Honorable Thomas R. Suozzi
County Executive
County of Nassau
1550 Franklin Avenue
Mineola, NY 11501

NOTICE OF PUBLIC HEARING AND
NOTICE OF PROPOSED DEVIATION FROM UNIFORM
TAX EXEMPTION POLICY AND GUIDELINES

Dear County Executive Suozzi:

Pursuant to the attached Notice of Public Hearing ("Public Hearing Notice"), notice is hereby given that the Nassau County Industrial Development Agency ("Agency") will hold a public hearing at the time and place set forth in the Public Hearing Notice. The purpose of the public hearing is to provide all interested parties with a reasonable opportunity, both orally and in writing, to present their views with respect the proposed amendment of a PILOT Agreement (as defined below) entered into by the Agency in connection with an existing project located at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau, New York, all as described in the Public Hearing Notice attached hereto ("Project").

A separate and additional notice is hereby given that at a meeting of the Agency to be held on May 29, 2008 at 6:00 p.m. at the offices of the Agency at 1100 Franklin Avenue, Suite 300, Garden City, New York, the Agency will consider whether to approve the amendment of a Payment in Lieu of Taxes Agreement between the Agency and Sulzer Metco (US) Inc., or its successor ("Company") entered into in connection with the Project ("PILOT Agreement"). The PILOT Agreement, if amended, would continue to constitute a deviation from the Agency's Uniform Tax Exemption Policy and Guidelines ("Policy") with respect to the payment of real property taxes. You may attend the meeting, which will be open to the public, and address the Agency and/or submit correspondence prior to the meeting.

The PILOT Agreement, as well as a copy of the original Notice of Proposed Deviation From Uniform Tax Exemption Policy and Guidelines, were previously provided to you at the inception of the Project.

The Agency intends to amend the PILOT Agreement to adjust the amount payable pursuant to the PILOT Agreement for each fiscal tax year by the amount, if any, of special assessments and special *ad valorem* levies assessed against the Project for such fiscal tax year (collectively, "Special Assessment"). Accordingly, after the amendment of the PILOT Agreement, the aggregate amount payable by the Company annually, including any Special Assessments, will equal the amount of the Company's annual payment originally agreed to under the PILOT Agreement. The reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Company separately for Special Assessments.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Joseph Gioino
Executive Director

NOTICE OF PUBLIC HEARING REGARDING
PILOT AMENDMENT

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the General Municipal Law, as amended ("Act"), will be held by the Nassau County Industrial Development Agency ("Agency") on May 20, 2008, at 3:00 p.m., local time at the Town Hall in the Town of North Hempstead, 220 Plandome Road, Manhasset, New York, with respect to the existing project for Sulzer Metco (US) Inc., or its successor ("Applicant") with respect to (i) the manufacturing facility at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau, New York ("Facility"); (ii) certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the Facility; and (iii) the lease, license or sale of the Facility to the Applicant or such other entity as may have been designated by the Applicant and agreed to by the Agency (the Applicant or such other entity is hereafter referred to as the "Company").

The above referenced project ("Project") is, or was initially, owned, operated and/or managed by the Company and the Company has received financial assistance from the Agency, which included exemptions or partial exemptions from real property taxes with respect to the Facility. In connection therewith, the Company and the Agency entered into a Payment in Lieu of Taxes Agreement ("PILOT Agreement"). The Agency and the Company now intend to amend the PILOT Agreement to adjust the amount payable by the Company pursuant to the PILOT Agreement for each fiscal tax year by the amount, if any, of special assessments and special *ad valorem* levies assessed against the Project Facility for such fiscal tax year (collectively, "Special Assessment"). Accordingly, after the amendment of the PILOT Agreement, the aggregate amount payable by the Company annually, including any Special Assessments, will equal the amount of the Company's annual payment originally agreed to under the PILOT Agreement. The reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Company separately for Special Assessments.

Copies of the original application, including an analysis of the original costs and benefits of the Project, are available for review at the offices of the Agency at 1100 Franklin Avenue, Suite 300, Garden City, New York.

A representative of the Agency will be at the public hearing to hear and accept comments from all persons with views with respect to the Project or any of the foregoing. Interested parties may present their views both orally and in writing.

Dated: April 18, 2008

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:_____
Joseph Gioino, Executive Director

THOMAS R. SUOZZI
COUNTY EXECUTIVE

GARY WEISS
VICE CHAIRMAN

PETER J. RUFFNER
SECRETARY

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
1100 FRANKLIN AVENUE, SUITE 300
GARDEN CITY, NY 11530
TELEPHONE (516) 571-4160 FAX (516) 571-4161
www.nassauida.org

HOWARD FENSTERMAN
CHAIRMAN

JOHN PUCKHABER
TREASURER

MARK GOLDBERG
ASSISTANT TREASURER

JOSEPH GIOINO
EXECUTIVE DIRECTOR

April 18, 2008

CERTIFIED MAIL, RETURN RECEIPT
REQUESTED and FIRST CLASS MAIL

Honorable Jon Kaiman
Town of North Hempstead
220 Plandome Road
Manhasset, NY 11030-3000

NOTICE OF PUBLIC HEARING AND
NOTICE OF PROPOSED DEVIATION FROM UNIFORM
TAX EXEMPTION POLICY AND GUIDELINES

Dear Supervisor Kaiman:

Pursuant to the attached Notice of Public Hearing ("Public Hearing Notice"), notice is hereby given that the Nassau County Industrial Development Agency ("Agency") will hold a public hearing at the time and place set forth in the Public Hearing Notice. The purpose of the public hearing is to provide all interested parties with a reasonable opportunity, both orally and in writing, to present their views with respect the proposed amendment of a PILOT Agreement (as defined below) entered into by the Agency in connection with an existing project located at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau, New York, all as described in the Public Hearing Notice attached hereto ("Project").

A separate and additional notice is hereby given that at a meeting of the Agency to be held on May 29, 2008 at 6:00 p.m. at the offices of the Agency at 1100 Franklin Avenue, Suite 300, Garden City, New York, the Agency will consider whether to approve the amendment of a Payment in Lieu of Taxes Agreement between the Agency and Sulzer Metco (US) Inc., or its successor ("Company") entered into in connection with the Project ("PILOT Agreement"). The PILOT Agreement, if amended, would continue to constitute a deviation from the Agency's Uniform Tax Exemption Policy and Guidelines ("Policy") with respect to the payment of real property taxes. You may attend the meeting, which will be open to the public, and address the Agency and/or submit correspondence prior to the meeting.

The Agency intends to amend the PILOT Agreement to adjust the amount payable pursuant to the PILOT Agreement for each fiscal tax year by the amount, if any, of special assessments and special *ad valorem* levies assessed against the Project for such fiscal tax year (collectively, "Special Assessment"). Accordingly, after the amendment of the PILOT Agreement, the aggregate amount payable by the Company annually, including any Special Assessments, will equal the amount of the Company's annual payment originally agreed to under the PILOT Agreement. The reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Company separately for Special Assessments.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Joseph Gioino
Executive Director

NOTICE OF PUBLIC HEARING REGARDING
PILOT AMENDMENT

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the General Municipal Law, as amended ("Act"), will be held by the Nassau County Industrial Development Agency ("Agency") on May 20, 2008, at 3:00 p.m., local time at the Town Hall in the Town of North Hempstead, 220 Plandome Road, Manhasset, New York, with respect to the existing project for Sulzer Metco (US) Inc., or its successor ("Applicant") with respect to (i) the manufacturing facility at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau, New York ("Facility"); (ii) certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the Facility; and (iii) the lease, license or sale of the Facility to the Applicant or such other entity as may have been designated by the Applicant and agreed to by the Agency (the Applicant or such other entity is hereafter referred to as the "Company").

The above referenced project ("Project") is, or was initially, owned, operated and/or managed by the Company and the Company has received financial assistance from the Agency, which included exemptions or partial exemptions from real property taxes with respect to the Facility. In connection therewith, the Company and the Agency entered into a Payment in Lieu of Taxes Agreement ("PILOT Agreement"). The Agency and the Company now intend to amend the PILOT Agreement to adjust the amount payable by the Company pursuant to the PILOT Agreement for each fiscal tax year by the amount, if any, of special assessments and special *ad valorem* levies assessed against the Project Facility for such fiscal tax year (collectively, "Special Assessment"). Accordingly, after the amendment of the PILOT Agreement, the aggregate amount payable by the Company annually, including any Special Assessments, will equal the amount of the Company's annual payment originally agreed to under the PILOT Agreement. The reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Company separately for Special Assessments.

Copies of the original application, including an analysis of the original costs and benefits of the Project, are available for review at the offices of the Agency at 1100 Franklin Avenue, Suite 300, Garden City, New York.

A representative of the Agency will be at the public hearing to hear and accept comments from all persons with views with respect to the Project or any of the foregoing. Interested parties may present their views both orally and in writing.

Dated: April 18, 2008

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:_____
Joseph Gioino, Executive Director

THOMAS R. SUOZZI
COUNTY EXECUTIVE

GARY WEISS
VICE CHAIRMAN

PETER J. RUFFNER
SECRETARY

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
1100 FRANKLIN AVENUE, SUITE 300
GARDEN CITY, NY 11530
TELEPHONE (516) 571-4160 FAX (516) 571-4161
www.nassauida.org

HOWARD FENSTERMAN
CHAIRMAN

JOHN PUCKHABER
TREASURER

MARK GOLDBERG
ASSISTANT TREASURER

JOSEPH GIOINO
EXECUTIVE DIRECTOR

April 18, 2008

CERTIFIED MAIL, RETURN RECEIPT
REQUESTED and FIRST CLASS MAIL
Westbury UFSD
Dr. Constance R. Clark
Superintendent of Schools
Administration Building
2 Hitchcock Lane
Old Westbury, NY 11568-1624

NOTICE OF PUBLIC HEARING AND
NOTICE OF PROPOSED DEVIATION FROM UNIFORM
TAX EXEMPTION POLICY AND GUIDELINES

Dear Superintendent Clark:

Pursuant to the attached Notice of Public Hearing ("Public Hearing Notice"), notice is hereby given that the Nassau County Industrial Development Agency ("Agency") will hold a public hearing at the time and place set forth in the Public Hearing Notice. The purpose of the public hearing is to provide all interested parties with a reasonable opportunity, both orally and in writing, to present their views with respect the proposed amendment of a PILOT Agreement (as defined below) entered into by the Agency in connection with an existing project located at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau, New York, all as described in the Public Hearing Notice attached hereto ("Project").

A separate and additional notice is hereby given that at a meeting of the Agency to be held on May 29, 2008 at 6:00 p.m. at the offices of the Agency at 1100 Franklin Avenue, Suite 300, Garden City, New York, the Agency will consider whether to approve the amendment of a Payment in Lieu of Taxes Agreement between the Agency and Sulzer Metco (US) Inc., or its successor ("Company") entered into in connection with the Project ("PILOT Agreement"). The PILOT Agreement, if amended, would continue to constitute a deviation from the Agency's Uniform Tax Exemption Policy and Guidelines ("Policy") with respect to the payment of real property taxes. You may attend the meeting, which will be open to the public, and address the Agency and/or submit correspondence prior to the meeting.

The PILOT Agreement, as well as a copy of the original Notice of Proposed Deviation From Uniform Tax Exemption Policy and Guidelines, were previously provided to you at the inception of the Project.

The Agency intends to amend the PILOT Agreement to adjust the amount payable pursuant to the PILOT Agreement for each fiscal tax year by the amount, if any, of special assessments and special *ad valorem* levies assessed against the Project for such fiscal tax year (collectively, "Special Assessment"). Accordingly, after the amendment of the PILOT Agreement, the aggregate amount payable by the Company annually, including any Special Assessments, will equal the amount of the Company's annual payment originally agreed to under the PILOT Agreement. The reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Company separately for Special Assessments.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Joseph Gioino
Executive Director

NOTICE OF PUBLIC HEARING REGARDING
PILOT AMENDMENT

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the General Municipal Law, as amended ("Act"), will be held by the Nassau County Industrial Development Agency ("Agency") on May 20, 2008, at 3:00 p.m., local time at the Town Hall in the Town of North Hempstead, 220 Plandome Road, Manhasset, New York, with respect to the existing project for Sulzer Metco (US) Inc., or its successor ("Applicant") with respect to (i) the manufacturing facility at 1101 Prospect Avenue, Westbury, Town of North Hempstead, County of Nassau, New York ("Facility"); (ii) certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the Facility; and (iii) the lease, license or sale of the Facility to the Applicant or such other entity as may have been designated by the Applicant and agreed to by the Agency (the Applicant or such other entity is hereafter referred to as the "Company").

The above referenced project ("Project") is, or was initially, owned, operated and/or managed by the Company and the Company has received financial assistance from the Agency, which included exemptions or partial exemptions from real property taxes with respect to the Facility. In connection therewith, the Company and the Agency entered into a Payment in Lieu of Taxes Agreement ("PILOT Agreement"). The Agency and the Company now intend to amend the PILOT Agreement to adjust the amount payable by the Company pursuant to the PILOT Agreement for each fiscal tax year by the amount, if any, of special assessments and special *ad valorem* levies assessed against the Project Facility for such fiscal tax year (collectively, "Special Assessment"). Accordingly, after the amendment of the PILOT Agreement, the aggregate amount payable by the Company annually, including any Special Assessments, will equal the amount of the Company's annual payment originally agreed to under the PILOT Agreement. The reason for amending the PILOT Agreement is to account for the Nassau County Assessor's new policy of billing the Company separately for Special Assessments.

Copies of the original application, including an analysis of the original costs and benefits of the Project, are available for review at the offices of the Agency at 1100 Franklin Avenue, Suite 300, Garden City, New York.

A representative of the Agency will be at the public hearing to hear and accept comments from all persons with views with respect to the Project or any of the foregoing. Interested parties may present their views both orally and in writing.

Dated: April 18, 2008

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:_____
Joseph Gioino, Executive Director

60 Year Chain of Title
325 Duffy Avenue, Hicksville, NY
Section 11, Block H, Lots 112 and 484
(reverse chronological order)

1. Deed dated December 26, 2006 between **Long Island Industrial Group Three LLC**, a Delaware limited liability company having an address at c/o Cammeby's International, 45 Broadway, 35th Floor, NY, NY (Grantor) and **GSM LI LLC**, c/o Cammeby's International, 45 Broadway, 35th Floor, NY, NY, as to 45% interest, **ICA LI LLC**, having its principal office at 882 Third Avenue, 12th Floor, Brooklyn, NY, as to 45% interest, **SAF LI LLC** having its principal office at 882 Third Avenue, 12th Floor, Brooklyn, NY, as to 7-1/2% interest, **FED LI LLC**, having its principal office at 575 Underhill Boulevard, Suite 125, Syosset, NY, as to 2-1/2% interest, as tenants in common (collectively, Grantee) (Deed 12231 Page 801) (Lots 112 and 484).

2. Deed dated September 30, 2002 between **Long Island Industrial Group LLC**, a Delaware limited liability company having an address at c/o Cammeby's International, 45 Broadway, 35th Floor, NY, NY (Grantor) and **Long Island Industrial Group Three LLC**, a Delaware limited liability company having an address at c/o Cammeby's International, 45 Broadway, 35th Floor, NY, NY (Grantee) (Deed 11605 Page 702) (Lots 112 and 484)

3. Deed dated December 1, 2000 between **First Industrial, L.P.**, a Delaware limited partnership having an address at 311 South Wacker, Suite 4000, Chicago, Illinois (Grantor) and **Long Island Industrial Group LLC**, a Delaware limited liability company having an address at c/o Cammeby's International, 45 Broadway, 35th Floor, NY, NY (Grantee) (Deed 11284 Page 334)(Lots 112 and 484)

4. Deed dated December 9, 1997 between **Sulzer Metco (US) Inc.***, a Delaware corporation having an office at 1101 Prospect Avenue, Westbury, NY (Grantor) and **First Industrial, L.P.**, a Delaware limited partnership having an office at 575 Underhill Boulevard, Syosset, NY (Grantee) (Deed 10858 Page 0321) (Lots 112 and 484). *Successor by merger to Sulzer Metco (Westbury) Inc.

5. Deed dated September 30, 1994 between **The Perkin-Elmer Corporation***, a NY corporation having an address at 761 Main Avenue, Norwalk, CT (Grantor) and **Sulzer Metco (Westbury) Inc.**, a Delaware corporation having an address at c/o Sulzer Inc., 200 Park Avenue, NY, NY (Grantee) (Deed 10474 Page 0460) (Lots 112 and 484). *As successor by merger to Metco Inc., pursuant to certificate of merger filed November 13, 1985 with the NY Secretary of State.

6. Deed dated December 18, 1978 between **New England Mutual Life Insurance Company**, a Massachusetts corporation having its principal place of business at 501 Boylston Street, Boston, Massachusetts (Grantor) and **Metco, Inc.**, a Delaware corporation having its principal office at 1101 Prospect Avenue, Westbury, NY, **a wholly owned subsidiary of the Perkin-Elmer Corporation**, a NY corporation (Grantee) (Deed 9163 Page 414) (Lots 112 and 484)

TAX LOT 112

STATUTORY FORM A
2540—Deed with full Covenants—(Individual)
Title Guarantee and Trust Company

DEED 3944 PAGE 206

THIS INDENTURE, made the 25th day of January one thousand nine hundred and forty-three, between ROBERT S. RENISON and ELIZABETH G. RENISON, his wife, residing at #235 Maple Avenue, Westbury Nassau County, New York

, parties of the first part, and ELIZABETH TRAUTH, residing on Duffy Avenue, Hicksville, Nassau County, New York, formerly Elizabeth Renison

, party of the second part,

WITNESSETH, that the parties of the first part, in consideration of ONE ($1.00) and love and affection dollars lawful money of the United States, paid by the party of the second part, do hereby grant and release unto the party of the second part, her heirs and assigns forever,

ALL that certain piece of parcel of land withh the buildings and improvements thereon located about one mile west of the Long Island Railroad Station at Hicksville, Town of Oyster Bay, Nassau County, New York.

BEGINNING at a point on the southerly side of Duffy Avenue which said point is distant the following 2 courses and distances when measured along the said southerly side of Duffy Avenue from a stone monument set at the northeast corner of land formerly of William Duffy; running thence North 52 degrees, 16 minutes East 66 feet and North 76 degrees, 50 minutes 00 seconds East 369.27 feet from said point of beginning; running thence south 8 degrees, 55 minutes, 00 seconds East 250 feet to a stake; running thence south 80 degrees, 58 minutes, 40 seconds West 199.44 feet to a stake; thence North 8 degrees, 55 minutes, 00 seconds West 235.55 feet to the southerly side of Duffy Avenue. The 3 last-mentioned distances are running along other land of Robert S. Renison, one of the grantors above mentioned; thence running along the southerly side of Duffy Avenue North 76 degrees, 50 minutes, 00 seconds East 200 feet to the point or place of beginning. The above description is according to a survey dated August 28, 1942, made by Nelson & Baldwin, Licensed Land Surveyors of Westbury, New York, successors to H. E. Hawxhurst, C. E.

TOGETHER with all the right, title and interest in and to the centre line of Duffy Avenue as the same is now widened.

SUBJECT to Zone Rules and Regulations adopted by the Town of Oyster Bay/

Section 11 Block H Lot 112

uary
N and
e, Westbury

the first part.
Nassau

e second part.
00) and
dollars,
paid
e second part.
ssigns forever.
lings and
Island Rail-
, New York,
ue, which
hen meas-
one monument
; running
degrees,
inning;
50 feet
econds West
seconds
3 last-
Renison,
southerly
East 200
on is
Baldwin,
H. E.

o the

n of Oyster

together with the appurtenances and all the estate and rights of the part ies of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, her heirs and assigns forever.

AND the parties of the first part, in compliance with Section 13 of the Lien Law, covenant that they will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and that they will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

AND said parties of the first part covenant as follows:

FIRST.—That said parties of the first part are seized of the said premises in fee simple, and have good right to convey the same;

SECOND.—That the party of the second part shall quietly enjoy the said premises;

THIRD.—That the said premises are free from encumbrances; except as stated

FOURTH.—That the parties of the first part will execute or procure any further necessary assurance of the title to said premises;

FIFTH.—That said parties of the first part will forever warrant the title to said premises.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hand and seal the day and year first above written.

IN THE PRESENCE OF:

Robert S. Renison (L.S.)

Elizabeth G. Renison (L.S.)

STATE OF NEW YORK }
COUNTY OF NASSAU } ss.:

On the 25th day of January, one thousand nine hundred and forty-three before me came ROBERT S. RENISON and ELIZABETH G. RENISON, his wife,

to me known to be the individuals described in, and who executed, the foregoing instrument, and acknowledged that they executed the same.

Herbert R. Renison
Notary Public, Nassau Co., N.Y.
#1914

STATE O
COUNTY
On th
before me
to me kno
that he

STATE
COUNT
On
before m
whom I
and who
execute

ROBERT S. RENISON and
ELIZABETH G. RENISON, his

RESERVE THIS SPACE

covenant
e such con-
nt and that
part of the

as follows:

y assurance

id premises.
hand

(L.S.)

(L.S.)

on
ife,

cknowledged

N.Y.

STATE OF NEW YORK
COUNTY OF } ss.:

DEED 3944 PAGE 209

On the day of , one thousand nine hundred and before me came

to me known to be the individual described in, and who executed, the foregoing instrument, and acknowledged that he executed the same.

STATE OF NEW YORK
COUNTY OF } ss.:

On the day of , one thousand nine hundred and before me came , the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at in ; that he knows to be the individual described in, and who executed, the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

ROBERT S. RENISON and ELIZABETH G. RENISON, his wife

63067

TO

R+R
ELIZABETH TRAUTH
Duffy Lane
Hicksville
L.I., N.Y.

WARRANTY DEED
(FULL COVENANTS)

THE LAND AFFECTED BY THE WITHIN INSTRUMENT LIES IN BLOCK H
IN SECTION 11 ON THE LAND MAP
OF THE COUNTY OF

TITLE GUARANTEE AND TRUST COMPANY
Offices

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

RECORDED
COUNTY CLERK'S OFFICE
NASSAU COUNTY, N.Y.
CHAS. E. RANSON, CLERK
OCT 7 2 59 PM '49
LIBER 3944 PAGE 206
DEEDS
SECTION 11 BLOCK H

COMPARED
LIBER
PAGE

TA LOT 484

Recorded and Indexed. Without Covenant against Grantors. (Individual)

Liber 2850 Page 314

THIS INDENTURE, made the 17th day of November, May, nineteen hundred and fifty, between ROBERT T. RENISON, residing at #421 Powells Lane, Westbury, New York,

, party of the first part, and ELIZABETH O. TRAUTH, residing at No Number Duffy Lane, Hicksville, New York,

, party of the second part:

WITNESSETH, that the party of the first part, in consideration of TEN ($10.00) dollars, lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, her heirs and assigns forever,

ALL of the right, title and interest of the party of the first part of, in and to ALL that certain tract, piece or parcel of land, situate, lying and being outside of the Unincorporated Village of Hicksville, in the Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:-

BEGINNING at the corner formed by the intersection of the Southerly line of Duffy Lane (also known as Duffy Avenue) with the Easterly line of Henrietta Street and running thence North 52° 15' 40" East along said Southerly line of Duffy Lane 8.40 feet to a monument; thence North 76° 49' 40" East, still along said Southerly line of Duffy Lane 169.27 feet to other land of the party of the second part; thence along said last mentioned land the three (3) following courses and distances: (1) South 8° 55' 20" East 235.55 feet; (2) North 80° 58' 20" East 199.44 feet; (3) North 8° 55' 20" West 250 feet to the Southerly line of Duffy Lane; thence North 76° 49' 40" East along said Southerly line of Duffy Lane 110.42 feet to land of the party of the first part; thence South 8° 55' 20" East along said last mentioned land 679.26 feet to land now or formerly of Terlikosky; thence South 77° 14' 40" West along said land now or formerly of Terlikosky 497.99 feet to said Easterly line of Henrietta Street; and thence North 7° 58' 20" West along said Easterly line of Henrietta Street 673.09 feet to the point or place of beginning.

Section 11 Block H Lot 34

Entered by Liber 2 Page 314

Forged by

Examined by

Compared by

Recorded by

Indexed by

Filed

TOGETHER with all the right, title and interest of the party of the first part of, in and to that part of Duffy Lane and Henrietta Street, lying immediately in front of said premises and adjoining same to the center lines thereof.

BEING part of the real property devised to the parties hereto under the Last Will and Testament of Elizabeth G. Renison, which was duly admitted to probate in the Surrogate's Court, Nassau County, on the 8th day of April, 1949, this deed being given to complete part of a voluntary partition between the parties.

together with the appurtenances and all the estate and rights of the party of the first part in and to said premises

TO HAVE AND TO HOLD the above granted premises unto the party of the second part, her heirs and assigns forever,

SUBJECT, however, to the provisions of the Building Restrictions and Regulations and Zoning Ordinances adopted by the Town Board of the Town of Oyster Bay and amendments and additions thereto now in force.

DEED 4389 PAGE 316

The party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and that the party of the first part will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal the day and year first above written.

In Presence of:

Thos. K. Patterson

Robert T. Renison L.S.

STATE OF NEW YORK
COUNTY OF NASSAU: } ss:

On the 17th day of November, one thousand nine hundred and fifty before me came ROBERT T. RENISON,

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

Thos. K. Patterson

THOMAS K. PATTERSON
Notary Public in the State of New York
Residing in Nassau County
County Clerk's No. 73-3035300
Commission expires March 30, 1957

STATE O
COUNTY
On
before me
to me kno
edged that

STATE O
COUNTY
On
before me
whom I a

and who e
execute th

TKP/JMR.

No. DEC 20 1950

ROBERT T. RENISON,

99 22097

RESERVE THIS SPACE
FOR USE OF RECORDING OFFICE

STATE OF NEW YORK }
COUNTY OF } ss.:

On the day of , one thousand nine hundred and before me came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

STATE OF NEW YORK }
COUNTY OF } ss.:

On the day of , one thousand nine hundred and before me came , the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at in ; that he knows to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

TKP/JMR.

No. DEC 20 1959

ROBERT T. RENISON,

99 22097

TO

241

ELIZABETH G. TRAUTH.

DEED

THE LAND AFFECTED BY THE WITHIN INSTRUMENT LIES IN BLOCK "H" IN SECTION 11 ON THE LAND MAP OF THE COUNTY OF Nassau.

TITLE GUARANTEE AND TRUST COMPANY

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

RECORDED
SUMMIT CLERK'S OFFICE
NASSAU COUNTY, N.Y.
PAUL E. RANSOM, CLERK

DEC 20 11 30 AM '59

LIBER X389 PAGE 31X
MORTGAGES DEEDS
SECTION 11 BLOCK H

COMPARED

LIBER
PAGE

AT THIS POINT TAX LOTS 112, 484 AND HOME
VEST IN ELIZABETH TRAUTH A/KA ELIZABETH G. TRAUTH ...

Standard N.Y.B.T.U. Form 8002 • 5-55-7334—Bargain and Sale Deed with Covenant against Grantor's Acts—Individual or Corporation (single sheet)

DEED 6075 PAGE 255

THIS INDENTURE, made the 15th day of August, nineteen hundred and fifty-six

BETWEEN ELIZABETH TRAUTH, also known as Elizabeth G. Trauth formerly Elizabeth Renison, residing at Duffy Avenue, Hicksville, Long Island, New York

party of the first part, and T. O. D. MANUFACTURING CO., INC. a domestic corporation with principal place of business located at 400 Duffy Avenue, Hicksville, New York.

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the at Hicksville, in the Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:-

BEGINNING at the corner formed by the intersection of the southerly side of Duffy Avenue with the easterly side of Henrietta Street; running thence North 52 degrees 15 minutes 40 seconds East along the southerly side of Duffy Avenue 8.40 feet to a point; running thence North 76 degrees 49 minutes 40 seconds East still along the southerly side of Duffy Avenue 479.69 feet; running thence South 8 degrees 55 minutes 20 seconds East 679.26 feet to land now or formerly of Terlikofsky; running thence South 77 degrees 14 minutes 40 seconds West along said land 497.99 feet to the easterly side of Henrietta Street; running thence North 7 degrees 58 minutes 20 seconds West along the easterly side of Henrietta Street 673.09 feet to the corner, the point or place of beginning.

TOGETHER with all the right, title and interest of the party of the first part, of, in, and to the land lying in Henrietta Street, in front of and adjoining said premises to the center line thereof.

BEING the same premises heretofore conveyed to the party of the first part by deed dated January 25, 1943, recorded October 7, 1949 in Liber 3944CP. 206 and by deed dated November 17, 1950 recorded December 20, 1950 in Liber 4389CP 314.

Subject to a purchase money mortgage made by party of second part to party of first part in the sum of $101,175.00 intended to be delivered and recorded simultaneously herewith.

I. R. S. $152.35

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

D W Cherry

Elizabeth Trauth (L.S.)
Elizabeth Trauth, also known as
Elizabeth G. Trauth formerly
Elizabeth Renison

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

158

RECORDED
COUNTY CLERK'S OFFICE
NASSAU COUNTY, N.Y.
ERNEST F. FRANCKE, CLERK

AUG 22 9 04 AM '56

AUG 22 1956

TITLE No. 260153

ELIZABETH TRAUTH, also known as Elizabeth G. Trauth formerly Elizabeth Renison

TO

60553

T.O.D. MANUFACTURING CO. INC.

X 29

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

The land affected by the within instrument lies in Section 11 in Block H on the Land Map of the County of Nassau

RECORDED AT REQUEST OF

Mathew M. Balmuth
94-05 Roosevelt Avenue
Jackson Heights 72,
N.Y.

RECORDED BY
INTER-COUNTY TITLE
GUARANTY & MORTGAGE COMPANY

RETURN TO:

STATE OF NEW YORK, COUNTY OF NASSAU

On the 15th day of August 19 56, before me personally came Elizabeth Trauth, also known as Elizabeth G. Trauth formerly Elizabeth Renison to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she executed the same.

Mathew M. Balmuth
Mathew M. Balmuth
Notary Public, Kings County
24-5164525
Term Expires 3/30/1958

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came to me known to be the individual described in and who executed the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. that he knows

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Ver. by H Posted by H Ver. by Lloyd
Section 32 Block 203 Lot 304

Bargain and Sale Deed, With Covenant — Individual or Corporation.

DEED 6585 PAGE 305

IRS $220.00

This Indenture, made the 11th day of August 196 9

BETWEEN T.O.D. Mfg. Co. Inc. a domestic Corporation having it's principal place of business at #325 Duffy Ave., Hicksville, New York.

Party of the first part, and

I. R. S. $ 220.00

Milted Corp. a domestic corporation having it's principal place of business at #325 Duffy Ave., Hicksville, New York

party of the second part.

WITNESSETH, that the party of the first part, in consideration of One ($1.00) Dollar, lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, it's successors and assigns forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the at Hicksville, in the Town of Oyster Bay, County of Nassau, and State of New York, bounded and described as follows: -

BEGINNING at the corner formed by the intersection of the southerly side of Duffy Avenue with the easterly side of Henrietta Street; running thence north 52 degrees 15 minutes 40 seconds East along the southerly side of Duffy Avenue 8.40 feet to a point; running thence North 76 degrees 49 minutes 40 seconds East still along the southerly side of Duffy Avenue 479.69 feet; running thence South 8 degrees 55 minutes 20 seconds East 679.26 feet to land now or formerly of Terlikofsky; running thence South 77 degrees 14 minutes 40 seconds West along said land 497.99 feet to the easterly side of Henrietta Street; running thence North 7 degrees 58 minutes 20 seconds West along the easterly side of Henrietta Street 673.09 feet to the corner, the point or place of BEGINNING.

TOGETHER with all the right, title and interest of the party of the first part, of, in, and to the land lying in Henrietta Street, in front of and adjoining said premises to the center line thereof.

BEING and intended to be the same premises heretofore conveyed to the party of the first party by deed dated the 15th day of August 1956, recorded in the Office of the Clerk of the County of Nassau on the 22nd day of August 1956 in Liber 6075 at page 255.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, it's successors and assigns forever.

AND the party of the first part covenants that it has not done or suffered anything whereby the said premises have been incumbered in any way whatever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and that the party of the first part will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the party of the first part has executed this deed the day and year first above written.

T.O.D. MFG. CO., INC.

by: President (L.S.)

(L.S.)

T.O.D. MFG. CO. CORPORATE SEAL 1946 NEW YORK

DEED 6585 PAGE 306

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF Nassau

On the 11th day of August 1959, before me personally came Allan Gittleson to me known, who, being by me duly sworn, did depose and say that he resides at No. Forte Drive Old Westbury, L.I., New York ; that he is the President of T.O.D. Mfg. Co. Inc. , the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Joseph A. Lawler

JOSEPH A. LAWLER
NOTARY PUBLIC, State of New York
No. 30-[illegible]
Qualified in [illegible] County
Commission Expires [illegible] 30, 1961

STATE OF NEW YORK, COUNTY OF

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. ; that he knows to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

INTER-COUNTY TITLE

10 AUG 18 1959

Title No. 296443

T.O.D. MFG. CO. INC.

48863 TO 11

MILTOD CORP.

Bargain and Sale Deed
WITH COVENANT
INDIVIDUAL OR CORPORATION

The land affected by the within instrument lies in Section 11 in Block H on the Land Map of the County of Nassau

RETURN BY MAIL TO

J.H. Garahan, Esq. c/o
Miltod Corp.
325 Duffy Ave.
Hicksville, New York

INTER-COUNTY TITLE
GUARANTY & MORTGAGE COMPANY

RETURN TO:

53 South Main Street, New City, N.J.
15 Main Street, Hackensack, N.J.
1177 Post Road, Fairfield, Conn.
30 Journal Square, Jersey City, N.J.

Reserve This Space for Use of Recording Office

RECORDED
NASSAU COUNTY, N.Y.
AUG 18 9 02 AM '59

No. Stamp Required

AUG 20 1959

Section 11 Block H No. 11-4-341

M 297 Referee Deed in Foreclosure

Julius Blumberg, Inc. Law Blank Publishers
80 Exchange Pl. at Broadway N. Y. C. 10004

This Deed

Made the 1st *day of* March *nineteen hundred*

and seventy-eight.

Between ZOLA ARONSON, ESQ., 75 Jackson Avenue, Syosset, New York *Referee*

duly appointed in the action hereinafter mentioned. Grantor

And NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
501 Boylston Street
Boston, Massachusetts

Witnesseth, *that the Grantor, the Referee appointed in an action between*

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY,

plaintiff

and

MILTOD CORP., GATEWAY BUSINESS CENTER, PEOPLE OF THE STATE OF NEW YORK,

defendants,

foreclosing a mortgage recorded on the 5th *day of* November *nineteen hundred*

and seventy-one *in the office of the* clerk *of the County of*

Nassau *, in liber* 8863 *of mortgages,*

at page 132 *, in pursuance of a judgment entered at a special term of the* Supreme Court of the State of New York, County of New York

on the 16th *day of* December *nineteen hundred and* seventy-seven and thereafter amended by order dated January 19, 1978

and in consideration of ONE MILLION FOUR HUNDRED FIFTY-EIGHT THOUSAND THREE HUNDRED NINETY-EIGHT and 44/100 ($1,458,398.44) *Dollars paid by the Grantee,*

being the highest sum bid at the sale under said judgment does hereby grant and convey unto the Grantee, all the right, title and interest of the defendants above-named

in and to

All that certain plot, piece or parcel of land, situate, lying and being at Hicksville, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Duffy Avenue with the easterly side of Henrietta Street; running thence North 52 degrees 15 minutes 40 seconds East along the southerly side of Duffy Avenue, 8.40 feet to a point; running thence North 76 degrees 49 minutes 40 seconds East still along the southerly side of Duffy Avenue, 479.69 feet; running thence South 8 degrees 55 minutes 20 seconds East 679.30 feet to land now or formerly of Terlikofsky; running thence South 77 degrees 14 minutes 40 seconds West along said land, 151.43 feet; running thence North 8 degrees 48 minutes 37 seconds West 59.84 feet; running thence South 78 degrees 05 minutes 33 seconds West 190.50 feet; running thence North 8 degrees 30 minutes 08 seconds West 105.19 feet; running thence South 77 degrees 14 minutes 40 seconds West 28.66 feet; running thence North 12 degrees 45 minutes 20 seconds West 39.86 feet; running thence South 77 degrees 14 minutes 40 seconds West 172 feet to the easterly side of Henrietta Street; running thence along the easterly side of Henrietta Street, North 7 degrees 58 minutes 20 seconds West 465.09 feet to the corner aforesaid, the point or place of beginning, excepting therefrom so much of the mortgaged premises as may have been taken by the County of Nassau for the widening of Duffy Avenue under vesting proceeding no. 8529/76, filed 12/21/76.

To have and to hold *the premises herein granted unto the Grantee*, its successors *and assigns forever.*

Whenever the text hereof requires the singular number as used herein shall include the plural and all genders.

In Witness Whereof, *the Grantor has hereunto set his hand and seal, the date first above written.*

ZOLA ARONSON *Referee* L. S.

In Presence of:

STATE OF NEW YORK
COUNTY OF NASSAU } *ss.:*

On the 1st *day of* March *nineteen hundred and* seventy-eight *before me came* ZOLA ARONSON, *Referee*

to me known and known to me to be the individual described in, and who executed, the foregoing instrument and acknowledged to me that he executed the same.

72 NOV 605

13
2
35

MAY 2 1978

Deed

REFEREE'S DEED IN FORECLOSURE

ZOLA ARONSON

TO

NEW ENGLAND MUTUAL LIFE
INSURANCE COMPANY

Dated. March 1 1978

Section 11, Block H, Lots 112 and 479

STATE OF NEW YORK

County of ..... ss.

RECORDED ON THE

..... day of ..... 19 ..

at ..... o'clock ..... M.

in Liber ..... of Deeds

at Page ..... and examined

..... CLERK

PLEASE RECORD AND RETURN TO:

DREYER and TRAUB
90 Park Avenue
New York, N.Y. 10016

DEED 0106 PAGE 478

RECORDED BY CHICAGO TITLE INSURANCE COMPANY

Reserve this space for use of Recording Office.

RECORDED

MAY 2 11 55 AM '78

14112

35

242

RECORDED BY CHICAGO TITLE INSURANCE COMPANY

General N.Y.B.T.U. Form 8002-2000 12-62 - Bargain and Sale Deed, with Covenants against Grantor's Acts - Individual or Corporation. (single sheet)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 18th day of December, nineteen hundred and seventy-eight

BETWEEN NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, a Massachusetts corporation with its principal office at 501 Boylston Street, Boston, Massachussets

party of the first part, and METCO, INC., a Delaware corporation having a principal office at 1101 Prospect Avenue, Westbury, New York a wholly owned subsidiary of the PERKIN-ELMER CORPORATION, a New York corporation

party of the second part,

WITNESSETH, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being ~~in the~~ at Hicksville, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at a corner formed by the intersection of the Southerly side of Duffy Ave and the Easterly side of Henrietta Street said point being the Easterly end of a curve; connecting the said Southerly side of Duffy Avenue and the Easterly side of Henrietta Street as said Duffy Ave and Henrietta Street exist today; running thence Easterly along the southerly side of Duffy Avenue along the arc of a curve bearing to the right whose radius is 700 feet a distance of 148.16 feet to a point; thence still along the southerly side of Duffy Avenue north 76 degrees 49 minutes 40 seconds east 327.28 feet; running thence south 8 degrees 55 minutes 20 seconds east 679.30 feet to land now or formerly of Terlikofsky; running thence south 77 degrees 14 minutes 40 seconds west along said land, 151.43 feet; running thence north 8 degrees 48 minutes 37 seconds west 59.84 feet; running thence south 78 degrees 05 minutes 33 seconds west 190.50 feet; running thence north 8 degrees 30 minutes 08 seconds west 105.19 feet; running thence south 77 degrees 14 minutes 40 seconds west 28.66 feet; running thence north 12 degrees 45 minutes 20 seconds west 39.86 feet; running thence south 77 degrees 14 minutes 40 seconds west 122 feet to the easterly side of Henrietta Street; running thence along the easterly side of Henrietta Street, north 7 degrees 58 minutes 20 seconds west 435.10 feet to the southerly end of the curve first above mentioned; thence northeasterly along the arc of the curve first above mentioned whose radius is 20 feet a distance of 25.37 feet to the point or place of BEGINNING.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever

Said property being situated in Section 11, Block H on the Land and Tax Map of Nassau County.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

Assistant Secretary

By: Vice President

Lotted Var Post Var
Section Block Lot
DEC 28 1978

DEED 9163 PAGE 414

STATE OF NEW YORK, COUNTY OF SS:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF SS:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument and acknowledged that executed the same.

CONNECTICUT OF MASSACHUSETTS
~~STATE OF NEW YORK~~, COUNTY OF SUFFOLK SS:

On the 18th day of December, 1978, before me personally came Charles T. Shea to me known, who, being by me duly sworn, did depose and say that he resides at No. 39 Commonwealth Avenue, Boston, Massachusetts ; that he is the a Vice President of New England Mutual Life Insurance Company, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF SS:

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. ; that he knows to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

Notary Public

My

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE NO. 7805-03096

7-2-1485.00

TO

SECTION 11

BLOCK H

LOT

~~COUNTY OF~~ TOWN OYSTER BAY

Recorded at Request of
CHICAGO TITLE INSURANCE COMPANY
HOME TITLE DIVISION

Return by Mail to

Steven P. Lieberman
Main Avenue
Norwalk Ct. 06856

Zip No.

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS
Distributed by
CHICAGO TITLE INSURANCE COMPANY HOME TITLE DIVISION

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

47168

DEC 26 1978

RECORDED

Dec 28 12 14 PM '78.
HAROLD W. McDONNELL
COUNTY CLERK
NASSAU COUNTY

240

55095

12937

RECEIVED
1485.00
DEC 26 1978

RECORDED BY CHICAGO TITLE INSURANCE COMPANY

DEED 9163 PAGE 415

Nassau County Clerk
RECORDS OFFICE
RECORDING PAGE

Deed Number (RETT):
RETT005489

DEED LIBER 10474

Type of Instrument: Deed

Control No: 199410060884

PERKIN-ELMER CORP

SULZER METCO WESTBURY INC

Recorded: 10/06/1994
At: 12:27:08 PM
In Liber: 10474
Of: Deed Book
From Page: 0460
Through Page: 0463

Refers to Liber: 00000
Of:
Page: 0000

Location:	Section:	Block:	Lot:	Unit:
Oyster Bay (2824)	00000011	0000H-00	00112	

EXAMINED AND CHARGED AS FOLLOWS:

Consider Amt $ 2,000,000.00

Received Following Fees For Above Instrument

			Exempt				Exempt
Recording	$	27.00	NO	State Fee	$	4.75	NO
Equal/Cty	$	5.00	NO	St.Fee/Cty	$	.25	NO
Gains Tax	$	1.00	NO	Trans Tax	$	8000.00	NO
Surchg/NYS	$	22.00	NO				
Surchg/Cty	$	3.00	NO				

Fees Paid: $ 8,063.00

Deed Number (RETT): RETT005489

THIS PAGE IS A PART OF THE INSTRUMENT

GAH001

Karen V. Murphy
County Clerk, Nassau County

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 30th day of September, nineteen hundred and ninety-four

BETWEEN THE PERKIN-ELMER CORPORATION*, a New York corporation having an address at 761 Main Avenue, Norwalk, CT 06859-0313

* AS SUCCESSOR BY MERGER W/ METCO INC. PURSUANT TO CERTIFICATE OF MERGER FILED NOV. 13, 1985 WITH THE NEW YORK SECRETARY OF STATE

party of the first part, and SULZER METCO (WESTBURY) INC., a Delaware corporation, having an address at c/o Sulzer Inc., 200 Park Avenue, New York, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Hicksville, Town of Oyster Bay, County of Nassau and State of New York and commonly known as 325 Duffy Avenue, Hicksville, NY.

Said Premises is more particularly described in Schedule A attached hereto and made a part hereof.

LEGIBILITY POOR FOR MICROFILM

TAX MAP DESIGNATION

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

THE PERKIN-ELMER CORPORATION

By: John B. McBurnett
Name: JOHN B. McBURNETT
Title: CORPORATE CONTROLLER

SCHEDULE "A"

ALL THAT CERTAIN PLOT, PIECE, OR PARCEL OF LAND, SITUATE, LYING, AND BEING AT HICKSVILLE, TOWN OF OYSTER BAY, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHERLY SIDE OF DUFFY AVENUE AND THE EASTERLY SIDE OF HENRIETTA STREET SAID POINT BEING THE EASTERLY END OF A CURVE; CONNECTING THE SAID SOUTHERLY SIDE OF DUFFY AVENUE AND THE EASTERLY SIDE OF HENRIETTA STREET AS SAID DUFFY AVENUE AND HENRIETTA STREET EXIST TODAY;

RUNNING THENCE EASTERLY ALONG THE SOUTHERLY SIDE OF DUFFY AVENUE ALONG THE ARC OF A CURVE BEARING TO THE RIGHT WHOSE RADIUS IS 760 FEET A DISTANCE OF 148.16 FEET TO A POINT;

THENCE STILL ALONG THE SOUTHERLY SIDE OF DUFFY AVENUE NORTH 76 DEGREES 49 MINUTES 40 SECONDS EAST 327.26 FEET;

RUNNING THENCE SOUTH 0 DEGREES 55 MINUTES 20 SECONDS EAST 679.30 FEET TO LAND NOW OR FORMERLY OF TERLIKOFSKY;

RUNNING THENCE SOUTH 77 DEGREES 14 MINUTES 40 SECONDS WEST ALONG SAID LAND, 151.43 FEET;

RUNNING THENCE NORTH 8 DEGREES 48 MINUTES 37 SECONDS WEST 59.84 FEET;

RUNNING THENCE SOUTH 78 DEGREES 05 MINUTES 33 SECONDS WEST 190.50 FEET;

RUNNING THENCE NORTH 8 DEGREES 30 MINUTES 00 SECONDS WEST 105.19 FEET;

RUNNING THENCE SOUTH 77 DEGREES 14 MINUTES 40 SECONDS WEST 28.66 FEET;

RUNNING THENCE NORTH 12 DEGREES 45 MINUTES 20 SECONDS WEST 39.86 FEET;

RUNNING THENCE SOUTH 77 DEGREES 14 MINUTES 40 SECONDS WEST 122 FEET TO THE EASTERLY SIDE OF HENRIETTA STREET;

RUNNING THENCE ALONG THE EASTERLY SIDE OF HENRIETTA STREET, NORTH 7 DEGREES 58 MINUTES 20 SECONDS WEST 435.10 FEET TO THE SOUTHERLY END OF THE CURVE FIRST ABOVE MENTIONED;

THENCE NORTHEASTERLY ALONG THE ARC OF THE CURVE FIRST ABOVE MENTIONED WHOSE RADIUS IS 20 FEET A DISTANCE OF 25.37 FEET TO THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION: 11 BLOCK: H LOT(S): 112/434

Said Premises is conveyed subject to the following:

1. Current taxes, assessments and special assessments not yet due and payable.
2. Laws, ordinances, and governmental regulations (including without limitation building and zoning ordinances) affecting said premises
3. Those matters disclosed on a survey of the premises made by Kenneth S. O'Brien dated April 13, 1994

STATE OF NEW YORK)
) SS.
COUNTY OF NEW YORK)

On this, the 30th day of September, A.D. 1994, before me, the undersigned officer, personally came JOHN B. McBRINETT to me known, who, being by me duly sworn, did depose and say that he resides at 761 MAIN, NORWALK, CT that he is the CORPORATE CONTROLLER of The Perkin-Elmer Corporation, the corporation described in and which executed the foregoing instrument.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires

FRANIA B. SHELLEY
NOTARY PUBLIC, State of New York
No. 31-4870542
Qualified in New York County
Certificate Filed in New York County
Commission Expires Nov. 24, 1994

BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTORS ACTS THE PERKIN-ELMER CORPORATION Grantor, TO SULZER METCO (WESTBURY) INC. Grantee	SECTION 11 BLOCK 4 LOT 112 COUNTY 418.1 Dated: September 30, 1994

RECORD AND RETURN TO

CHICAGO TITLE INS. CO.
330 Old Country Road
Mineola, NY 11501-4122
ATTENTION: RECORDING DEPT.

Nassau County Clerk
RECORDS OFFICE
RECORDING PAGE

Deed Number (RETT):
RERE 012158

Type of Instrument: Deed

Control No: 199712180607

SULZER METCO US INC

1ST INDUSTRIAL L P

Recorded: 12/18/1997
At: 11:06:00 AM
In Liber: 10858
Of: Deed Book
From Page: 0321
Through Page: 0324

Refers to Liber: 00000
Of:
Page: 0000

Location:	Section:	Block:	Lot:	Unit:
Oyster Bay (2824)	00000011	0000H-00	00112 484	

EXAMINED AND CHARGED AS FOLLOWS:

Consider Amt $ 3,200,000.00

Received The Following Fees For Above Instrument

			Exempt				Exempt
Recording	$	27.00	NO	Equal/Cty	$	5.00	NO
GAINS				State Fee	$	4.75	NO
St.Fee/Cty	$	.25	NO	Trans Tax	$	12,800.00	NO
				Surchg/NYS	$	22.00	NO
Surchg/Cty	$	3.00	NO				

Fees Paid: $ 12,862.00

Deed Number (RETT): RERE 012158

THIS PAGE IS A PART OF THE INSTRUMENT

AJK001

Karen V. Murphy
County Clerk, Nassau County

199712180607

T 691

Standard N.Y.B.T.U. Form 8009: Bargain & sale deed, with covenant against grantor's acts—Ind. or Corp.: single sheet

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT – THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 9th day of December, nineteen hundred and ninety-seven

BETWEEN

SULZER METCO (US) INC., a Delaware corporation having an office at 1101 Prospect Avenue, Westbury, New York 11580, successor by merger to SULZER METCO (WESTBURY) INC.

party of the first part, and

First Industrial, L.P., a Delaware limited partnership having an office at 575 Underhill Boulevard, Syosset, New York 11791

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Hicksville, Town of Oyster Bay, County of Nassau and State of New York more particularly described on Schedule A and known as 325 Duffy Avenue, Hicksville, New York.

LEGIBILITY POOR FOR MICROFILM

"The premises are not in an agricultural district and that the parcel is entirely owned by the transferors"

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Sulzer Metco (US) Inc.

By: _____

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being at Hicksville, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at a point on the Southerly side of Duffy Avenue said point being the Easterly end of a curve connecting the said Southerly side of Duffy Avenue and the Easterly side of Henrietta Street as said Duffy Avenue and Henrietta Street exist today;

RUNNING THENCE Easterly along the Southerly side of Duffy Avenue along the arc of a curve bearing to the right whose radius is 700 feet a distance of 148.16 feet to a point;

THENCE still along the Southerly side of Duffy Avenue North 76 degrees 49 minutes 40 seconds East 327.28 feet;

THENCE South 8 degrees 55 minutes 20 seconds East 679.30 feet to land now or formerly of Terlikofsky;

THENCE South 77 degrees 14 minutes 40 seconds West along said land, 151.43 feet;

THENCE North 8 degrees 48 minutes 37 seconds West 59.84 feet;

THENCE South 78 degrees 05 minutes 33 seconds West 190.50 feet;

THENCE North 8 degrees 30 minutes 08 seconds West 105.19 feet;

THENCE South 77 degrees 14 minutes 40 seconds West 28.66 feet;

THENCE North 12 degrees 45 minutes 20 seconds West 39.86 feet;

THENCE South 77 degrees 14 minutes 40 seconds West 122 feet to the Easterly side of Henrietta Street;

THENCE along the Easterly side of Henrietta Street, North 7 degrees 58 minutes 20 seconds West 435.10 feet to the Southerly end of the curve first above mentioned;

THENCE Northeasterly along the arc of the curve first above mentioned whose radius is 20 feet a distance of 25.37 feet to the point or place of BEGINNING.

Said Premises is conveyed subject to the following:

1. Current taxes, assessments and special assessments not yet due and payable.

2. Laws, ordinances, and governmental regulations (including without limitation building and zoning ordinances) affecting said premises.

3. Those matters disclosed on a survey of the premises made by Shah Associates P.C. dated September 20, 1997.

Being the same premises conveyed to the Grantor herein (successor by merger to Sulzer Metco (Westbury) Inc.) by deed dated 9/30/94 recorded 10/6/94 in Liber 10474, Page 460.

This conveyance is made in the ordinary and regular course of business actually conducted by the party of the first part.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

LEGIBILITY POOR FOR MICROFILM

STATE OF NEW YORK, COUNTY OF New York ss:

On the 9th day of December, 1997, before me personally came Daniel Morrschett, to me known, who, being by me duly sworn, did depose and say that he resides at No. 1101 Prospect Ave., Westbury, N.Y.; that he is the Vice-president of Sulzer Metco (US) Inc., the corporation described in and which executed the foregoing instrument; ~~that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation~~, and that he signed his name thereto by ~~like~~ order. of the board of directors of said corporation.

Michael P. Licitra

MICHAEL P. LICITRA
NOTARY PUBLIC, State of New York
Qlf. No. 4899145
Qualified in Nassau County
Term Expires June 22, 1999

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. ;

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No. N15836N

Sulzer Metco (US) Inc.

TO

FIRST INDUSTRIAL, L.P.

SECTION 11
BLOCK H
LOT 112, 484
COUNTY OR TOWN Town of Oyster Bay
County of Nassau

RETURN BY MAIL TO:

Certilman, Balin, Adler & Hyman
Attn: Howard Stein, Esq
90 Merrick Ave.
East Meadow, N.Y. Zip No. 11554

Reserve this space for use of Recording Office.

NASSAU COUNTY CLERKS OFFICE
ENDORSEMENT COVER PAGE

Recorded Date: 12-12-2000
Recorded Time: 9:18:28 a

Liber Book: D 11284
Pages From: 334
To: 341

Control Number: 52
Ref #: RE 011084
Doc Type: D01 Deed

Record and Return To:
JEHOSHUA GRAFF ESQ
SUKENIK SEGAL & GRAFF PC
417 FIFTH AVE 3RD FLOOR
NEW YORK, NY 10016-2204

Location:	Section	Block	Lot	Unit
OYSTER BAY (2824)	0011	0000H-00	00112	
OYSTER BAY (2824)	0011	0000H-00	00484	

Consideration Amount: 3,398,533.00

Taxes Total	13,596.00
Recording Totals	74.00
Total Payment	13,670.00

GJS001

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVED
KAREN V. MURPHY
COUNTY CLERK

2000121200052

BARGAIN AND SALE DEED

WITH COVENANT AGAINST

GRANTOR'S ACTS

SSP
13,576-

FIRST INDUSTRIAL, L.P.

to

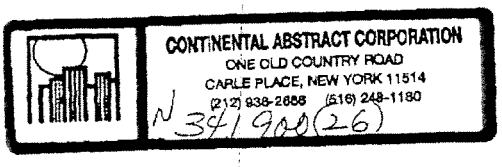
LONG ISLAND INDUSTRIAL GROUP LLC

Date: ~~November~~ December 1, 2000

Premises:	325 Duffy Avenue Hicksville, New York
County:	Nassau
Town:	Oyster Bay
Section:	11
Block:	H
Lot:	112,484

Record and Return to:
Jehoshua Graff, Esq.
Sukenik, Segal & Graff, P.C.
417 Fifth Avenue, Third Floor
New York, New York 10016-2204

SPACE RESERVED FOR RECORDING OFFICE USE



55283_3.DOC

BARGAIN AND SALE DEED
WITH COVENANT AGAINST GRANTOR'S ACTS

THIS INDENTURE, made as of the 15 day of ~~November~~ December, 2000, BETWEEN FIRST INDUSTRIAL, L.P., a Delaware limited partnership, having an address at 311 South Wacker, Suite 4000, Chicago, Illinois 60606, party of the first part, and LONG ISLAND INDUSTRIAL GROUP LLC, a Delaware limited liability company, having an address at c/o Cammeby's International, 45 Broadway, 25th Floor, New York, New York 10006, party of the second part.

WITNESSETH, that the party of the first part, in consideration of ten and 00/100 dollars ($10.00), lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the County of Nassau and State of New York, as more particularly described on Schedule A annexed hereto and made a part hereof, being the same premises conveyed to First Industrial, L.P. by deed dated December 9, 1997, recorded on December 18, 1997 in Liber 10858, Page 321,

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with all the appurtenances and all the estate and rights of the party of the first part in and to said premises,

AND SUBJECT only to those matters listed on Schedule "B" attached hereto and incorporated herein by reference,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

FIRST INDUSTRIAL, L.P., a Delaware limited partnership

By: FIRST INDUSTRIAL REALTY TRUST, INC., a Maryland corporation and its sole general partner

By: _____
Name: Jon Cohen

UNIFORM FORM CERTIFICATE OF ACKNOWLEDGMENT
(Within New York State)

State of New York)
County of New York) ss.:

On the 15 day of Dec. in the year 2000 before me, the undersigned, personally appeared Jeff Cohen, 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 signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual taking acknowledgment

CAROL GINSBERG
NOTARY PUBLIC, STATE OF NEW YORK
NO. 41-4838529
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES DEC. 31, 2002

LEGIBILITY POOR FOR MICROFILM

Title No. MAB-341900-26

SCHEDULE A - DESCRIPTION

ALL that certain plot, piece and parcel of land, situate, lying and being at Hicksville, Town of Oyster Bay, County of Nassau, State of New York, as shown on the Nassau County Land and Tax Maps and known and designated as Lots 112 and 484, Section 11, Block H as filed in the Office of the County Clerk, County of Nassau and being more particularly bounded and described as follows:

BEGINNING at a point on the southerly side of Duffy Avenue, said point being the easterly end of a curve connecting the said southerly side of Duffy Avenue and the easterly side of Henrietta Street as said Duffy Avenue and Henrietta Street exist today;

RUNNING THENCE Easterly along the southerly side of Duffy Avenue along the arc of a curve bearing to the right whose radius is 700 feet a distance of 148.16 feet to a point;

THENCE still along the southerly side of Duffy Avenue, North76 degrees 49 minutes 40 seconds East, 327.28 feet;

RUNNING THENCE South 8 degrees 55 minutes 20 seconds East, 679.30 feet to land now or formerly of Terlikofsky;

RUNNING THENCE South 77 degrees 14 minutes 40 seconds West along said land, 151.43 feet;

RUNNING THENCE North 8 degrees 48 minutes 37 seconds West, 59.84 feet;

RUNNING THENCE South 78 degrees 05 minutes 33 seconds West, 190.50 feet;

RUNNING THENCE North 8 degrees 30 minutes 08 seconds West, 105.19 feet;

RUNNING THENCE South 77 degrees 14 minutes 40 seconds West, 28.66 feet;

RUNNING THENCE North 12 degrees 45 minutes 20 seconds West, 39.86 feet;

RUNNING THENCE South 77 degrees 14 minutes 40 seconds West, 122 feet to the easterly side of Henrietta Street;

RUNNING THENCE along the easterly side of Henrietta Street, North 7 degrees 58 minutes 20 seconds

Agreement of Lease, made this 9th day of December 1997, between FIRST INDUSTRIAL, L.P., having an office at 575 Underhill Boulevard, P.O. Box 830, Syosset, New York 11791 hereinafter referred to as "Landlord", and SULZER METCO (US), INC., having an office at 1101 Prospect Avenue, Westbury, New York 11580

hereinafter referred to as "Tenant".

Witnesseth:

PREMISES 1. The Landlord hereby leases to the Tenant and the Tenant hereby hires from the Landlord the land and the building known as 325 Duffy Avenue, Hicksville, New York 11801

TERM for the term commencing on the date hereof ("Commencement Date") and expiring on the Expiration Date, both dates inclusive, unless sooner terminated as hereinafter provided.

RENT 2. The Tenant agrees to pay to Landlord the fixed annual rental of See Schedule A attached

payable in equal monthly installments in advance on the first day of each and every month during said term. Tenant also agrees to pay the additional rent hereinafter in this lease provided. The said fixed annual rent and the additional rent shall be payable without any set-off or deduction whatsoever, to Landlord at Landlord's office above set forth, or at such other place as Landlord may hereafter designate.

USE AND OCCUPANCY 3. The demised premises are leased to the Tenant to be used and occupied by the Tenant solely for the purpose of manufacture, assembly, display and sale of Tenant's product line of thermal spray equipment and related items incidental thereto, repair of and storage of Tenant's products, research and development facilities and related office facilities

and the Tenant covenants and agrees that neither the Tenant nor any sub-lessee, licensee or concessionaire will use and occupy the demised premises for any other purpose.

ASSIGNMENT, SUBLETTING Except as provided in Rider paragraphs 55th and 76th

4. Neither the Tenant nor the Tenant's heirs, distributees, executors, administrators, legal representatives, successors, and assigns, shall assign, mortgage or encumber this lease, or sublet or use or suffer or permit the demised premises or any part thereof to be used by others without the prior written consent of the Landlord in each instance, and any assignment, sub-lease, mortgage or encumbrance of or under this lease, without the written consent of the Landlord first had and obtained in each instance shall be invalid and without force and effect. If this lease be assigned, or if the demised premises or any part thereof be underlet or occupied by anybody other than the Tenant, the Landlord may, after default by the Tenant, collect rental from the assignee, under-tenant, or occupant, and apply the net amount collected to the rent herein reserved. If in any instance the Landlord consents as herein provided to any assignment or subletting, the assignee or sub-tenant shall execute and deliver to Landlord an assumption agreement in form satisfactory to Landlord, but neither the execution of said assumption agreement, nor the granting by the Landlord of such consent, nor the collection of rent from the sub-tenant or assignee, shall in any wise be construed to relieve the Tenant from the full performance of all the covenants on the part of the Tenant herein contained, or from obtaining the express consent in writing of the Landlord to any further assignment or subletting. See para. 55th and 76th

REPAIRS 5. The Tenant has examined the demised premises, and takes and accepts them in the present condition except for such construction or alteration as Landlord is required to perform as hereinelsewhere specifically provided. The Tenant shall keep, at Tenant's cost and expense, the entire demised premises including any alterations or additions, and including any fixtures, equipment, or facilities used in connection therewith, in good condition, repair, and appearance, ~~painted~~ at all times throughout the term of the lease. ~~If any portion~~ of the demised premises, or any of the fixtures, equipment, ~~utilities or facilities~~ are beyond repair, the Tenant shall, at Tenant's ~~own cost~~ and expense, replace the same with material, equipment, and labor of ~~first quality~~.

PLATE GLASS If Tenant does not after ten (10) days notice,

6. The Tenant shall replace, at the expense of the Tenant, any and all broken glass in and about the demised premises. Landlord may insure, and keep insured, all plate glass in the demised premises, for and in the name of the Landlord and the Tenant, and bills for the premium therefor shall be rendered by Landlord to Tenant at such times as Landlord may elect, and shall be due from, and payable by Tenant when rendered, and the amount thereof shall be deemed to be, and shall be paid as, additional rent.

REQUIREMENTS OF LAW 7. Tenant will not at any time use or occupy the demised premises in violation of the certificate of occupancy issued for the building of which the demised premises form a part. Tenant shall comply with all requirements of all laws, orders, ordinances and regulations of the federal, state, county and municipal authorities, and with any direction, pursuant to law, of any public officer or officers, which shall impose any duty upon Landlord or Tenant with respect to the demised premises, or the use and occupation thereof. Nothing in this lease contained shall constitute any representation or agreement upon the part of the Landlord that the demised premises may be used for the purposes set forth herein and if there is any law or ordinance now or hereafter prohibiting use of the demised premises for such purposes this lease shall not be affected thereby but shall continue in full force and effect for the full term without any diminution or abatement of rent. See paragraph 77 in rider

FIRE INSURANCE 8. Tenant shall not bring or permit to be brought or kept in or on the demised premises, any inflammable, combustible or explosive fluid, material, chemical or substance, (except as may be required in the ordinary course of conduct of Tenant's manufacturing business) or cause or permit any odors of cooking, or other process, or any unusual or other objectionable odors to permeate from the demised premises, or

do or permit to be done, any act or thing upon said premises which shall or might subject Landlord to any liability or responsibility for injury to any person or persons or for any injury or damage to any property by reason of any business or operation being carried on upon said premises; and shall comply with all rules, orders, regulations or requirements of the Board of Fire Underwriters, or any other similar body, and shall not do, or permit anything to be done, in or upon said premises, or bring or keep anything therein, which shall increase the rate of fire insurance on the building of which the demised premises form a part, or on the property located therein. Tenant shall not place any load on the floors or other portions of the demised premises beyond their safe and lawful load-carrying capacities. If by reason of the failure of Tenant to comply with the provisions of this paragraph, the fire insurance rate shall at any time be higher than it otherwise would be, then Tenant shall reimburse Landlord, as additional rent hereunder, for that part of all insurance premiums thereafter paid by Landlord which shall have been charged because of such violations by Tenant, and shall make such reimbursement upon the first day of the month following such outlay by Landlord. In any action or proceeding wherein Landlord and Tenant are parties, a schedule or "make-up" of rate for the building or the demised premises issued by the Fire Insurance Exchange, or other similar body making fire insurance rates for said premises, shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rate then applicable to said premises.

SUBORDINATION

9. This lease is and shall be and remain subject and subordinate to all ground or underlying leases and to all mortgages which may now or hereafter affect such leases or the real property of which the demised premises form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof. This clause shall be self-operative and no further instrument of subordination shall be required by any mortgagee. In confirmation of such subordination, Tenant shall execute promptly any certificate that Landlord may request. Tenant hereby constitutes and appoints Landlord the Tenant's attorney-in-fact to execute any such certificate or certificates for and on behalf of Tenant. See paragraph 73 in Rider

PERSONAL INJURIES

10. The Landlord shall not be liable for and the Tenant agrees to indemnify the Landlord against and save it harmless from any and all liability, loss or damage by reason of any injury or damage to any person or to any property belonging to the Tenant or any other person, occurring in or about the demised premises, or on the sidewalks and curbs adjacent thereto or in and about the parking area forming part of the demised premises, caused by fire, or other casualty or leakage in any part or portion of the demised premises or any part or portion of the building of which the demised premises are a part, or from water, rain or snow that may leak into, issue or flow from any part of the said premises or of the building of which the demised premises are a part, from the roof, drains, pipes or plumbing work of the same or from any place or quarter, or from the use of any of the elevators, hatches, sidewalks, curbs, openings, stairways, hallways of any kind whatsoever which may exist or hereafter be erected or constructed in or on the demised premises, or from any kind of injury which may arise from any other cause whatsoever in or on the said premises, except such injury or damage arising by reason of the failure of the Landlord to make repairs which it is obligated to make pursuant to the terms of this lease after reasonable notice in writing from the Tenant of the need for such repairs.

subject to the provisions of paragraph 45th of the rider

FIRE

11. If the demised premises shall be partially damaged by fire or other cause without the fault or neglect of Tenant, Tenant's servants, employees, agents, invitees or licensees, the damages shall be repaired by and at the expense of Landlord and the rent until such repairs shall be made shall be apportioned according to the part of the demised premises which is usable by Tenant. *~~But if such partial damage is due to the fault~~ or neglect of Tenant, Tenant's servants, employees, agents, invitees or licensees, without prejudice to ~~the~~ rights of subrogation of Landlord's insurer, the damages shall be repaired by Landlord but there ~~shall be~~ no apportionment or abatement of rent. No penalty shall accrue for reasonable delay which ~~may~~ arise by reason of adjustment of insurance on the part of Landlord and/or Tenant, and for ~~reasonable~~ delay on account of "labor troubles", or any other cause beyond Landlord's control. If the ~~demised~~ premises are totally damaged or are rendered wholly untenantable by fire or other cause, and if ~~Landlord~~ shall decide not to restore or not to rebuild the same, or if the building shall be so ~~damaged that~~ Landlord shall decide to demolish it or to rebuild it, then or in any of such events Landlord ~~may~~, within ninety (90) days after such fire or other cause, give Tenant a notice in writing of ~~such decision~~, and thereupon the term of this lease shall expire by lapse of time upon the third day after ~~such~~ notice is given, and Tenant shall vacate the demised premises and surrender the same to Landlord. ~~If~~ Tenant shall not be in default under this lease, upon the termination of this lease, under the ~~conditions~~ provided for in the sentence immediately preceding, Tenant's liability for rent shall cease as ~~of the~~ day following the casualty. Tenant hereby expressly waives the provisions of Section 227 of the ~~Real~~ Property Law and agrees that the foregoing provisions of this Article shall govern and control in ~~lieu thereof~~. If the damage or destruction be due to the fault or neglect of Tenant, the debris shall be ~~removed by, and at the expense of, Tenant~~.

*see Rider paragraph 64th

CONDEMNATION

12. If the building of which the demised premises are a part shall be taken or condemned by any competent authority for any public or quasi public use or purpose, then and in that event the term of this lease shall cease and terminate on the date of the vesting of title in the condemnation proceeding. If a portion of the demised premises or of the building and premises of which they are a part shall be taken or condemned by any competent authority for any public or quasi public use or purpose, the Landlord shall have the option of terminating this lease, effective on the date when the possession of the part so taken shall be required for such use or purpose. Notice of termination by the Landlord pursuant to the exercise of such option shall be given within thirty (30) days after the Landlord has received notice from such authority that possession of the portion so condemned shall be required for public use or quasi public use. If the Landlord does not exercise the option to terminate this lease, it shall continue in full force and effect as to the remaining portion of the premises and there shall be a proportionate abatement of rent in accordance with the amount of the demised premises thus taken for public or quasi public use. The entire award for such taking, whether of the whole or only part of the demised premises, shall belong to Landlord without any diminution for the value of what would have been the unexpired term of this lease but for the taking, and Tenant shall not have or make any claim against the taking authority for any award or damages for the taking arising out of any interest in this lease. Nothing herein contained shall prevent Tenant from claiming or receiving any award for the taking of Tenant's trade fixtures.

PUBLIC UTILITIES

13. (a) Tenant shall, at its own cost and expense, provide heat for the demised premises including all necessary fuel and shall keep such heating plant or apparatus in good order and repair. The Tenant agrees to pay when due all bills and charges rendered in connection with Tenant's consumption of water, sewer rent or charges, electricity or other utilities in the demised premises. Subject to the provisions of Rider paragraph 63, Tenant shall not make any change in the water, electrical, heating or other equipment without the written consent of the Landlord and will not install any conduit other than rigid conduit for exposed electrical work. If Tenant's electrical installation overloads any riser or risers in the demised premises or in the building of which the demised premises are a part, Tenant, at its own cost and expense, agrees to provide such additional riser or risers as may be required, but no such riser or risers shall be installed without the written consent of the Landlord. Landlord shall not be required to furnish heat, water, electricity, elevator service or any other utility service, except as specifically provided in this lease.

(b) The Tenant agrees to sign any and all consents including subordination of lease, in connection with granting easements for installations of water, gas, electricity, telephone and other public utility easements to

If Tenant fails to do so following ten (10) days notice of such failure,

the various utility companies affecting any street, or proposed street, or any part of the mortgaged property as shown on said subdivision maps and on, under, or along boundary lines of the subject premises or of lots shown on such maps.

MAINTENANCE

14. (a) Tenant shall, at Tenant's own cost and expense, maintain the entire premises clean, neat, and safe and in good appearance. Tenant shall, at Tenant's own cost and expense, provide for the removal of all garbage and refuse, and shall insure that same is not kept in an unsightly or unsanitary manner pending such removal. Tenant shall not store machinery, equipment, materials or other products outside the demised building in an unsightly manner.

(b) Landlord reserves the right, on written notice to Tenant, to contract with third parties for the maintenance of the landscaped portion of the demised premises, and/or for the removal of ice and snow from the demised premises, and in such event, the Tenant agrees to pay the cost thereof as additional rent.

ALTERATIONS

Subject to the provisions of paragraph Rider 63

15. The Landlord shall not be obligated to perform any maintenance or to make any alterations, additions, improvements or repairs in or to or to decorate or paint the demised premises or any portion thereof or ~~install therein any fixtures or equipment except as specifically provided for herein.~~ Tenant shall make no alterations, decorations, installations, additions or improvements in or to the demised premises without Landlord's prior written consent. All alterations, decorations, installations or improvements upon demised premises made by either party, shall, unless Landlord elects otherwise, become the property of Landlord, and shall remain upon, and be surrendered with, said premises, as a part thereof, at the end of the term or renewal term, as the case may be. In the event the Landlord shall elect otherwise, then such alterations, installations, additions or improvements made hereafter by Tenant upon the demised premises as the Landlord shall select, shall be removed by the Tenant and Tenant shall restore premises to the original condition, at its own cost and expense, prior to the expiration of the term. The Tenant acknowledges that the breach by Tenant of the prohibitions of this paragraph are not fully compensable by damages and Tenant agrees that Landlord is entitled to injunctive relief in the event of Tenant's breach or threatened breach. Notice is hereby given that Landlord shall not, under any circumstances, be liable to pay for any work, labor or services rendered, or materials furnished, to or for the account of Tenant, upon or in connection with the demised premises and that no Mechanic's Lien or other lien for work, labor or services rendered, or materials furnished, to or for the account of Tenant, shall under any circumstances attach to or affect the reversionary or other estate or interest of the Landlord in and to the demised premises or in and to any building, alterations, repairs or improvements erected or made thereon. ~~Any Mechanic's Lien filed against the demised premises or the building of which the same forms~~ a part for work claimed to be done or for materials ~~claimed to have been~~ furnished to Tenant, shall be discharged by Tenant within ~~fifteen days~~ thereafter at Tenant's expense by payment or by the bond required ~~by the Lien Law of the State of New York~~.

SIGNS

Subject to the provisions of Paragraph 62,

16. Tenant shall not display or erect any lettering, signs, advertisements, awnings, or other projections on the outside walls or roof of the demised premises. ~~The Landlord reserves the right to use or rent the~~ outside walls of the demised premises for sign space, ~~advertising or otherwise~~, provided however, Landlord ~~agrees that it shall not cover or obstruct the windows or store front, if any, of the demised premises~~.

ACCESS TO PREMISES

*Subject to the provisions of Paragraph 65,

17. ~~The Tenant shall permit the Landlord to erect, use and maintain, pipes and conduits in and through~~ the demised premises and at any time ~~to enter into and~~ proceed through any part of the demised premises ~~to the heating apparatus and to any and all other equipment and appurtenances of the building~~.* The Landlord or the Landlord's agents shall have the right to enter the demised premises at all times to examine the same, and to show them to prospective purchasers or lessees of the building and shall have the right, but shall not be obligated, to make such repairs, ~~alterations, improvements or additions~~ as the Landlord may deem necessary or desirable, and the Landlord shall be allowed to take all material into and upon said premises that may be required therefore without the same constituting an eviction of Tenant in whole or in part and the rent reserved shall in no wise abate while such ~~decorations~~, repairs, ~~alterations, improvements, or additions,~~ are being made, by reason of loss or interruption of the business of Tenant because of the prosecution of any such work, or otherwise. During the six months prior to the expiration of the term of this lease, Landlord may exhibit the premises to prospective tenants, and place upon said premises the usual notices "To Let" or "For Sale" which notices Tenant shall permit to remain thereon without molestation. If, during the last month of the term, Tenant shall have removed all or substantially all of Tenant's property therefrom, Landlord may immediately enter and alter, renovate and redecorate the demised premises, without diminution or abatement of rent, or other compensation, and such acts shall have no effect upon this lease. If Tenant shall not be personally present to open and permit an entry into said premises, at any time, when for any reason an entry therein, shall be necessary or permissible hereunder, Landlord or Landlord's agents may enter the same by a master key, or may forcibly enter the same, without rendering Landlord or such agents liable therefore (and during such entry Landlord or Landlord's agent shall accord reasonable care to Tenant's property), and without in any manner affecting the obligations and covenants of this lease. Landlord shall have the right to change the arrangements and/or location of entrances or passage ways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the building, and after reasonable notice, to change the name, number or designation by which the building is commonly known. Nothing herein contained, however, shall be deemed or construed to impose upon Landlord any obligation, responsibility or liability whatsoever, for the care, supervision or repair of the building or any part thereof, other than as herein provided.

subject to the provisions of paragraph 45th of the rider,

SPRINKLERS

In order to comply with any requirements of law,

18. If there now is or shall be installed in the building a "sprinkler system", and such system or any of its appliances shall be damaged or injured or not in proper working order by reason of any act of Tenant, Tenant's agents, ~~servants, employees or invitees,~~ Tenant shall forthwith restore the same to good working condition, and if the Board of Fire Underwriters or the Fire Insurance Exchange or any Bureau, Department or official of the State or City government require or recommend that any changes, modifications, alterations, or additional sprinkler heads or other equipment be made or supplied by reason of Tenant's business, or the location of partitions, trade fixtures, or other contents of the demised premises, or if any such changes, modifications, alterations, additional sprinkler heads or other equipment become necessary to prevent the imposition of a penalty or charge against the full allowance for a sprinkler system in the fire insurance rate as fixed by said Exchange, or by any Fire Insurance Company, Tenant shall, at Tenant's expense, promptly make and supply such changes, modifications, alterations, additional sprinkler heads or other equipment.

EXCAVATIONS, RECONSTRUCTION

19. In the event that the Landlord is required to make any excavation in or on the land of which the demised premises are a part, or in the event that any excavations shall be made for building or other purposes upon the land adjacent to the land and building of which the demised premises are a part, or shall be contemplated to be made, or if the Landlord shall deem it necessary to repair, reconstruct or rebuild any part or portion of the building of which the demised premises are a part, the Tenant shall afford to the Landlord or its agents or to any person or persons causing or authorized to cause such reconstruction, rebuilding, repair or excavation, license to enter upon the demised premises for the purposes of doing such work, without any claim for damages or indemnity against the Landlord for interruption or loss of business or for diminution or abatement of rent.

DEFAULT

20. (a) If at any time prior to the date herein fixed as the commencement of the term of this lease or at any time thereafter there shall be filed by or against Tenant in any court pursuant to any statute either of the

United States or of any State a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or if Tenant makes an assignment for the benefit of creditors, or if Tenant makes application to Tenant's creditors to settle or compound or extend the time of payment of Tenant's obligation, or if any execution or attachment shall be levied upon any of the Tenant's property or the demised premises are taken or occupied or attempted to be taken or occupied by someone other than the Tenant, this lease shall at the Landlord's option be cancelled and terminated and in which event neither Tenant nor any person claiming through or under Tenant or by virtue of any statute or of an order of any court shall be entitled to possession of the demised premises and Landlord, in addition to the other rights and remedies given by (b) hereof and by virtue of any other provision herein or elsewhere in this lease contained or by virtue of any statute or rule of law, may retain as liquidated damages any rent, security, deposit or monies received by him from Tenant or others in behalf of Tenant.

see Paragraph 78

(b) If Tenant shall default in fulfilling any of the covenants of this lease, which default shall continue for fifteen days after written notice to Tenant, or if the demised premises become vacant or deserted, Landlord may give Tenant three (3) days notice of intention to end the term of this lease and thereupon, at the expiration of said three days, the term under this lease shall expire as fully and completely as if that day were the day herein definitely fixed for the expiration of the term under this lease and the Tenant will then quit and surrender the demised premises to Landlord, but Tenant shall remain liable as hereinafter provided.

(c) If the notice provided for shall have been given, and the term shall expire as aforesaid; or if the Landlord cancels and terminates this lease as provided above; or if Tenant shall fail to move into or take possession of the premises within fifteen (15) days after commencement of the term of this lease, then and in any of such events Landlord may, without notice, re-enter the demised premises either by force or otherwise, and dispossess Tenant and the legal representative of Tenant or other occupant of the demised premises and remove their effects and hold the premises as if this lease had not been made, and Tenant hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end. If Tenant shall make default hereunder prior to the date fixed as the commencement of any renewal or extension of this lease, Landlord may cancel and terminate such renewal or extension agreement by written notice as hereinafter provided.

(d) In case of any such default, re-entry, expiration or dispossess by summary proceedings or otherwise, (1) the rent shall become due thereupon and be paid up to the time of such re-entry, dispossess or expiration, together with such expenses as Landlord may incur for legal expenses, attorneys' fees, brokerage or putting the demised premises in good order, or for preparing the same for re-rental; (2) Landlord may re-let the premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the term of this lease and may grant concessions or free rent and (3) Tenant or the legal representatives of Tenant shall also pay Landlord as liquidated damages for the failure of Tenant to observe and perform Tenant's covenants herein contained, any deficiency between the rent reserved under this lease and the net amount, if any, of the rents collected on account of the lease or leases of the demised premises for each month of the period which would otherwise have constituted the balance of the term of this lease.* In computing such liquidated damages there shall be added to the said deficiency such expenses as Landlord may incur in connection with re-letting, such as legal expenses, attorneys' fees, brokerage and for keeping the demised premises in good order or for preparing the same for re-letting. Any such liquidated damages shall be paid in monthly installments by Tenant on the rent day specified in this lease and any suit brought to collect the amount of the deficiency for any month, shall not prejudice in any way the rights of Landlord to collect the deficiency for any subsequent month by a similar proceeding. Landlord at Landlord's option may make such alteration and decorations in the demised premises as Landlord in Landlord's sole judgment considers advisable and necessary for the purpose of re-letting the demised premises; and the making of such alterations and decorations shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Landlord shall in no event be liable in any way whatsoever for failure to re-let the demised premises, or in the event that the demised premises are re-let, for failure to collect the rent thereof under such re-letting. In event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not herein provided for. Mention in this lease of any particular remedy, shall not preclude Landlord from any other remedy in law or in equity. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of demised premises by reason of the violation by Tenant of any of the covenants and conditions of this lease or otherwise.

*For purposes of this calculation, Tenant shall be deemed to exercise its next available cancellation option under rider paragraph 75th (if not thereafter exercised).

(e) In the event of the termination of this lease, Landlord shall notwithstanding any other provisions of this lease to the contrary, be entitled forthwith to recover from Tenant as and for liquidated damages an amount equal to the difference between the rent reserved under this lease for the unexpired portion of the term demised and the rental value of the demised premises, at the time of termination, for the unexpired term* or portion thereof, both discounted at the rate of four per centum (4%) per annum to present worth. Nothing herein contained shall limit or prejudice the right of the Landlord to prove for and obtain as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount of the difference referred to above. In determining rental value of the demised premises the rental realized by any reletting, if such reletting be accomplished by Landlord within a reasonable time after termination of this lease, shall be deemed prima facie to be the rental value.

subject to rider paragraph 66th

(f) If Tenant shall default in the performance of any covenant on his part to be performed by virtue of any provision in any article in this lease contained, Landlord may immediately or at any time thereafter, without notice, perform the same for the account and at the expense of Tenant. If Landlord at any time is compelled to pay or elects to pay any sum of money, or do any act which will require the payment of any sum of money, by reason of the failure of Tenant to comply with any provisions hereof, or, if Landlord be compelled to incur any expense including reasonable attorneys' fees in instituting, prosecuting or defending any action or proceeding instituted by reason of any default of Tenant hereunder, the sum or sums so paid by Landlord with all interest, cost and damages, shall be deemed to be additional rent hereunder and shall be due from Tenant to Landlord on the first day of the month following the incurring of such respective expenses.

as set forth in rider paragraph 57th

SURRENDER

21. Upon the expiration or other termination of the term of this lease, Tenant shall quit and surrender to Landlord, the demised premises, broom clean, in good order and condition, ordinary wear and damage by the elements excepted. If the last day of the term of this lease or any renewal thereof falls on Sunday this lease shall expire on the business day immediately preceding. Tenant shall remove all property of Tenant as directed by Landlord and failing so to do Landlord may cause all of the said property to be removed at the expense of Tenant and Tenant hereby agrees to pay all costs and expenses thereby incurred. If as a result of or in the course of the removal of the Tenant's property any portion of the demised premises or of the building of which they are a part are damaged, the Tenant shall pay to the Landlord the reasonable cost of repairing such damages. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this lease. ~~If the Tenant fails to quit and surrender the premises upon~~ expiration or other termination of this lease it shall be liable to the Landlord for the damages caused to the ~~Landlord by reason of such holdover and it is agreed that such damages shall be liquidated in an amount equal~~

~~to double the rental rate provided for in this lease. The acceptance by the Landlord of such damages or rental after termination of this lease shall not be construed as consent to continued occupancy.~~

POSSESSION

22. (a) If the Landlord shall be unable to give possession of the demised premises on the date of the commencement of the term hereof by reason of the fact that the premises are located in a building being altered, repaired or constructed and which has not been sufficiently completed to make the premises ready for occupancy, or by reason of the fact that a certificate of occupancy or temporary certificate of occupancy has not been procured by reason of the tenancy or occupancy of another, or for any other reason, Landlord shall not be subject to any liability for the failure to give possession on said date. Under such circumstances the rent reserved and covenanted to be paid herein shall not commence ~~until the possession of the demised premises is given or the premises are available for occupancy by the Tenant~~, and no such failure to give possession on the date of commencement of the term shall in any wise affect the validity of this lease or the obligations of the Tenant hereunder, nor shall same be construed in any wise to extend the term of this lease. If the premises are not ready for Tenant's occupancy at the time of the execution of this lease, the premises shall be considered ready for Tenant's occupancy, and the payment of the rent reserved herein shall commence upon the issuance of the certificate of occupancy, the temporary certificate of occupancy, or the Tenant's going into possession of the premises with Landlord's consent, whichever occurs first.

(b) It is understood that in the event of strikes, lockouts, fire, and other unavoidable and unusual shortages or delays in transportation of materials, Acts of God, National Emergency, war, or delays occasioned by other similar causes beyond the control of the Landlord or the Tenant, respective, that the time of Landlord or the Tenant, as the case may be, for performance shall be extended for a period equal to the period of such delay.

(c) In the event that the issuance of a certificate of occupancy or a temporary certificate of occupancy is delayed because of the acts or omissions of the Tenant, or because of a failure to perform work to be done by Tenant, Tenant shall in addition pay rent for a period equal to the delay caused by the Tenant.

NO REPRESENTATIONS BY LANDLORD

23. Landlord or Landlord's agents have made no representations or promises with respect to the said building or demised premises except as herein expressly set forth. The taking possession of the demised premises by Tenant shall be conclusive evidence, as against Tenant, that Tenant accepts same "as is" and that said premises and the building of which the same form a part were in good and satisfactory condition at the time such possession was so taken.

WAIVER OF TRIAL BY JURY

24. It is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this lease, the relationship of landlord and tenant, Tenant's use or occupancy of said premises, and/or any claim of injury or damage, and any emergency statutory or any other statutory remedy.

SECURITY

Neither caused the execution and delivery of a guarantee in form annexed hereto as Schedule F or

25. Tenant has deposited with Landlord the sum of $92,000.00* as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this lease; it is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this lease, including, but not limited to, the payment of rent and additional rent, Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum as to which Tenant is in default in respect of any of the terms, covenants and conditions of this lease, including but not limited to, any damages or deficiency in the re-letting of the promises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. In the event of a sale of the land and building or leasing of the building, of which the demised premises form a part, Landlord shall have the right to transfer the security to the vendee or lessee and Landlord shall thereupon be released by Tenant from all liability for the return of such security; and Tenant agrees to look to the new Landlord solely for the return of said security; and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new Landlord. Tenant further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as security and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. Whichever of a guaranty, cash deposit or Letter of Credit Tenant has posted as security from time to time, Tenant may substitute either of the other two.

*in cash or by Letter of Credit

or Tenant

NO WAIVER

26. No act or thing done by Landlord or Landlord's agents during the term hereby demised shall constitute an eviction by Landlord, nor shall be deemed an acceptance of a surrender of said premises, and no agreement to accept such surrender shall be valid unless in writing signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys of said premises prior to the termination of the lease. The delivery of keys to any employee of Landlord or of Landlord's agents shall not operate as a termination of the lease or a surrender of the premises. In the event of Tenant at any time desiring to have Landlord sublet the premises for Tenant's account, Landlord or Landlord's agents are authorized to receive said keys for such purposes without releasing Tenant from any of the obligations under this lease, and Tenant hereby relieves Landlord of any liability for loss of any of Tenant's effects or the happening of any other event in connection with such subletting. The failure of Landlord or Tenant to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this lease, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord or payment of Tenant of rent with knowledge of the breach of any covenant of this lease shall not be deemed a waiver of such breach. No provision of this lease shall be deemed to have been waived by Landlord or Tenant, unless such waiver be in writing signed by Landlord or Tenant. No payment by Tenant or receipt by Landlord, of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this lease provided.

or payment of Tenant

or Tenant, as the case may be.

PERMANENT MORTGAGE

27. ~~Landlord is privileged to cancel and terminate this lease by written notice to Tenant if unable to~~ obtain, within 45 days, an absolute written commitment for a permanent mortgage loan with respect to the building to be occupied by Tenant on the demised premises in such amount and on such terms as shall be ~~satisfactory to Landlord.~~

BROKER

28. ~~Tenant represents that~~ ~~is the only broker who was~~ instrumental in bringing about this lease. Tenant agrees to save the ~~Landlord harmless from all~~ claims of brokers other than said for commission for bringing about ~~this lease.~~

TAXES

29. ~~(a) The annual rental herein provided is based upon the assumption of the parties hereto that~~ the annual real estate taxes, assessments, sprinkler, water, sewer rents, and charges ~~of every kind~~ and nature whatsoever, which shall or may during the term of this lease ~~be charged, levied~~, laid, assessed, or imposed upon, or become a lien or liens upon the ~~demised~~ premises or any part thereof, or upon any building or appurtenances ~~thereto, or any part~~ thereof, under or by virtue of any present or future laws, rules, requirements, ~~orders, directions, ordinances, or regulations of the State, County, or City government, or of any other~~

~~municipal, governmental, or lawful authority whatsoever, and all gas, electricity, or other service or services~~ furnished to the demised premises or the occupants thereof during the term hereof, and all fees and charges of the state, county, or city government, or of any other municipal, governmental, or lawful authority whatsoever, for the construction, maintenance, or use during the term hereof, of any part of any building on the demised premises, excluding, however, Landlord's income, excess profits, franchise, excise, gift, or transfer, legacy, inheritance, or estate taxes, shall not exceed the sum of $. In the event that all of the above shall exceed such sum, Tenant shall pay to Landlord such excess as additional rent hereunder within 30 days after notification by Landlord to Tenant of said increase in taxes and the exhibition by Landlord to Tenant of a copy of the bill or other notification of the municipality for such taxes. With respect to such taxes as may not be based upon a calendar year, the annual taxes shall be calculated on a pro-rata basis. Landlord may bill for, and collect, as additional rent at the beginning of each calendar year, the excess rent herein provided calculated on the basis of the tax rates and assessments of the preceding calendar year, provided that in such event only, same shall be adjusted and an additional amount collected or refunded as the case may be within 30 days after all rates and assessments for the calendar year become absolute.

(b) All real estate taxes which shall become payable for the first and last tax years of the term hereof shall be apportioned pro-rata between Landlord and Tenant in accordance with the respective number of days during which each party shall be in possession of the demised premises in said respective tax years. Adjustments shall be made on the first and last day of term.

(c) Tenant shall have the right to contest or review by legal proceedings or in such other manner as may be legal (which, if instituted, shall be conducted promptly at Tenant's own expense and free of all expense to Landlord) any tax, assessment, water, sewer rent, or charge, or other governmental imposition aforementioned. If it is necessary or advisable in connection with said legal proceedings to maintain the same in the name of the Landlord, Landlord, hereby consents that the Tenant shall have the right to institute any such legal proceedings in the name of the Landlord, and the Landlord shall at all times cooperate with the Tenant in the institution and prosecution of said proceedings.

(d) Landlord, at Landlord's option, may, but shall not be obligated to, contest or review by legal proceedings, or in such other manner as may be legal, and at Landlord's own expense, any tax, assessment, water, sewer rent or charge, or other governmental imposition aforementioned, which shall not be contested or ~~reviewed as aforesaid by Tenant.~~ See Paragraph 44th in rider

INSURANCE

30. ~~During the term hereof, Tenant shall, at Tenant's own cost and expense:~~

(a) Keep the building or buildings which may be erected upon the demised premises, including all alterations, changes, additions and improvements, insured against loss or damage by fire (with extended coverage) and war damage if obtainable (during a period of war only) in an amount equal to the full insurable value thereof, ninety (90%) percent co-insurance clause, however, being permitted. All policies shall provide that loss, if any, payable thereunder, shall be payable to Landlord and Tenant, and/or any mortgagees of the fee and buildings, as their respective interests may appear, and all such policies or certificates thereof shall be delivered to and held by Landlord or any mortgagees, certificate of same to be retained by Tenant. All said policies shall be taken in companies authorized to do business in the State of New York.

(b) Provide and keep in force for the benefit of the Landlord, general accident and liability insurance fully protecting Landlord against any and all liability occasioned by accident or disaster, in the amount of Two Hundred Thousand ($200,000.) Dollars in respect to injuries to any one person, and in the amount of Five Hundred Thousand ($500,000.) Dollars in respect to any one accident or disaster, and the amount of Fifty Thousand ($50,000.) Dollars in insurance for property damage. Policies covering Landlord and Tenant, as their respective interests may appear, but otherwise in the form herein provided, shall be deemed to be in compliance with the provisions of this covenant. All said policies shall be obtained by Tenant, and certificates thereof delivered to Landlord in responsible companies authorized to do business in the State of New York.

(c) Within ten (10) days prior to the expiration of any policy or policies of such insurance, Tenant shall deliver to Landlord within said period of time, the renewal policies or certificates thereof, and if such policies or certificates shall not be delivered, Landlord may, upon ten (10) days written notice, procure and/or pay for the same, and the amount so paid by the Landlord shall become due and payable by Tenant as additional rent within the next or any subsequent installment of fixed rent which shall become due after such ~~payment by Landlord.~~ See Paragraph 45th in rider

BURDENS OF OWNERSHIP

31. It is the intention of the parties hereto that all of the burdens of ownership, except for mortgage payments and any other burdens specifically excepted herein shall fall upon the Tenant during the demised term, whether they be such as now exist or as may hereafter be created. It is further agreed that the Landlord assumes no responsibility for any liability in connection with management and control of the premises.

SEPARABILITY

32. The invalidity or unenforceability of any provision of this Lease shall in no way affect the validity or enforceability of any other provision hereof.

QUIET ENJOYMENT

33. Landlord agrees that upon Tenant paying the rent and additional rent and performing and complying with all of the terms and conditions of this lease on the part of Tenant to be performed and complied with, Tenant may peaceably and quietly enjoy the demised premises, subject, nevertheless, to the terms and conditions of this lease including, but not limited to, the provisions of paragraph 35 hereof and the ground leases, underlying leases and mortgages mentioned in paragraph 9 hereof.

ENTIRE AGREEMENT

34. This lease contains the entire agreement between the parties, and there are no warranties, representations or other agreements between them. No agreement shall be effective to change, modify or discharge this lease or to waive any agreement or condition thereof in whole or in part unless such agreement is in wrtiing and signed by both of the parties hereto.

DEFINITION OF "LANDLORD"

35. The term "Landlord" as used in this lease, means only the owner or the mortgagee in possession for the time being of the land and building (or the owner of a lease of the building) of which the demised premises form a part, so that in the event of any sale or sales of said land and building or of said lease, or in the event of a lease of said building, the said Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder. The words "re-enter" and "re-entry" as used in this lease are not restricted to their technical legal meaning.

NOTICES

36. ~~Any and all notices which either party may or shall be required to give under and pursuant to any~~ term of this lease shall be in writing and sent by registered mail, addressed to the Landlord at

or such other address as the Landlord may at any time designate in writing, and to the Tenant at the demised ~~premises or at such other address as the Tenant may at any time designate in writing.~~

MARGINAL NOTES

37. The marginal notes are inserted only as a matter of convenience and in no way define, limit or describe the scope or intent of this lease nor in any way affect this lease.

RIDER TO LEASE BETWEEN

FIRST INDUSTRIAL, L.P., AS LANDLORD

AND

SULZER METCO (US), INC., AS TENANT

40th. Not used.

41st. **RIDER CONTROLS:**

In case of a conflict between the provisions of this rider, and the printed provisions of this lease, the provisions of this rider shall prevail.

42nd. **ADDITIONAL RENT:**

Any sums of money required to be paid under this lease by Tenant in addition to the fixed annual rental ("rent") herein provided, shall be deemed "additional rent due and payable." It shall be paid after demand therefor with the rent next due or as may be otherwise provided herein. Such additional rent shall be deemed to be and shall constitute rent hereunder and shall be collectible in the same manner and with the same remedies as if they had been rents originally reserved herein. Tenant's obligation to pay additional rent accruing during the term of the Lease shall survive the earlier termination and/or expiration of the term of this lease. If Landlord receives from Tenant any payment less than the sum of the annual rental rate, additional rent, and other charges then due and owing, Landlord, in its sole discretion, may allocate such payment in whole or in part to any annual rental rate, any additional rent, and/or other charge or to any combination thereof. Landlord's failure to deliver to Tenant a statement showing Tenant liability for additional rent for any portion of the term of this lease during the term of this lease shall neither prejudice or waive Landlord's right to deliver any such statement for a subsequent period or to include in such subsequent period a previous period.

43rd. **LATE CHARGE/RETURNED CHECK CHARGE:**

(a) Tenant shall pay a late charge of 4% of any payment of rent or additional rent or any other sum of money or payment not received by Landlord within 10 days after the same shall become due. Such late charge shall be in addition to all of Landlord's other rights and remedies hereunder in the event of Tenant's default and shall be payable as additional rent.

(b) If any check tendered by Tenant to Landlord is returned by the bank for non-payment for any reason whatsoever, there will be an administrative charge of $15.00 per check, each time it is returned which amount shall be deemed additional rent.

44th. **TAXES:**

(a) The Tenant shall pay any and all Real Estate Taxes accruing during the term of this lease for the demised premises directly to the municipality or governmental authority assessing such Real Estate Taxes before such payment is due without penalty. Tenant shall provide Landlord with reasonable proof of payment of any such Real Estate Taxes within ten days after written request. If Tenant shall fail to make any such payment prior to the imposition of penalties, Landlord shall have the right, but not the obligation to pay such Real Estate Taxes and any payment made by Landlord for such Real Estate Taxes shall be deemed additional rent under this lease and shall accrue interest at the "Interest Rate" from the date paid by Landlord until Tenant shall reimburse Landlord for such payment.

(b) Real Estate Taxes shall mean any and all taxes, assessments, sewer and water rents, rates and charges, license fees, impositions, liens, and all other municipal and governmental charges of any nature whatsoever (except only inheritance, franchise and estate taxes and income taxes not herein expressly agreed to be paid by Tenant), whether general or special, ordinary or extraordinary foreseen or unforeseen which may presently or in the future become due or payable or which may be levied, assessed or imposed by any taxing authority against the demised premises, including without limitation, all taxes and assessments for improving any streets, alleys, sidewalks, sidewalk vaults and alley vaults, if any.

(c) (i) If required to be paid to the holder of the first mortgage affecting the demised premises (provided same is not Landlord or an affiliate of Landlord), Landlord may, at its election, require Tenant to pay estimated monthly installments, in advance, of Real Estate Taxes which may be next due under this lease on the first day of each month, as additional rent. Said installments shall be equal to the estimated Real Estate Taxes next due (as reasonably estimated by the Landlord) less all installments already paid therefor, divided by the number of months that are to elapse before one month prior to the date when such Real Estate Taxes will become due. If Landlord shall exercise its rights hereunder, Landlord and not Tenant shall then pay the Real Estate Taxes directly or cause the mortgagee to pay the Real Estate Taxes.

(ii) Any deficiency in the amount of any such aggregate payment shall constitute a default under this lease entitling Landlord to all its rights and remedies hereunder as a default in the payment of rent, unless paid by Tenant within ten (10) days after notice of such deficiency.

(iii) If the total of the payments made by the Tenant shall exceed the amount of payments actually made for Real Estate Taxes, such excess shall be promptly refunded to Tenant by the Landlord provided Tenant is not then in default beyond applicable grace period. If, however, said payments made by the Tenant shall not be sufficient to pay such Real Estate Taxes when same shall become due and payable, then, within ten (10) days of the notice of the deficiency from Landlord, the Tenant shall pay to the Landlord any amount necessary to make up the deficiency. If there shall be a default under any of the provisions of this lease and an action or proceeding shall be commenced as herein provided, the Landlord shall be and hereby is, authorized and empowered to apply, at the time of the commencement of such action or proceeding, or at any time thereafter, the balance then remaining in the funds accumulated for Real Estate Taxes as a credit against the rent and additional rent then remaining unpaid hereunder.

(d) Not used.

(e) Not used.

(f) Landlord shall have the exclusive right to contest or protest the assessed value of the demised premises and the land and building of which it forms a part for all periods after the Commencement Date, provided, however, that if Landlord shall not have commenced such a proceeding within twenty (20) days after request from Tenant to do so, Tenant may, at its expense and cost, bring such a proceeding (in Landlord's name, if necessary).

(g) If as a result of any tax certiorari proceeding, whether previously settled, now pending or hereafter brought by either Landlord or Tenant, Landlord shall receive a refund of or credit against future payments of Real Estate Taxes (after deducting all costs and expenses incurred to collect same), for any year (i) prior to the Commencement Date or (ii) in which this

lease is in full force and effect and for which Tenant shall have paid the additional rent and annual rental rate set forth herein, then, provided this lease shall not have been terminated for Tenant's default, Tenant shall receive 100% of such refund which shall be pro rated for any partial year in which the term of this lease expires. This provision shall survive the expiration of the term of this lease. If as a result of a tax certiorari proceeding Tenant shall receive a refund in Real Estate Taxes (after deducting all costs and expenses incurred to collect same) which Landlord is entitled to receive, Tenant shall receive such payment on behalf of Landlord and pay Landlord such amount promptly after receipt.

45th. **INSURANCE:**

(a) Tenant shall, at its sole cost and expense, at all times during the term of this lease (and any extensions thereof) obtain and pay for and maintain in full force and effect the insurance policy or policies described in Schedule D attached hereto. Certified copies of all insurance policies required pursuant to this lease (or certificates thereof, in form and substance reasonably acceptable to Landlord), shall be delivered to Landlord not less than ten (10) days prior to the commencement of the term of this lease. If Tenant fails to submit such policies or certificates to Landlord within the specified time, or otherwise fails to obtain and maintain insurance coverages in accordance with this paragraph, and such failure continues for ten (10) days after written notice thereafter, then Landlord, at Landlord's sole option, may, but shall not be obligated to, procure such insurance on behalf of, and at the expense of, Tenant. Tenant shall reimburse Landlord for such amounts upon demand, it being understood that any such sums for which Tenant is required to reimburse Landlord shall constitute additional rent.

(b) None of Landlord, or Tenant shall be liable to one another or to any insurance company (by way of subrogation of otherwise) insuring any such party for any loss or damage to the demised premises, the structure or the buildings located thereon, other tangible property located on the demised premises, or any resulting loss of income, or losses under workers' compensation laws and benefits, despite the fact that such loss or damage might have been occasioned by the negligence or misconduct of such party, its agents or employees, provided and to the extent that any such loss or damage would be covered by insurance that the party suffering the loss is required to maintain pursuant to the terms of this lease. The failure of any party to insure its property shall not void this waiver. Each of Landlord, and Tenant shall secure an appropriate clause in, or an endorsement upon, each insurance policy obtained by it and covering or applicable to the demised premises and the personal property, fixtures, and equipment located therein or thereon, pursuant to which the insurance company consents to such waiver of right of recovery. The waiver of right of recovery set forth above in this Paragraph shall extend to Landlord, Tenant, and their respective agents and employees, and each Superior Party (hereinafter defined) and to other appropriate parties designated by Landlord.

(c) Landlord shall, subject to reimbursement by Tenant as set forth below, maintain the insurance covering the Property set forth below. Such insurance shall be in form and substance as presently maintained by Landlord on other property owned by Landlord similar to the Property in Nassau County.

(d) Tenant shall pay, as additional rent, one hundred percent (100%) of the cost of "all risk" property insurance carried by Landlord for the Property for the full replacement value of the building of which the demised premises are a part and provides protection for full replacement cost under an all risk policy, and includes fire and extended coverage, sprinkler leakage, water damage, water damage legal liability, rental

insurance, and public liability and property damage insurance (combined single limit) with respect to any accident or casualty occurring therein or with respect thereto. The additional rent hereunder shall be due and payable together with the rent next due following receipt of a statement from the Landlord setting forth any such charges together with proof of payment. The additional rent due hereunder shall not exceed $8,000.00 for the First Lease Year.

46th. Not used.

47th. **BROKER:**

(a) Tenant and Landlord represent and warrant to each other that no broker was involved in this leasing. Landlord and Tenant agree to indemnify, defend, and hold harmless the other party for any and all costs, expenses, and liability including legal fees incurred by the indemnified party as a result of a breach of the aforementioned warranty or any inaccuracy or alleged inaccuracy of the above representation.

(b) If any lien shall be filed against the demised premises, or the building of which same is a part, by any other broker based upon dealings with Tenant, such lien shall be discharged or bonded by Tenant within sixty (60) days thereafter, at Tenant's expense, by payment or by filing the bond required by law.

48th. **TENANT'S REPAIRS/MAINTENANCE:**

(a) TENANT REPAIRS:

(i) Tenant shall, at its expense, throughout the term of this lease, maintain and preserve, in working order (i.e. the building operational) and subject to paragraphs 11 and 64 hereof, casualty excepted, the demised premises and the facilities and systems thereof (including, but not limited to, the demised premises' parking lot, and the electrical, mechanical, HVAC, and plumbing systems, but excluding the roof). Tenant shall enter into a preventative maintenance and service contract with a reputable service provider for maintenance of the HVAC (hereinafter defined) systems of the demised premises. Without limiting the generality of the foregoing, Tenant, at its expense, shall promptly replace or repair all broken doors and broken glass in and about the demised premises and repair and maintain all sanitary and electrical fixtures therein; provided, however, that all replacement materials and methods of replacement shall be reasonably approved in writing by Landlord prior to installation. Any repairs or replacements required to be made by Tenant to the mechanical, electrical, sanitary, HVAC, or other systems of the demised premises shall be performed by appropriately licensed contractors approved by Landlord, which approval shall not be unreasonably withheld. All such repairs or replacements shall be subject to the supervision and reasonable control of Landlord, and all repairs and replacements shall be made with materials of equal or better quality than the items being repaired or replaced.

(ii) It is acknowledged by the parties hereto that the maintenance of the driveways, snow removal, sump (if any), parking areas, illumination of said parking areas, buffer area, live planting, fencing, and insuring of the parking area shall be the responsibility of the Tenant.

(iii) Tenant shall supply at its own expense all gas, electricity, fuel, heat, water, window cleaning and air conditioning.

(iv) If Tenant does not maintain or repair such elements as provided in this Article, the Landlord may, but shall not be obligated to, after not less than ten (10) days additional notice

(except in the case of emergency), provided such period shall be extended if same can not be reasonably be performed within such 10 day period, for the reasonable period necessary, therefor, provided Tenant promptly commences same and diligently prosecutes same to completion, make the necessary repair or cure the defective condition at the expense of the Tenant and the Tenant shall reimburse Landlord promptly upon request therefor. The amount of such reimbursement shall be considered additional rent upon the failure of the Tenant to reimburse Landlord within five (5) days of demand thereof.

(b) REFUSE PICK-UP:

Tenant shall provide for the removal at least biweekly of all garbage, at its cost and expense and for such purpose obtain a service to pick up rubbish on a regular basis. Garbage and refuse shall be kept in containers or dumpsters in substantially the same manner as is the practice of Tenant on the date hereof.

(c) VANDALISM:

Subject to the provisions of paragraph 5, 11, 48, and 64 of this lease, Tenant, at its expense, shall make any and all repairs to the demised premises which may be necessitated by any break-in, forcible entry or other trespass into or upon the demised premises, regardless of whether or not such entry and damage is caused by the negligence or fault of Tenant or occurs during or after business hours.

(d) BUILDING CLEANING:

Tenant shall, at its cost and expense, take good care of and keep clean and free from debris the interior of the demised premises.

49th. **LANDLORD'S REPAIRS:**

During the term of this lease, the Landlord shall make all structural repairs to the demised premises which shall have been occasioned by the acts of omission or commission of the Landlord, its agents, employees or invitees. Tenant shall promptly give written notice to Landlord with respect to any damages to the interior or exterior of the demised premises.

Landlord shall also be responsible for all repairs, maintenance and replacements as may be necessary to maintain the roof of the building free from leaks, unless the necessity for same shall have been occasioned by the acts of omission or commission of the Tenant, its agents, employees or invitees. Such structural and roof repairs, maintenance and replacements shall be at Landlord's sole cost and expense, without contribution by Tenant except as follows:

In the event the roof requires replacement, as opposed to repair, during the term hereof, the cost of such replacement shall be amortized on a straight line basis over its useful life from the date the installation thereof is completed, and Tenant shall pay as additional rent, on the first day of each month, the portion thereof, if any, as shall be applicable to each month during the term of this lease after the later of (a) February 28, 1999 or (b) the last day of the month in which the aggregate of monthly amortization amounts, commencing with the month following the date of completion of installation, equals $40,000.00. For example, assuming the roof were replaced in May, 1998 with a new 10 year roof at a cost of $300,000.00, the monthly amortization amount would be $2,500.00, and therefore, assuming the lease were not cancelled earlier, Tenant would commence the payment of $2,500.00 per month as additional rent on October 1, 1999 and continue such monthly payments for the balance of the term (subject to Tenant's right to cancel the lease as elsewhere provided).

50th. **CONDITION AND DELIVERY OF DEMISED PREMISES:**

Tenant agrees that Tenant is in occupancy of the demised premises, is familiar with the condition of the demised premises, and Tenant hereby accepts the demised premises on an "AS-IS," "WHERE-IS" basis, accepts the demised premises in its present condition subject to all latent and patent defects, its casualty, damage, and its other conditions, title defects, encumbrances, liens or title conditions, violations, notices of violations, real estate taxes, assessments, and all other matters to which Landlord has agreed to accept or has accepted title to the demised premises from Tenant as Seller under the Contract (hereinafter defined) or otherwise. Tenant acknowledges that neither Landlord nor any agent of Landlord ("Agent") nor any representative of Landlord has made any representation as to the condition of the demised premises or the suitability of the demised premises for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of the demised premises and is not relying on any representation of Landlord with respect thereto. Neither Landlord nor Agent shall be obligated to make any repairs, replacements or improvements of any kind or nature to the demised premises (whether structural or nonstructural and whether or not involving the roof of the building, the building's heating, ventilating and air conditioning system, the demised premises' parking lot, or any other component of the demised premises) in connection with, or in consideration of, this lease.

51st. **TENANT RESTRICTIONS:**

(a) STORAGE/PARKING:

Except if and to the extent it is Tenant's existing practice to do so, or otherwise does not adversely affect the demised premises, Tenant will not, at any time, use or occupy the area outside the demised premises for storage of materials or for the overnight parking of vehicles of any kind without the Landlord's prior written consent which shall not be unreasonably withheld.

(b) Not used.

(c) Not used.

(d) TOXIC/HAZARDOUS WASTES:

(i) Tenant shall not cause or permit after the date hereof any Hazardous Material (as hereinafter defined) to be brought upon, kept or used in or about the demised premises by Tenant, its agents, employees, contractors or invitees except in minor quantities and in a manner authorized by applicable Governmental Laws (defined below) and in the ordinary course of Tenant's business. Tenant further covenants and agrees that it shall not discharge, spill or release any Hazardous Material to the ground or sewer disposal system. If Tenant breaches the obligations stated in the preceding sentences, or if the presence of Hazardous Material on the demised premises caused by Tenant, its employees, contractors, invitees, agents, servants, subtenants or assigns after the date hereof, results in contamination of the demised premises or any other part of the building or land of which it forms a part or otherwise gives rise to a claim against or liability on the part of Landlord or if there is such a discharge, spill or release, then Tenant shall (A) immediately give Landlord written notice thereof, and (B) indemnify, defend and hold harmless Landlord from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the demised premises or the building or land of which it forms a part, loss or restriction on use of space in the building of land of which it forms a part, adverse impact on marketing, sums paid in settlement

of claims, attorneys', consultants' and other expert fees) which arise during or after the term as a result of such breach, contamination, or discharge, spill or release. The foregoing indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision. Without limiting the foregoing, if the presence of any Hazardous Material within the demised premises caused or permitted by Tenant during the term of this lease results in any contamination of the demised premises or any other part of the building or land of which it forms a part, Tenant shall promptly take all actions required under applicable Governmental Laws, at its sole expense as are necessary to return the demised premises or any other part of the building or land of which it forms a part to the condition existing prior to the introduction of any such Hazardous Material. Notwithstanding the foregoing, except if and to the extent necessary in the course of Tenant's use, occupancy and maintenance of the demised premises in the ordinary course during the term of this lease or in connection with the performance by Tenant of any other obligation of Tenant under the Contract or this Lease, any Alteration, or to comply with any applicable Governmental Laws, Tenant shall have no obligation to remove or pay Landlord's costs for the removal or abatement of asbestos containing material presently existing in the demised premises, if any, such as flooring, roofing material, pipe wrapping and the like.

(ii) As used herein, the term "Hazardous Material" mean: (A) asbestos, asbestos-containing material, petroleum products, radioactive substances, and polychlorinated biphenyls, and (B) hazardous or toxic materials, chemicals, wastes and substances which are defined, determined or identified as such pursuant to any present and future federal, state or local laws, rules or regulations and judicial or administrative interpretations thereof (collectively "Governmental Laws").

(iii) Landlord and its agents shall have the right, but not the duty, to inspect the demised premises at any time upon reasonable notice to determine whether Tenant is complying with the terms of this Article. If Tenant is not in compliance with the provisions of this Article, Landlord shall have the right to immediately enter upon the demised premises to remedy said noncompliance upon reasonable notice at Tenant's expense and any expense incurred by Landlord shall be paid by Tenant upon demand and shall be deemed additional rent. Landlord shall use commercially reasonable efforts to minimize interference with Tenant's business, but Landlord shall not be required to do any work except during normal business hours of business days, and shall not be liable for any interference caused thereby.

(iv) Tenant's obligations under this paragraph 51(d) shall survive the termination of this lease for any reason.

(v) Drywell and Sump Remediation.

A. Tenant acknowledges that Landlord has advised Tenant of the presence at the demised premises of elevated metals in sediments within two "drywells" on the east side of the building and of elevated Volatile Organic Compounds ("VOCs") and metals in the soil surrounding the two sumps located inside the facility. Tenant has agreed to perform the three tasks (the "Remedial Work") set forth in the letter dated November 26, 1997 prepared by ERM Northeast and attached to the Lease as Schedule E.

B. Prior to undertaking the Remedial Work, Tenant (or Tenant's consultant or contractor, as appropriate) shall provide to Landlord an original certificate of insurance evidencing the following insurance in favor of Landlord: (i) workers' compensation insurance, as required by law; (ii) professional errors and omissions liability insurance of not

less than $3,000,000; (iii) contractor's pollution liability insurance of not less than $1,000,000 per occurrence; (iv) comprehensive general liability insurance of not less than $1,000,000 per occurrence; and (v) excess umbrella liability insurance of not less than $10,000,000.

C. The Remedial Work shall be performed as follows:

(1) By January 15, 1998, or as soon thereafter as reasonably possible, Tenant shall provide a Scope of Work for the performance of the Remedial Work prepared by Tenant's environmental consultant for Landlord's review and reasonable approval.

(2) Within ten (10) days following Landlord's approval of the Scope of Work or as soon thereafter as reasonably possible, Tenant shall commence and diligently continue task (1), Drywell Remediation, and task (2), Sump Investigation, and shall complete these tasks within thirty (30) days or as soon thereafter as reasonably possible.

(3) Upon receipt of the results of sampling performed during task (2) with respect to the sumps, Tenant shall provide the results to Landlord and the parties shall confer with regard to whether any notice to any federal, state or local governmental authority or political subdivision ("Governmental Authority") is required under applicable Governmental Laws (which determination shall be resolved in favor of such notice to the applicable Governmental Authority where Tenant and Landlord cannot agree).

(4) If the parties determine that notice to a Governmental Authority is not required, within ten (10) days of such determination or as soon thereafter as reasonably possible, and subject to compliance with any requisite Governmental approvals and guidelines, Tenant shall commence task (3), Sump Repair and Remediation, and shall complete this task within sixty (60) days or as soon thereafter as reasonably possible.

(5) If the parties determine that notice to a Governmental Authority is required and such Governmental Authority imposes specific remedial requirements upon Tenant with respect to the contaminated soil associated with the sumps, Tenant shall perform as required by the Governmental Authority. In such case, Tenant shall commence task (3) within ten (10) days of approval by the Governmental Authority of Tenant's Scope of Work, or as soon thereafter as reasonably possible, and shall complete this task within sixty (60) days or as soon thereafter as reasonably possible.

(6) Upon completion of all Remedial Work, Tenant shall promptly provide complete documentation of such completion and copies of any correspondence with any Governmental Authority. If task (3) is not completed within sixty (60) days following Landlord's approval of the Scope of Work, Tenant shall provide to Landlord a letter-report advising Landlord of the status of the Remedial Work and shall continue to provide such reports monthly until completion of the Remedial Work.

52nd. **NON-LIABILITY AND INDEMNIFICATION:**

(a) None of Landlord, Agent, any managing agent, Superior Parties, or their respective affiliates, owners, partners, directors, officers, agents and employees (collectively "Landlord's Affiliates") shall be liable to Tenant for any loss, injury, or damage, to Tenant or to any other person, or subject to Paragraph 45(b) of the rider or to its or their property, irrespective of the cause of such injury, damage or loss, unless caused by, or resulting from, the gross negligence of Landlord, or their respective agents, servants or employees in the operation

or maintenance of the demised premises (subject, however, to the doctrine of comparative negligence in the event of negligence on the part of Tenant or any of its contractors). Further, none of Landlord or Landlord's Affiliates, shall be liable for (i) for any such damage caused by other persons in, upon or about the demised premises, or caused by operations in construction of any private, public or quasi-public work; or (ii) with respect to matters for which Landlord is liable, for consequential or indirect damages purportedly arising out of any loss of use of the demised premises or any equipment or facilities therein by Tenant or any person claiming through or under Tenant.

(b) Subject to the provisions of Paragraph 45(b) of this rider, Tenant hereby indemnifies, defends, and holds Landlord and all Landlord Affiliates harmless from and against any and all claims, judgments, liens, causes of action, liabilities, damages, costs, losses and expenses (including, but not limited to reasonable legal, engineering and consulting fees of engineers, attorneys and consultants selected by Landlord) arising from or in connection with (i) the conduct or management of the demised premises or any business therein, or any work or Alterations done, or any condition created (other than by Landlord) in or about the demised premises during either or both of the term of this lease and the period of time, if any, prior to the Commencement Date that Tenant may have been given access to the demised premises, including any and all mechanics and other liens and encumbrances; (ii) any act, omission or negligence of Tenant or any of its subtenants or licensees or their partners, directors, officers, agents, employees, invitees or contractors; (iii) any accident, injury or damage whatsoever (unless caused by Landlord's gross negligence) occurring in, at or upon the demised premises; (iv) any breach or default by Tenant in the full and prompt payment and performance of Tenant's obligations under this lease; (v) any breach by Tenant of any of its warranties and representations under this lease; and (vi) any actions necessary to protect Landlord's interest under this lease in a bankruptcy proceeding or other proceeding under the Bankruptcy Code. In case any action or proceeding is brought against Landlord or any Landlord Affiliate by reason of any such claim, Tenant, upon notice from any or all of Landlord, Agent or any Superior Party (hereinafter defined), shall resist and defend such action or proceeding by counsel reasonably satisfactory to Landlord or such Superior Party. Tenant's obligations under this Paragraph 52nd (b) shall survive the termination of this Lease for any reason.

(c) The obligations of Tenant hereunder shall not be affected, impaired or excused, and Landlord shall have no liability whatsoever to Tenant, with respect to any act, event or circumstance arising out of (i) Landlord's failure to fulfill, or delay in fulfilling any of its obligations under this lease by reason of labor dispute, governmental preemption of property in connection with a public emergency or shortages of fuel, supplies, or labor, or any other cause, whether similar or dissimilar, beyond Landlord's reasonable control; or (ii) any failure or defect in the supply, quantity or character of utilities furnished to the demised premises, or by reason of any requirement, act or omission of any public utility or others serving the demised premises beyond Landlord's reasonable control. Tenant shall not hold Landlord or Agent liable for any latent defect in the demised premises, nor shall Landlord be liable for injury or damage to person or property caused by fire, or theft, or resulting from the operation of heating or air conditioning or lighting apparatus, or from falling plaster, or from steam, gas, electricity, water, rain, snow, ice, or dampness, that may leak or flow from any part of the demised premises, or from the pipes, appliances or plumbing work of the same. Tenant agrees that under no circumstances shall Landlord or Agent be liable to Tenant or any third party for any loss of, destruction of, damage to or shortage of any property; including, but not limited to, Tenant's Property.

(d) Notwithstanding anything to the contrary contained in this lease, the liability of Landlord and Landlord's Affiliates (and of any Successor Landlord hereunder) to Tenant shall be limited to the interest of Landlord in the demised premises, and Tenant agrees to look solely to Landlord's interest in the demised premises for the recovery of any judgment or award against Landlord and Landlord's Affiliates, it being intended that Landlord and Landlord's Affiliates shall not be personally liable for any judgment or deficiency. In addition, Tenant acknowledges that Agent, if any, is acting solely in its capacity as agent for Landlord and, shall not be liable for any obligations, liabilities, losses or damages arising out of or in connection with this lease, all of which are expressly waived by Tenant.

53rd. **UTILITIES:**

Notwithstanding anything previously written anywhere in this lease, Tenant shall bear the cost and expense from the date Tenant shall commence any work in the demised premises if prior to delivery of possession of the demised premises and in all other respects from commencement of the term of this lease for:

(i) all electricity in and about their demised premises.

(ii) fuel for heating purposes in and about their demised premises.

54th. **TENANT'S FAILURE TO VACATE:**

In the event the Tenant does not vacate the demised premises upon the expiration date of this lease, or upon the expiration of any extension or renewal thereof, then and in that event the Tenant shall remain as a month to month Tenant at a monthly rental equal to one and one half the monthly rent paid in the last month of the term plus 1/12 of the previous year's charges for all additional rent due under this lease payable as aforesaid. The acceptance by the Landlord of such rental after the expiration date of this lease shall not be construed as consent to such continued occupancy.

55th. **ASSIGNMENT/SUBLET:**

Tenant covenants that, except as specified in Rider paragraph 76 below, it shall not assign this lease nor sublet the demised premises or any part thereof without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld or delayed to an assignment or subletting provided:

(a) Such assignment or sublease shall be for a use which is in compliance with the then existing zoning regulations and the Certificate of Occupancy for the demised premises or the building, and consistent with the use hereinabove set forth;

(b) At the time of such assignment or subletting, Tenant shall not be in default under the terms, covenants, agreements and conditions of this lease;

(c) In the event of an assignment, the assignee must assume in writing the performance of all of the terms, covenants, conditions, agreements and obligations of the within lease;

(d) A duly executed duplicate original of said assignment or sublease must be delivered by Certified Mail, Return Receipt Requested to the Landlord at the address herein set forth not less than ten (10) days before the date of said assignment or sublease;

(e) Such assignment or subletting shall not, however, release the within Tenant from its liability for the full and faithful performance of all of the terms, covenants, agreements,

and conditions of this lease, including the payment of rent and additional rent;

(f) If this lease shall be assigned, or if the demised premises or any part thereof be sublet, underlet or occupied by anyone other than Tenant, Landlord may after default by Tenant, collect rent from the assignee, subtenant, undertenant or occupant, and apply the net amount collected to the rent herein reserved or additional rent due hereunder.

(g) Not used.

(h) A request for Landlord's consent to a proposed assignment or proposed sublet of the entire demised premises shall be deemed Tenant's offer to terminate this lease as of the last day of the calendar month during the term hereof immediately preceding the commencement of such sublease or the effective date of such assignment and to vacate and surrender the demised premises to Landlord on the date fixed in the notice. If Landlord within ten (10) days after the receipt thereof has not accepted in writing the offer by Tenant to cancel and terminate said lease and to vacate and surrender the demised premises, the lease shall remain in full force and effect and Landlord shall not unreasonably withhold its consent to the proposed assignment or sublet.

(i) As additional security for the prompt payment of the rent herein reserved to Landlord, and for the faithful performance and punctual observance of all the other terms, covenants, agreements, and conditions herein contained, Tenant hereby assigns to Landlord all of Tenant's rights, title, and interest in and to any sublease which may be made by Tenant affecting the demised premises, or any part thereof, and in and to the rents due or to become due under the terms of any such sublease. The aforesaid assignment shall take effect, however, only in the event of any default hereunder made or suffered by Tenant and after written notice given by Landlord to the subtenant or subtenants, as the case may be, and shall take effect as to such of said subleases as Landlord shall elect to continue in full force and effect.

(j) If Tenant assigns this lease or sublets the demised premises in violation of the provisions of this Article 55, Landlord may, without waiving any other rights or remedies, elect to double the annual rental rate payable under the terms of this lease for the period of such unlawful occupancy commencing with the date of such assignment or subletting.

56th. **COMMENCEMENT DATE:**

In the event that the term of this lease commences on a date other than the first of the month, the rent for the second month shall be prorated, and the rent for the third month shall commence on the first day of the month.

57th. **TERMINATION:**

At the expiration of the term of this lease or upon the early termination of this lease, Tenant shall deliver to Landlord any and all equipment belonging to Landlord in working condition, reasonable wear and tear accepted, including equipment installed or replaced by the Tenant. The Tenant further agrees to deliver to Landlord any and all guarantees on new and replaced equipment. Further, any personal property in the demised premises on the Commencement Date, movable or otherwise, unless installed and paid for by Tenant, shall be and shall remain the property of Landlord and shall not be removed by Tenant. In no event shall Tenant remove any of the following materials or equipment without Landlord's prior written consent: any power wiring or power panels, lighting or lighting fixtures, wall or window coverings, carpets or other floor coverings, heaters, air conditioners or any

other heating or air conditioning equipment, fencing or security gates, or other similar building operating equipment and decorations. However, Tenant shall have the right to and shall upon request by Landlord prior to the termination of this lease, remove all personal property of Tenant, its movable business and trade equipment (including, without limitation, its manufacturing and related equipment and compressors, whether or not attached to the building, but not HVAC equipment), fixtures and sign prior to the Expiration Date, but upon removal, Tenant shall repair and restore any damage due to such removal and restore the demised premises to a usable condition and a condition substantially in conformity with that of the remaining areas of the demised premises.

58th. **ESTOPPEL CERTIFICATES:**

(a) Tenant shall, from time to time and within ten (10) days after any request by Landlord, execute and deliver to Landlord (and to any existing or prospective mortgage lender, ground lessor, or purchaser designated by Landlord), a statement: (i) certifying that this lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (ii) certifying the dates to which the rent has been paid; (iii) stating whether Landlord is in default in performance of any of its obligations under this lease, and, if so, specifying each such default; (iv) stating whether any event has occurred which, with the giving of notice or passage of time, or both, would constitute such a default, and, if so, specifying each such event; and (v) stating whether any rights of Tenant (e.g., options) have been waived. Any such statement delivered pursuant hereto shall be deemed a representation and warranty to be relied upon by the party requesting the certificate and by others with whom Landlord may be dealing, regardless of independent investigation. Tenant also shall include in any such statements such other information concerning this lease as Landlord or Agent may reasonably request including, but not limited to, the amount of rent under this Lease, and whether Landlord has completed all (if any) improvements to the demised premises required under this Lease.

(b) Provided Tenant is not in default at the time of such request beyond applicable grace notice, Landlord shall, from time to time and within ten (10) days after any request by Tenant, execute and deliver to Tenant, a statement: (i) certifying that this lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (ii) certifying the dates to which the rent has been paid; (iii) stating whether Tenant is in default in performance of any of its obligations under this lease, and, if so, specifying each such default and; (iv) stating whether any event has occurred which, with the giving of notice or passage of time, or both, would constitute such a default, and, if so, specifying each such event. Any such statement delivered pursuant hereto shall be deemed a representation and warranty to be relied upon by the party requesting the certificate and by others with whom Tenant may be dealing, regardless of independent investigation, but shall not be binding on Landlord if same contains any errors or omissions due to an innocent mistake.

59th. **MISCELLANEOUS:**

(a) This lease is transmitted for examination only and does not constitute an offer to lease. This lease shall become effective only upon execution hereof by the parties hereto and delivery by Landlord to Tenant of an executed lease.

(b) This instrument contains the entire and only agreement between the parties in respect of the leasing of the demised premises to Tenant. No oral statements or representations or

prior written matter not contained herein shall have any force or effect.

(c) This lease shall not be modified, changed, or amended in any way or canceled, terminated or abridged except by a writing subscribed by both parties.

(d) Any reference in the printed portion of this lease to the City of New York and the Administrative Code of the City of New York shall, where applicable, be deemed to refer to the ordinances, rules and regulations of the county, town, village and other governmental authorities with jurisdiction over the demised premises.

(e) If any term or provision of this lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this lease shall be valid and enforced to the fullest extent permitted by law.

(f) This agreement shall be governed by and construed in accordance with the laws of the State of New York.

(g) Neither this lease nor any memorandum hereof shall be recorded without Landlord's prior written consent.

(h) Each provision of this Lease which requires the consent or approval of Landlord shall be deemed to require the same in each instance in which such provision may be applicable. Any consent or approval by Landlord to or of any act or omission by Tenant requiring Landlord's consent or approval shall not be deemed to waive any future requirement for such consent or approval to or of any subsequent similar act or omission.

(i) This lease shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both Landlord and Tenant have contributed substantially and materially to the preparation of this lease. The headings of various Articles in this lease are for convenience only, and are not to be utilized in construing the content or meaning of the substantive provisions hereof.

60th - 61st Not used

62nd. **SIGNS:**

Anything to the contrary herein notwithstanding, the Tenant is given permission to maintain its sign on the building and on a monument for its exclusive use, installed at its expense, on the exterior of the demised premises.

63rd. **ALTERATIONS:**

(a) Tenant may, from time to time, at its expense, make alterations or improvements in and to the demised premises (hereinafter collectively referred to as "Alterations"), provided that with respect to any alteration in excess of $10,000.00 in aggregate in any calendar year, Tenant first obtains the written consent of Landlord in each instance. Landlord's consent to Alterations shall not be unreasonably withheld, provided that: (i) the Alterations are non-structural and the structural integrity of the demised premises shall not be affected; (ii) the Alterations are to the interior of the demised premises; (iii) the proper functioning of the mechanical, electrical, heating, ventilating, air-conditioning ("HVAC"), sanitary and other service systems of the demised premises shall not be affected and the

usage of such systems by Tenant shall not be increased; (iv) Tenant shall have appropriate insurance coverage reasonably satisfactory to Landlord regarding the performance and installation of the Alterations; (v) the Alterations shall conform with all other requirements of this lease; and (vi) Tenant shall have provided Landlord with detailed plans (the "Plans") for such Alterations in advance of requesting Landlords consent. Additionally, after obtaining Landlords preliminary consent to the Plans, but before proceeding with any Alterations, Tenant shall, at its expense, obtain all necessary governmental permits and certificates for the commencement and prosecution of Alterations and shall submit to Landlord, for Landlord's written approval, which shall not be unreasonably withheld, working drawings, plans and specifications, and all permits for the work to be done and Tenant shall not proceed with such Alterations until it has received said approval. Tenant shall obtain and deliver to Landlord (if so requested) either (i) a performance bond and a labor and materials payment bond in form satisfactory to Landlord, each in an amount equal to one hundred fifteen percent (115%) of the estimated cost of the Alterations, or (ii) such other security as shall be reasonably satisfactory to Landlord. After obtaining Landlords approval to the Alterations, Tenant shall give Landlord at least twenty (20) days prior written notice of the commencement of any Alterations at the demised premises.

(b) Tenant shall cause the Alterations to be performed in compliance with all applicable permits, laws and requirements of public authorities, and with Landlord's reasonable rules and regulations or any other restrictions that Landlord may impose on the Alterations. Tenant shall cause the Alterations to be diligently performed in a good and workmanlike manner, using new materials and equipment at least equal in quality and class to the standards for the demised premises established by Landlord. Alterations shall be performed by contractors first approved by Landlord, and Tenant's agents, contractors, workmen, mechanics, suppliers and invitees shall work in harmony, and not interfere with, Landlord and its agents and contractors (if any). Tenant shall obtain all necessary permits and certificates for final governmental approval of the Alterations and shall provide Landlord with "as built" plans, copies of all construction contracts, governmental permits and certificates and proof of payment for all labor and materials, including, without limitation, copies of paid invoices and final lien waivers.

(c) Tenant shall pay when due all claims for labor and material furnished to the demised premises in connection with the Alterations. Tenant shall not permit any mechanics or materialmen's liens to attach to the demised premises or Tenant's leasehold estate. Tenant, at its expense, shall procure the satisfaction or discharge of record of all such liens and encumbrances within fifteen (15) days after the filing thereof. In the event Tenant has not so performed, Landlord may, at its option, pay and discharge such liens and Tenant shall be responsible to reimburse Landlord, on demand, for all costs and expenses incurred in connection therewith, together with interest thereon at the rate of 18% per annum, which expenses shall include reasonable fees of attorneys of Landlord's choosing, and any costs in posting bond to effect discharge or release of the lien as an encumbrance against the demised premises. Any sums due from Tenant pursuant to the preceding sentence shall constitute additional rent under this lease.

64th. **FURTHER RE: CASUALTY:**

(a) Notification. Tenant shall give prompt notice to Landlord of (i) any occurrence in or about the demised premises for which Landlord might be liable, (ii) any fire or other casualty in the demised premises, (iii) any damage to, or defect in, the demised premises, for the repair of which Landlord might

be responsible, and (iv) any damage to or defect in any part or appurtenance of the demised premises sanitary, electrical, HVAC, elevator or other systems located in or passing through the demised premises or any part thereof.

(b) Repair Provisions. Subject to the provisions of Paragraph 64th(d), if the demised premises are damaged by fire or other insured casualty, Landlord shall repair or cause to be repaired the damage and restore and rebuild the demised premises (except for Tenants Property) with reasonable dispatch after (i) notice to it of the damage or destruction and (ii) the collection of the insurance proceeds attributable to such damage, and Tenant shall repair the damage to and restore and repair Tenants Property, with reasonable dispatch after such damage or destruction. Such work by Tenant shall be deemed Alterations for the purposes of this lease.

(c) Rental Abatement. If (a) the demised premises are damaged by fire or other casualty thereby causing the demised premises to be inaccessible or (b) the demised premises are partially damaged by fire or other casualty, the Rent and additional rent shall be abated subject to the provisions of this paragraph to the contrary.

(d) Total Destruction. If the demised premises shall be totally destroyed by fire or other casualty, or if the demised premises shall be so damaged by fire or other casualty that (in the opinion of a reputable contractor or architect designated by Landlord delivered to Tenant in writing within forty five (45) days after such casualty) (i) its repair or restoration requires more than ninety (90) days or (ii) such repair or restoration requires the expenditure of more than fifty percent (50%) of the full insurable value of the demised premises immediately prior to the casualty or (iii) the damage occurs during the last three (3) years of the term of this lease, Landlord and Tenant shall each have the option to terminate this lease within five (5) days after said contractor or architect delivers written notice of its opinion to Landlord in the case of (i) and (ii) above, and Tenant, but in all events prior to the commencement of any restoration of the demised premises by Landlord. In such event, the termination shall be effective as of the 180th date after the date on which the casualty occurs. If (A) any Superior Party or other party entitled to the insurance proceeds fails to make such proceeds available to Landlord in an amount sufficient for restoration of the demised premises, or (B) the issuer of any casualty insurance policies on the demised premises fails to make available to Landlord sufficient proceeds for restoration of the demised premises, then Landlord may, at Landlords sole option, terminate this lease, effective as of the one hundred eightieth (180th) day after such casualty, by giving Tenant written notice to such effect within forty five (45) days after the date of the casualty. For purposes of this Paragraph 64th only, "full insurable value" shall mean replacement cost, less the cost of footings, foundations and other structures below grade.

(e) Repair or Restoration. Subject to the provisions of Paragraph 64th above, Tenant shall not be entitled to terminate this lease and no damages, compensation or claim shall be payable by Landlord for purported inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the demised premises pursuant to this Paragraph. Landlord shall use its diligent, good faith efforts to make such repair or restoration promptly and in such manner as not to unreasonably interfere with Tenants use and occupancy of the demised premises, but Landlord shall not be required to do such repair or restoration work except during normal business hours of business days.

(f) Liability of Tenant. Notwithstanding any of the foregoing provisions of this Paragraph, solely if by reason of any act or omission on the part of Tenant or any of its subtenants or its or their partners, directors, officers, servants, employees, agents, or contractors, Landlord, any Superior Party, or other

appropriate party shall be unable to collect all of the insurance proceeds (including, without limitation, rent insurance proceeds) applicable to damage or destruction of the demised premises by fire or other casualty (the "Insurance Proceeds"), then, without prejudice to any other remedies that may be available against Tenant to the extent of such inability, there shall be no abatement or reduction of the Rent or additional rent notwithstanding lack of usability. Further, and to the extent that solely, as a result of or due to or because of any act or omission by any or all of Tenant, its agents, employees, invitees and representatives, Landlord, any Superior Party or any other appropriate party is unable to collect all of the Insurance Proceeds, then Tenant shall be liable to Landlord for the payment of an amount equal to that portion of the Insurance Proceeds that Landlord, any Superior Party or any other appropriate party is unable to collect.

(g) Tenant hereby expressly waives the provisions of Section 227 of the Real Property Law and agrees that the foregoing provisions of this paragraph shall govern and control in lieu thereof.

65th. **FURTHER RE: LANDLORD'S ACCESS:**

Supplementing paragraph 17, except in the event of an emergency or where such entry is required by law, Landlord's right of entry shall be exercised following reasonable advance notice to Tenant. Landlord agrees that while exercising such right of entry or making such repairs, replacements and improvements, Landlord shall use reasonable efforts to avoid interfering with Tenant's business or disrupting the same, but Landlord shall not be required to do such repairs, replacements, and improvements except during normal business hours of business days.

66th. **FURTHER RE: LANDLORD'S SELF-HELP:**

Prior to the exercise of its rights under paragraph 20(f), Landlord shall give Tenant ten (10) days' notice except in the event of an emergency or where required by law, in either of which events Landlord shall give such notice, if any, as is reasonably possible under the circumstances.

67th. **NET LEASE:**

This is an absolutely net lease, and, except as otherwise specifically provided herein, this lease shall not terminate nor shall Tenant have any right to terminate this lease; nor shall Tenant be entitled to any abatement, deduction, deferment, suspension or reduction of, or setoff, defense or counterclaim against, any rentals, charges, or other sums payable by Tenant under this lease; nor shall the respective obligations of Landlord and Tenant be otherwise affected by reason of damage to or destruction of the demised premises from whatever cause, any taking by condemnation, eminent domain or by agreement between Landlord and those authorized to exercise such rights, the lawful or unlawful prohibition of Tenant's use of the demised premises, the interference with such use by any persons, corporations or other entities, or by reason of any eviction by paramount title, or by reason of Tenant's acquisition of ownership of the demised premises otherwise than pursuant to an express provision of this lease, it being the intention that the obligations of Landlord and Tenant hereunder shall be separate and independent covenants and agreements and that the annual rental, additional rent and all other charges and sums payable by Tenant hereunder shall continue to be payable in all events unless the obligations to pay the same shall be terminated pursuant to the express provisions of this lease; and Tenant covenants and agrees that it will remain obligated under this lease in accordance with its terms, and that it will not take any action to terminate, cancel, rescind or void this lease, notwithstanding the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceedings affecting Landlord or any assignee of, or successor to, Landlord, and notwithstanding

any action with respect to this lease that may be taken by a trustee or receiver of Landlord or any assignee of, or successor to, Landlord or by any court in any such proceeding.

68th. **FURTHER RE: CONDEMNATION:**

Supplementing Article 12 hereof, Tenant may seek a separate award for moving expenses, fixtures and movable equipment and its leasehold, provided such claim shall not in any way delay or diminish Landlord's award.

69th. **LANDLORD'S TITLE:**

Tenant acknowledges that Tenant transferred title to the demised premises to Landlord on the date hereof pursuant to a contract of sale dated October 7, 1997 ("Contract") and, accordingly, Tenant shall, during the term of this lease:

(a) remain responsible for complying, at its expense, subject, however, to Paragraph 48(a)(i) in respect of any required alteration or addition to the demised premises, with the Americans with Disabilities Act of 1990 (42 U.S.C. SS12101 et. seq.) and the regulations promulgated thereunder (the "ADA"), insofar as the ADA relates to the demised premises. Tenant shall indemnify, defend and hold harmless Landlord from and against all loss, cost, damage or expense (including, without limitation, reasonable attorneys' fees and disbursements) which result from any claim arising out of Tenant's use during the term that the demised premises does not comply with the ADA or the guidelines set forth therein, whether or not Tenant uses the demised premises as a "place of public accommodation" (as defined in the ADA);

(b) remain obligated to Landlord for the performance of any and all obligations of Tenant as Seller set forth in the Contract and its representations and warranties which survive the delivery of the deed to the demised premises to Landlord from Tenant, and which shall remain the obligation of Tenant, notwithstanding that a similar or the same obligation or representation or warranty may be set forth in the lease as an obligation or representation or warranty for the benefit of Tenant from Landlord;

70th. **FURTHER RE: MECHANICS LIENS:**

Nothing contained in this lease shall be deemed to be, or construed in any way as constituting, the consent of Landlord to any person for the performance of any labor or the furnishing of any materials at or to the demised premises or the building and land of which the demised premises are a part, nor as giving Tenant any right, power or authority to contract or permit the performance of any labor or the furnishing of any material which might give rise to the right to record or file a lien against the demised premises or the real property of which the demised premises are a part or against the interests therein of Landlord or Tenant, it being intended that all persons who may perform any labor or furnish any materials to Tenant at the demised premises shall look only to the credit of Tenant and such security as Tenant may furnish to such persons for the payment of all such labor and materials. Landlord does not consent to the recording or filing of any mechanics' or other liens against the leased premises or the real property of which the demised premises are a part or the interest of Landlord or Tenant therein.

71st. **NOTICES:**

Any notice required to be given by either party pursuant to this lease, shall be in writing and shall be deemed to have been properly given, rendered or made only if personally delivered, or if sent by Federal Express or other comparable commercial overnight delivery service, addressed to the other party at the addresses set forth below (or to such other address as Landlord or Tenant may designate to each other from time to time by written notice), and shall be deemed to have been given, rendered or made

on the day so delivered or on the first business day after having been deposited with the courier service:

If to Landlord: First Industrial, L.P.
150 North Wacker Drive
Suite 150
Chicago Illinois 60606
Att: Michael W. Brennan

With a copy to: Barack, Ferrazzano, Kirschbaum & Perlman
333 West Wacker Drive
Suite 2700
Chicago, Illinois 60606
Att: Howard Nagelberg and Suzanne Bessette-Smith

If to Tenant: At the demised premises or as set forth herein as designated in written notice to Landlord

With a copy to: Sulzer Inc.
200 Park Avenue
New York, New York 10166
Att: General Counsel

72nd. **RENT PAYMENTS:**

All rent and additional rent and all other sums and charges due under this lease, shall be paid to Landlord in accordance with the payment directions attached hereto as Schedule C or pursuant to such other directions as Landlord shall designate in this lease or otherwise.

73rd. **SUBORDINATION AND ATTORNMENT:**

(a) This lease, and all rights of Tenant hereunder, are subject and subordinate to all ground leases of the land and building of which the demised premises forms a part (the "Property") now or hereafter existing and to all mortgages or trust deeds or deeds of trust and all renewals, modifications, replacements and extensions thereof; and to all "Spreaders" and consolidations thereof (all of which are hereafter referred to collectively as "Mortgages"), that may now or hereafter affect or encumber all or any portion of Landlord's interest in the Property. This subordination shall apply to each and every advance made, or to be made, under such Mortgages. This paragraph shall be self-operative and no further instrument of subordination shall be required, however, in confirmation of such subordination, Tenant shall, from time to time, execute acknowledge and deliver any instrument that Landlord may, from time to time, reasonably require in order to evidence or confirm such subordination. If Tenant fails to execute, acknowledge or deliver any such instrument within twenty (20) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, which appointment is coupled with an interest, to execute and deliver any such instruments for and on behalf of Tenant. Tenant acknowledges that this lease and the rents due under this lease have been (and, in the future, may be) assigned by Landlord to a Superior Mortgagee (defined below) as additional collateral security for the loans secured by the Superior Mortgage (defined below) held by such Superior Mortgagee. Any ground lease to which this Lease is subject and subordinate is hereafter referred to as a "Superior Lease", the Lessor under a Superior Lease is hereinafter referred to as a "Superior Lessor," and the lessee thereunder, a "Superior Lessee" and any Mortgage to which this Lease is subject and subordinate is hereinafter referred to as a "Superior Mortgage" and the holder of a Superior Mortgage is hereinafter referred to as a Superior Mortgagee. Each Superior Mortgage and Superior Lease shall provide that all insurance and condemnation proceeds shall be made available to rebuild and restore the demised premises.

(b) In the event that Landlord breaches or otherwise fails to timely perform any of its obligations under this lease, Tenant shall give, by registered or certified mail, return receipt

requested, written notice of such alleged breach or default to Landlord and to each Superior Mortgagee and Superior Lessor whose name and address shall previously have been furnished, in writing, to Tenant. Any or all of Landlord, a Superior Mortgagee or Superior Lessor may remedy or cure such breach or default within thirty (30) days following the giving of such notice; provided, however, that said thirty (30) day cure period shall be automatically extended in the event that the breach or default cannot, by its nature, be cured within thirty (30) days and one or more of Landlord, the Superior Mortgagee or the Superior Lessor is diligently proceeding to cure said default.

(c) If any Superior Lessor or Superior Mortgagee (whether by receiver or otherwise) shall succeed to the rights of Landlord hereunder or comes into possession of the Property or any part thereof, then, at the request of such party (hereinafter referred to as a "Successor Landlord"), Tenant shall attorn to and recognize each Successor Landlord as Tenant's landlord under this lease and shall promptly execute and deliver any instrument such Successor Landlord may reasonably request to further evidence such attornment. Tenant hereby acknowledges that in the event of such succession, then from and after the date on which the Successor Landlord acquires Landlord's rights and interest under this lease (the "Succession Date"), the rights and remedies available to Tenant under this Lease with respect to any obligations of any Successor Landlord shall be limited to the equity interest of the Successor Landlord in the Property; and the Successor Landlord shall not (i) be liable for any act, omission or default of Landlord or other prior lessor under this lease if and to the extent that such act, omission or default occurs prior to the Succession Date; (ii) except as required under Paragraphs 49 and Paragraph 9 of this lease, be required to make or complete any tenant improvements or capital improvements or to repair, restore, rebuild or replace the demised premises or any part thereof in the event of damage casualty or condemnation; or (c) be required to pay any amounts to Tenant that are due and payable, under the express terms of this lease, prior to the Succession Date. Additionally, from and after the Succession Date, Tenant's obligation to pay the annual rental rate or additional rent or any other sum due the Landlord under this lease, shall not be subject to any abatement, deduction, set-off or counterclaim against the Successor Landlord that arises as a result of, or due to, a default of Landlord or any other lessor that occurs prior to the Succession Date. Moreover, no Successor Landlord shall be bound by any advance payments of the annual rental rate or additional rent or any other sum due the Landlord under this lease made prior to the calendar month in which the Succession Date occurs nor by any Security that is not actually delivered to, and received by, the Successor Landlord. The provisions of this Article 75th(c) shall be self operative upon demand of such Superior Lessor or Superior Mortgage and no further instrument shall be required to give effect to such provisions.

(d) (a) It is agreed that as to any Superior Mortgages hereafter placed on the demised premises, the subordination provided for above shall extend only to such Superior Mortgages, under which the Superior Mortgagee by agreement in the Superior Mortgage or in a separate instrument in form and substance reasonably acceptable to such Superior Mortgagee and in such Superior Mortgagee's standard form (a "Non Disturbance Agreement") contracts to the effect that, if there shall be a foreclosure of its mortgage, such Superior Mortgagee will not make Tenant a party defendant to such foreclosure, evict Tenant, disturb Tenant's possession under this lease or terminate or disturb Tenant's leasehold estate or rights provided under this lease, provided no default beyond any applicable notice and grace has occurred hereunder which remains uncured.

74th. **Not used.**

*on (i) February 28, 1999, or

75th. **RIGHT TO CANCEL:**

Notwithstanding anything to the contrary herein, Tenant shall have the right and option to cancel this lease effective the last day of each Lease Year (hereinafter defined) other than the First Lease Year; or*(ii) the last day of the sixth month of the Second Lease Year and Third Lease Year (each such date, an "Effective Date") subject to the conditions described below in paragraph 75th(b), provided that the Tenant shall serve a written notice to such effect upon Landlord, not less than six (6) months prior to the corresponding Effective Date. If Tenant shall exercise such option, this lease and the term hereof shall expire and terminate on such Effective Date with the same effect as if that were the date originally set forth herein for the expiration of the term hereof, and Tenant shall vacate and surrender the demised premises to Landlord, in the manner required by this lease, on or before such date as if such date were the date originally set forth herein for the expiration of the term hereof.

(b) The above described rights of cancellation shall be effective and binding on Landlord if and only if:

(i) any such notice is sent certified mail, return receipt requested on or before the notice date corresponding to the Effective Date listed above, time being of the essence.

(ii) such notice is sent by the Tenant named herein, such right being personal to such Tenant and not transferable to any assignee or subtenant other than an assignee permitted under Article 55th of this lease.

76th. **ASSIGNMENT/SUBLETTING TO RELATED ENTITY:**

Tenant shall have the right subject to the terms and conditions hereinafter set forth without the consent of Landlord, to assign its interest in this lease to (i) a corporation or other entity which shall (A) control Tenant or (B) be under the control of or be under common control with, Tenant or (C) any corporation or entity with which Tenant consolidates or merges or (D) an entity which acquires all or substantially all of the business and assets of, or of the corporate stock of Tenant (any such entities or any corporation with which Tenant consolidates or merges being a "Related Entity "). Tenant may also sublease all or any portion of the Premises to a Related Entity without the consent of Landlord. Any assignment or subletting described above may only be made upon the condition that (i) any such assignee or subtenant shall continue to use the demised premises for uses permitted by Article 2 (ii) the principal purpose of such assignment or sublease is not the acquisition of Tenant's interest in this lease (except if such assignment or sublease is made to a Related Entity and is made for a valid intracorporate business purpose and is not made to circumvent the provisions of this lease governing assignment or subletting. Tenant shall within ten (10) days after execution thereof deliver to Landlord (i) a duplicate original instrument of assignment in form and substance reasonably satisfactory to Landlord, duly executed by Tenant, (ii) a duplicate original instrument in form and substance reasonably satisfactory to Landlord, duly executed by the assignee, in which such assignee shall assume observance and performance of, and agree to be personally bound by, all of the terms, covenants and conditions of the lease, on Tenant's part to be observed and performed from and after the date of such assignment, or (iii) a duplicate original sublease in substance reasonably satisfactory to Landlord, duly executed by Tenant and the subtenant.

77th. **TENANT RIGHT TO CONTEST PARAGRAPH 7 REQUIREMENTS:**

Tenant, at Tenants expense, after prior written notice to Landlord, may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, any obligation of Tenant under Paragraph 7 of this lease, or the application of any instrument of record provided that: Tenant shall first make all contested

payments, under protest if Tenant desires, unless such proceedings shall suspend the collection thereof from Landlord, from any Rent and from the devised premises; neither the demised premises, nor any part thereof or interest therein, nor any Rent would be in any danger of being sold, forfeited, lost or interfered with; in the case of a Legal Requirement, Landlord would not be in any danger of any additional civil or criminal liability for failure to comply therewith and the demised premises would not be subject to the imposition of any lien as a result of such failure; and Tenant shall have furnished such security, if any, as may be reasonably requested by Landlord.

78th. **TENANT PERFORMANCE DEFAULT:**

For any default which cannot be cured by the payment of money, Tenant shall not be deemed in default under the terms of paragraph 20(b) until a written notice from Landlord to Tenant and failure by Tenant to cure such default within fifteen (15) days after such notice ("Cure Period"). However, if such default is of a nature which cannot be cured in the Cure Period, then provided Tenant commences to cure such default within the Cure Period and diligently prosecutes such cure to completion within a reasonable time, the Cure Period shall be extended to include such reasonable period necessary to effectuate a cure of such default.

79th. **LETTER OF CREDIT-SECURITY DEPOSIT:**

(a) In lieu of the cash security deposit provided for in Paragraph 25 hereof Tenant may at any time during the term hereof deliver to Landlord and, shall, except as otherwise provided herein maintain in effect at all times during the term hereof, an irrevocable letter of credit, in form and substance satisfactory to Landlord in the amount of the security required pursuant to this lease issued by a banking corporation reasonably satisfactory to Landlord. Such letter of credit shall have an expiration date no earlier than the first anniversary of the date of issuance thereof and shall be automatically renewed from year to year unless terminated by the issuer thereof by notice to Landlord given not less than 45 days prior to the expiration thereof. Except as otherwise provided herein, Tenant shall, throughout the term of this lease deliver to Landlord, in the event of the termination of any such letter of credit, replacement letters of credit in lieu thereof (each such letter of credit and such extensions or replacements thereof, as the case may be, is hereinafter referred to as a Security Letter) no later than 45 days prior to the expiration date of the preceding Security Letter. The term of each such Security Letter shall be not less than one year and shall be automatically renewable from year to year as aforesaid. If Tenant shall fail to obtain any replacement of a Security Letter within the time limits set forth in this Paragraph 79th, Landlord may draw down the full amount of the existing Security Letter and retain the same as security hereunder.

(b) In the event Tenant defaults in respect to any of the terms, provisions, covenants and conditions of this lease, including, but not limited to, the payment of rent and additional rent, Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, provisions, covenants, and conditions of this lease, including but not limited to, any damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. To insure that Landlord may utilize the security represented by the Security Letter in the manner, for the purpose, and to the extent provided in Paragraph 25 and Paragraph 79th, each Security Letter shall provide that the full amount thereof may be drawn down by Landlord upon the presentation to the issuing bank of Landlord's draft drawn on the issuing bank without accompanying memoranda or statement of beneficiary.

(c) In the event that Tenant defaults in respect of any of the terms, provisions, covenants and conditions of this lease and Landlord utilizes all or any part of the security represented by the Security Letter but does not terminate this lease as provided in this lease, Landlord may, in addition to exercising its rights as provided in subparagraph (b), retain the unapplied and unused balance of the principal amount of the Security Letter as security for the faithful performance and observance by Tenant thereafter of the terms, provisions, covenants, and conditions of this lease, and may use, apply, or retain the whole or any part of said balance to the extent required for payment of rent, additional rent, or any other sum as to which Tenant is in default or for any sum which Landlord may expend or be required to expend by reason of Tenant's default in respect of any of the terms, provisions, covenants, and conditions of this lease. In the event Landlord applies or retains any portion or all of the security delivered hereunder, Tenant shall forthwith restore the amount so applied or retained so that at all times the amount deposited shall be not less than the security required by Paragraph 25.

(d) In the event that Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this lease, the security shall be returned to Tenant after the date fixed as the end of the lease and after delivery of entire possession of the demised premises to Landlord in the manner and condition required by this lease.

FIRST INDUSTRIAL, L.P., a Delaware Limited Partnership

BY: FIRST INDUSTRIAL REALTY TRUST, INC., a Maryland Corporation, General Partner

BY:_____

SULZER METCO (US), INC.

BY:_____

SCHEDULE "A"
RENTAL SCHEDULE

COMMENCEMENT DATE: Date of execution of this lease.

EXPIRATION DATE: The last day of the Fifth Lease Year.

LEASE YEAR: The term "Lease Year" shall mean a period of time conforming to the following: The first "Lease Year" of the term of this lease shall mean the period beginning on the Commencement Date and ending the last day of the 12th month commencing with the first day of the first month following the Commencement Date, unless the Commencement Date is the first day of a month, in which case the first Lease Year shall terminate on the last day of the 12th month after the Commencement Date; the second Lease Year of the term of this lease shall commence on the day following the last day of the first Lease Year and end 12 months thereafter; and succeeding Lease Years during the term of this lease shall commence and end on dates corresponding to those on which the second Lease Year begins and ends.

TERM	MONTHLY	ANNUALLY
FIRST AND SECOND LEASE YEAR	$30,666.66	$368,000.00
THIRD LEASE YEAR	$31,893.33	$382,720.00
FOURTH LEASE YEAR	$33,169.07	$398,028.80
FIFTH LEASE YEAR	$34,495.83	$413,949.95

SCHEDULE "B"

INTENTIONALLY OMITTED

SCHEDULE "C"
RENT PAYMENT DIRECTIONS

MAILING DIRECTIONS:

Rent sent through the U.S. Postal Service (other than by overnight delivery) shall be addressed as follows:

FIRST INDUSTRIAL, L.P.
P.O. BOX 13581
NEWARK, NEW JERSEY 07188-3581

COMMERCIAL OVERNIGHT DELIVERY DIRECTIONS:

Rent sent by a commercial overnight delivery service such as Federal Express, UPS, First Priority Overnight Mail or other comparable overnight delivery service shall be addressed as follows:

Northern Trust Company
801 South Canal
4th Floor
Receipt & Dispatch
Chicago, Illinois 60607
Attn: First Industrial, L.P.
Lock Box No. 75631

NOTE: ALL CHECKS SHOULD BE MADE PAYABLE TO FIRST INDUSTRIAL, L.P.

LEASE SCHEDULE "D"

REQUIRED INSURANCE

(a) "All-Risk" Property and Loss of Income Coverage for Tenant's Property. "All Risk" (including, but not limited to earthquake and flood) property insurance on a replacement cost basis, covering all merchandise, movable non-structural partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment, whether or not attached to, or built into, the demised premises, which are installed in the demised premises by, or for the account of, Tenant without expense to Landlord and that can be removed without structural damage to the Property, and all furniture, furnishings and other articles of movable personal property owned by Tenant and located in the demised premises (collectively, the "Tenant's Property"), all in an amount not less than the full replacement cost of all such property.

(b) Liability Coverage. Commercial general public liability and Business automobile liability (and, if necessary to comply with any conditions of this lease, umbrella liability insurance) covering Tenant against any claims arising out of liability for bodily injury and death and personal injury and advertising injury and property damage occurring in and about the demised premises, and otherwise resulting from any acts and operations of Tenant, its agents and employees, with limits of not less than total limits of $2,000,000.00 per occurrence and $5,000,000.00 annual general aggregate The total amount of a deductible or otherwise self-insured retention with respect to such coverage shall be not more than $250,000.00 per occurrence. Such insurance shall include, inter alia: (i) "occurrence" rather than "claims made" policy forms unless such "occurrence" policy forms are not available; (ii) any and all liability assumed by Tenant under the terms of this lease, to the extent such insurance is available; (iii) premises medical-operations expenses in an amount not less than $5,000.00 per person, per accident; (iv) fire legal liability coverage; (v) Landlord and any other parties designated by Landlord (including, but not limited to, its beneficiary, its general and limited partners, and Superior Mortgagees and/or Superior Lessors) shall be designated as Additional Insured(s) with respect to (x) the demised premises, and (y) all operations of Tenant, and (z) any property and areas and facilities of Landlord used by Tenant, its employees, invitees, customers or guests; and (vi) severability of insured parties and cross-liability so that the protection of such insurance shall be afforded to Landlord and its designees in the same manner as if separate policies had been issued to each of the insured parties.

(c) Workers' Compensation Coverage. Workers' compensation and employer's liability insurance in the state in which the demised premises and any other operations of Tenant are located and any other state in which Tenant or its contractors or subcontractors may be subject to any statutory or other liability arising in any manner whatsoever out of the actual or alleged employment of others. The total limits of the employer's liability coverage shall be not less than the amounts specified in Subparagraph (b) above.

(d) Other Coverage. Such other policy or policies as are either: (i) reasonably required of Landlord by any Superior Mortgagee, Superior Lessor, or any other party having any interest in the Property; or (ii) deemed reasonably necessary by Landlord; or (iii) required by insurers by reasons of a change in Tenant's use of, or activities at, the demised premises.

All insurance policies required under this lease Schedule shall: (i) be issued by companies licensed to do business in the State in which the demised premises is located and reasonably acceptable to Landlord and any Superior Mortgagees, Superior Lessors and any

other party having any interest in the demised premises; (ii) not be subject to cancellation or material change or non-renewal without at least thirty (30) days' prior written notice to Landlord and any other parties designated by Landlord to receive such notices; (iii) be deemed to be primary insurance in relation to any other insurance maintained by Landlord; and (iv) at the sole option and discretion of Landlord, include other appropriate endorsements or extensions of coverage as would be required of Landlord by any Superior Mortgagees, Superior Lessors or any other party having any interest in the demised premises.

LEASE SCHEDULE "E"

ERM-Northeast

175 Froehlich Farm Blvd.
Woodbury, NY 11797
(516) 921-4300
(516) 921-5637 (Fax)

26 November, 1997

ERM

Ms. Sarah Flanagan
Periconi & Rothberg
230 Park Avenue, Suite 615
New York, NY 10169

Re: Remedial Recommendations
325 Duffy Avenue, Hicksville, NY

Dear Sarah:

Environmental Resources Management (ERM) has performed a Phase II Site Investigation at the above referenced facility which was previously documented in a letter report dated 19 November 1997. Based on the data presented in this report, further actions at the site may be warranted. The purpose of this correspondence is to is to present detailed recommendations for additional work at this facility.

The investigatory and remedial steps to be taken at 325 Duffy Avenue should be, at a minimum, the following:

- *Drywell Remediation*: The drywell remediation shall consist of the removal of all sediments from within the identified structures, the pressure washing of the interior of the structures, and the characterization and proper disposal of the washwater and sediments, including those sediments previously removed and staged outside.

- *Sump Investigation:* The sump investigation shall consist of the collection of samples from three borings installed adjacent to each of the two sumps to a depth of two feet beneath the bottom of the sump, using an appropriate indoor drilling apparatus and split spoon sampler. Each soil sample shall be screened using a photoionization detector and one worst case sample from each boring shall be further analyzed by a New York State certified laboratory for Priority Pollutant metals and volatile organic compounds. Further, an integrity test shall be performed on the sump located in the caged storage area. The integrity of the sump in the traffic aisle is already known to be compromised, therefore repair of this sump shall be

performed as discussed below.

- *Sump Repair and Remediation:* Upon receipt of the results of sampling and integrity testing performed with respect to the sumps, an evaluation should be made as to whether any notice to any Governmental Authority is required under applicable Environmental Laws, and: a) if notice to a Governmental Authority is not required all soils contaminated to levels in excess of New York State Recommended Cleanup Objectives (TAGM HWR-94-4046) should be excavated and properly disposed of, and any repairs necessary to restore the integrity of the sumps should be made; or b) if notice to a Governmental Authority is required and such Governmental Authority imposes specific investigation or remediation requirements with respect to the contaminated soil, these requirements should be performed as required by the Governmental Authority, and any repairs necessary to restore the integrity of the sumps should be made.

ERM

Thank you for the opportunity to work with you on this project. Should you have any questions or require further information, please feel free to call.

Very truly yours,

Michael B. Teetsel, C.P.G.
Senior Associate

98500607.878/ls

SUCCESSORS AND ASSIGNS

38. The covenants, conditions and agreements contained in this lease shall bind and inure to the benefit of the Landlord and the Tenant and their respective heirs, distributees, executors, administrators, successors, and, except as otherwise provided in this lease, their assigns.

RULES AND REGULATIONS

39. Tenant and Tenant's servants, employees, agents, invitees, and licensees shall observe faithfully, and comply strictly with the Rules and Regulations and such other and further reasonable Rules and Regulations as Landlord or Landlord's agents may from time to time adopt. Notice of any additional rules or regulations shall be given in such manner as Landlord may elect. Nothing in this lease contained shall be construed to impose upon Landlord any duty or obligation to enforce the Rules and Regulations or terms, covenants or conditions in any other lease, as against any other tenant. Landlord shall not be liable to Tenant for violation of the same by any other tenant, servants, its employees, agents, visitors, or licensees.

SEE RIDER ANNEXED HERETO AND MADE A PART HEREOF

In Witness Whereof, Landlord and Tenant have respectively signed and sealed this lease as of the day and year first above written.

Witness for Landlord: .....

FIRST INDUSTRIAL, L.P.
By: First Industrial Realty Trust, Inc., General Partner
BY: ..... [L. S.]

Witness for Tenant: .....

SULZER METCO (US), INC. ..... [L. S.]
BY: .....

ACKNOWLEDGMENTS

CORPORATE LANDLORD

STATE OF NEW YORK } ss.:
COUNTY OF }

On this ..... day of ..... 19 ..... before me personally came ....., to me known, who being by me duly sworn, did depose and say that he resides in .....; that he is the ..... of ..... the corporation described in and which executed the foregoing instrument as LANDLORD; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

.....

CORPORATE TENANT

STATE OF NEW YORK } ss.:
COUNTY OF }

On this ..... day of ..... 19 ..... before me personally came ....., to me known, who being by me duly sworn, did depose and say that he resides in .....; that he is the ..... of ..... the corporation described in and which executed the foregoing instrument as TENANT; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

.....

INDIVIDUAL LANDLORD

STATE OF NEW YORK } ss.:
COUNTY OF }

On this ..... day of ..... 19..... before me personally came ....., to me known and known to me to be the individual described in and who, as LANDLORD, executed the foregoing instrument and acknowledged to me that he executed the same.

.....

INDIVIDUAL TENANT

STATE OF NEW YORK } ss.:
COUNTY OF }

On this ..... day of ..... 19..... before me personally came ....., to me known and known to me to be the individual described in and who, as TENANT, executed the foregoing instrument and acknowledged to me that he executed the same.

.....

Guaranty of Lease DATED THE ..... DAY OF ..... 19....., BETWEEN ..... AS LANDLORD, AND ....., AS TENANT.

FOR VALUE RECEIVED, and in consideration for, and as inducement to ..... Landlord, making the foregoing lease with ..... Tenant, the undersigned guarantees to said Landlord, and said Landlord's successors and assigns, the full performance and observance of all the terms, covenants, conditions and agreements therein provided to be performed and observed by said ....., Tenant, without requiring any notice of non-payment, non-performance, or non-observance, or proof, or notice, or demand, whereby to charge the undersigned therefor, all of which the undersigned hereby expressly waives and expressly agrees that the validity of this agreement and the obligations of the undersigned as guarantor hereunder shall in nowise be terminated, affected or impaired by reason of the assertion by said Landlord against said Tenant of any of the rights or remedies reserved to said Landlord, pursuant to the provisions of the foregoing lease. The undersigned further covenants and agrees that this guarantee shall remain and continue in full force and effect as to any renewal, modification or extension of this lease. As a further inducement to said Landlord to make the foregoing lease and in consideration thereof, said Landlord and the undersigned covenant and agree that in any action or proceeding brought by either said Landlord or the undersigned against the other on any matters whatsoever arising out of, under, or by virtue of the terms of the foregoing lease or of this guaranty, that said Landlord and the undersigned shall and do hereby waive trial by jury.

Dated the ..... day of

..... 19....

.....

.....

STATE OF NEW YORK }
COUNTY OF } ss.:

On this ..... day of ..... 19...., before me personally appeared ..... to me known and known to me to be the person mentioned and described in, and who executed the foregoing guaranty, and he duly acknowledged to me that he executed the same.

.....

STATE OF NEW YORK }
COUNTY OF } ss.:

On this ..... day of ....., 19...., before me personally came ..... to me known who, being duly sworn did depose and say that he resides in ....., that he is the ..... of the ....., the corporation described in and which executed the foregoing guaranty; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

.....

Address
Premises

TO

Lease

Dated 19

Rent per Year

Rent per Month

Term
From
To

WASSERMAN, CHINITZ,
GEFFNER & GREEN
41 East 42nd Street
New York, N.Y. 10017
MU 7-0505

SULZER METCO (US) INC.

CERTIFICATE OF THE COMPANY

This certificate (this "Certificate") is made in connection with the Lease Agreement dated as of June 1, 1998 (the "Lease") between Sulzer Metco (US) Inc., as lessee (the "Company"), and the Nassau County Industrial Development Agency, as lessor (the "Agency"), and the other documents, instruments and agreements executed by the Company (collectively, the "Company Documents") in connection with the undertaking by the Agency, a public benefit corporation created pursuant to Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), of the construction, renovation and equipping of two (2) certain manufacturing facilities consisting of the construction of an approximately 30,000 square foot expansion to the Lessee's facility at 1101 Prospect Avenue, Westbury, New York (the "Westbury Facility"), the construction of renovations and improvements to each of the Westbury Facility and the Lessee's facility at 220 Miller Place, Hicksville, New York (the "Hicksville Facility" and together with the Westbury Facility, collectively, the "Facility"), and the acquisition and installation of machinery, equipment and furnishings at each of the Westbury Facility and the Hicksville Facility, all for use in the manufacturing of thermal energy systems and components and related products (collectively, the "Project").

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Lease except that, for purposes of this Certificate, (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this Certificate and not as of any future date, and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this Certificate and not as of any future date or to any successor or assign.

The Company proposes to grant to Excel Importing Corp. ("Excel") a subleasehold interest in the entire second (2nd) floor of the Westbury Facility comprising approximately 13,300 net rentable square feet, all pursuant to a certain Sublease Agreement between the Lessee, as sublessor, and Excel, as subtenant (the "Excel Sublease"). The Company has requested that the Agency and the County of Nassau (the "County") each consent to the execution and delivery of the Excel Sublease and that the Agency and the County each execute and deliver its consent in connection therewith (collectively, the "Consent Documents").

THE UNDERSIGNED, AS VICE PRESIDENT OF THE COMPANY, TO INDUCE THE AGENCY AND THE COUNTY TO GRANT THE AFORESAID CONSENTS, HEREBY CERTIFIES THAT:

1. I am duly authorized to execute and deliver this Certificate in the name and on behalf of the Company.

2. The Company has been duly organized, is validly existing and is in good standing as a corporation under the laws of the State of Delaware, with full legal power and authority to own its Property and conduct its business, and is qualified to do business in the State of New York as a foreign corporation.

3. The certificate of incorporation of the Company (and filing receipt), in the form attached to the Letter of Representation and Indemnity Agreement dated June 17, 1998 and delivered to the Agency, is in full force and effect on and as of the date of this Certificate, without further amendment or modification in any respect.

4. The by-laws of the Company, in the form attached to the Letter of Representation and Indemnity Agreement dated June 17, 1998 and delivered to the Agency, are in full force and effect on and as of the date of this Certificate, without further amendment or modification in any respect.

5. No Event of Default has occurred under the Lease or any Company Document, nor has any event occurred which, with the passage of time or the giving of notice, or both, would constitute a default under the Lease or any Company Document.

6. Attached hereto as Exhibit A is a list of all material pending litigation relating to the Company. Except as set forth in Exhibit A, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body, pending or, to the best of my knowledge, threatened against or affecting the Company, nor to the best of my knowledge is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect (A) the validity or the enforceability of the Lease, the Company Documents, the Consent Documents or the transactions contemplated therein, (B) the organization or existence of the Company, or (C) the business, prospects, Property or condition of the Company.

7. The undersigned has been duly designated to act as an "Authorized Representative" of the Company pursuant to and in accordance with the provisions of the Lease.

8. There are no Liens against or overdue taxes, assessments, fees or other governmental charges payable by the Company to the United States, the State of New York, or, to my knowledge, to any other state or municipality in the United States.

9. The Company Documents are in full force and effect on and as of the date hereof, and no authority for the execution, delivery or performance of the Company Documents has been repealed, revoked or rescinded.

10. The Company has duly authorized the taking of and has taken any and all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by this Certificate.

11. Each of the representations and warranties of the Company in the Company Documents is true, accurate and complete on and as of the date of this Certificate with the same force and effect as though such representations and warranties were made on and as of the date hereof.

12. Neither the usefulness, structural integrity nor operating efficiency of the Westbury Facility will be impaired by the execution, delivery and/or performance of the Excel Sublease.

13. Any improvements to be undertaken in connection with the Excel Sublease (collectively, the "Excel Improvements") shall be effected with due diligence, in a good and workmanlike manner and in compliance with all legal requirements.

14. The Excel Improvements shall be promptly and fully paid for by the Company or Excel, as the case may be, in accordance with the applicable contract(s) therefor, and in order that the Westbury Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim, other than Permitted Encumbrances. The Company shall promptly provide evidence of such payment(s) to the Agency.

15. The Excel Improvements do not change the nature of the Westbury Facility so that it would not constitute a qualified "project" as defined in and as contemplated by the Act.

16. The Excel Improvements, upon their incorporation into the Westbury Facility, shall thereupon constitute a part of the Westbury Facility without further action of the Company, the Agency or the County, and shall be subject to the Lease and the other Company Documents; however, the Company agrees to deliver to the Agency and to cause Excel to deliver to the Agency any and all documents, instruments and agreements deemed necessary by the Agency to convey title to the Excel Improvements and to subject such property to the Lease and the other Transaction Documents, free and clear of all liens, charges, encumbrances, security interests or claims, other than Permitted Encumbrances.

17. Neither the Excel Improvements, nor any part thereof, shall constitute Lessee's Property.

18. The Excel Improvements shall not be entitled to any Financial Assistance from the Agency, including, without limitation, any full or partial exemptions from sales and use tax, mortgage recording tax or real property taxes, or the issuance of any bonds with respect thereto.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Certificate in the name and on behalf of the Company as of the 26th day of November, 2003.

SULZER METCO (US) INC.

By: _____
Name: Charles J. Haugh
Title: Vice President

EXHIBIT A

PENDING LITIGATION

None

T 691

S.T.T
$12,500-

Standard N.Y.B.T.U. Form 8002: Bargain & sale deed, with covenant against grantor's acts—Ind. or Corp.: single sheet

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT – THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 9th day of December, nineteen hundred and ninety-seven

BETWEEN

SULZER METCO (US) INC., a Delaware corporation having an office at 1101 Prospect Avenue, Westbury, New York 11580, successor by merger to SULZER METCO (WESTBURY) INC.

party of the first part, and

First Industrial, L.P., a Delaware limited partnership having an office at 575 Underhill Boulevard, Syosset, New York 11791

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in ~~the~~ Hicksville, Town of Oyster Bay, County of Nassau and State of New York more particularly described on Schedule A and known as 325 Duffy Avenue, Hicksville, New York.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Sulzer Metco (US) Inc.

By: _____

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being at Hicksville, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at a point on the Southerly side of Duffy Avenue said point being the Easterly end of a curve connecting the said Southerly side of Duffy Avenue and the Easterly side of Henrietta Street as said Duffy Avenue and Henrietta Street exist today;

RUNNING THENCE Easterly along the Southerly side of Duffy Avenue along the arc of a curve bearing to the right whose radius is 700 feet a distance of 148.16 feet to a point;

THENCE still along the Southerly side of Duffy Avenue North 76 degrees 49 minutes 40 seconds East 327.28 feet;

THENCE South 8 degrees 55 minutes 20 seconds East 679.30 feet to land now or formerly of Terlikofsky;

THENCE South 77 degrees 14 minutes 40 seconds West along said land, 151.43 feet;

THENCE North 8 degrees 48 minutes 37 seconds West 59.84 feet;

THENCE South 78 degrees 05 minutes 33 seconds West 190.50 feet;

THENCE North 8 degrees 30 minutes 08 seconds West 105.19 feet;

THENCE South 77 degrees 14 minutes 40 seconds West 28.66 feet;

THENCE North 12 degrees 45 minutes 20 seconds West 39.86 feet;

THENCE South 77 degrees 14 minutes 40 seconds West 122 feet to the Easterly side of Henrietta Street;

THENCE along the Easterly side of Henrietta Street, North 7 degrees 58 minutes 20 seconds West 435.10 feet to the Southerly end of the curve first above mentioned;

THENCE Northeasterly along the arc of the curve first above mentioned whose radius is 20 feet a distance of 25.37 feet to the point or place of BEGINNING.

Said Premises is conveyed subject to the following:

1. Current taxes, assessments and special assessments not yet due and payable.

2. Laws, ordinances, and governmental regulations (including without limitation building and zoning ordinances) affecting said premises.

3. Those matters disclosed on a survey of the premises made by Shah Associates P.C. dated September 20, 1997.

Being the same premises conveyed to the Grantor herein (successor by merger to Sulzer Metco (Westbury) Inc.) by deed dated 9/30/94 recorded 10/6/94 in Liber 10474, Page 460.

This conveyance is made in the ordinary and regular course of business actually conducted by the party of the first part.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF New York ss:

On the 9th day of December, 1997, before me personally came Daniel Mornschetti, to me known, who, being by me duly sworn, did depose and say that he resides at No. 1101 Prospect Ave., Westbury, N.Y. ; that he is the Vice-president of Sulzer Metco (US) Inc. , the corporation described in and which executed the foregoing instrument; ~~that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation~~, and that he signed his name thereto by ~~like~~ order. of the board of directors of said corporation.

Michael P. Liera

MICHAEL P. LIERRA
NOTARY PUBLIC, State of New York
No. 4899145
Qualified in Nassau County
Term Expires June 22, 1999

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. ;

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No. N15836N

Sulzer Metco (US) Inc.

TO

FIRST INDUSTRIAL, L.P.

SECTION 11
BLOCK H
LOT 112, 484
COUNTY OR TOWN Town of Oyster Bay
County of Nassau

RETURN BY MAIL TO:

Certilman, Balin, Adler & Hyman
Attn: Howard Stein, Esq
90 Merrick Ave.
East Meadow, N.Y. Zip No. 11554

Reserve this space for use of Recording Office.

CONSENT TO SUBLEASE

THIS CONSENT TO SUBLEASE (this "Consent"), dated as of November 24, 2003, by the COUNTY OF NASSAU, a municipal corporation duly organized and existing under the laws of the State of New York, having an office at One West Street, Mineola, New York 11501 (the "County"), in favor of SULZER METCO (US) INC., a corporation duly organized and existing under the laws of the State of Delaware, having its principal office at 1101 Prospect Avenue, Westbury, NY 11590 (the "Lessee").

WITNESSETH:

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, on or about June 1, 1998, the Lessee entered into a transaction with the Agency under the Act, pursuant to which the Agency issued its industrial development revenue bonds, Series A in the original principal amount of $100,000, Series B in the original principal amount of $1,000,000 and Series C in the original principal amount of $8,900,000 (collectively, the "Bonds"), with respect to the construction, renovation and equipping of two (2) certain manufacturing facilities consisting of the construction of an approximately 30,000 square foot expansion to the Lessee's facility at 1101 Prospect Avenue, Westbury, New York (the "Westbury Facility"), the construction of renovations and improvements to each of the Westbury Facility and the Lessee's facility at 220 Miller Place, Hicksville, New York (the "Hicksville Facility" and together with the Westbury Facility, collectively, the "Facility"), and the acquisition and installation of machinery, equipment and furnishings at the Facility, all for use in the manufacturing of thermal energy systems and components and related products (collectively, the "Project"); and

WHEREAS, the Agency leased the Facility to the Lessee, pursuant to a Lease Agreement dated as of June 1, 1998 (as amended, the "Lease"); and

WHEREAS, pursuant to a Payment-in-Lieu-of-Taxes Agreement (Hicksville) and a Payment-in-Lieu-of-Taxes Agreement (Westbury), each dated as of June 1, 1998 between the Lessee and the Agency, the Lessee agreed to make certain payments in lieu of real estate taxes with respect to the Facility, and such obligations are secured, respectively, pursuant to a certain Mortgage and Assignment of Leases and Rents (Hicksville) and a Mortgage and Assignment of Leases and Rents (Westbury), each dated as of June 1, 1998 (collectively, the "PILOT Mortgage") from the Company and the Agency, as mortgagors, to the County, as mortgagee, pursuant to which the Agency and the Company granted a mortgage on the Facility; and

WHEREAS, the Lessee seeks to grant to Excel Importing Corp. ("Excel") a subleasehold interest (the "Excel Subleasehold Interest") in the entire second (2nd) floor of the Westbury Facility comprising approximately 13,300 net rentable square feet (the "Excel Demised Premises") for use as general and executive office space; and

WHEREAS, to create said Excel Subleasehold Interest in the Excel Demised Premises, the Lessee, as sublessor, proposes to enter into a certain Sublease Agreement (the "Excel Sublease") with Excel, as subtenant; and

WHEREAS, the Lessee has requested that the County consent to the execution and delivery of the Excel Sublease by the Lessee and that the County acknowledge and agree that the Excel Sublease shall constitute a "Permitted Encumbrance" (as such quoted term is defined in the Lease); and

WHEREAS, the County is willing to consent to the execution and delivery of the Excel Sublease by the Lessee and to acknowledge and agree that the Excel Sublease shall constitute a Permitted Encumbrance, subject to the terms and conditions set forth in this Resolution;

NOW, THEREFORE, for and in consideration of the premises and the covenants and representations hereinafter contained, the County agrees as follows:

1. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Lease.

2. The County hereby consents to the execution and delivery of the Excel Sublease, in the form presented to the County, a copy of which is annexed hereto. The Excel Sublease, upon its execution and delivery by the Authorized Representative of the Lessee and an authorized officer of Excel, shall constitute a "Permitted Encumbrance" under the PILOT Mortgage. The County consents to the recording of the Excel Sublease, or a memorandum thereof, by the Lessee, at the sole cost and expense of the Lessee.

3. The County hereby represents and warrants that the execution and delivery by the County of this Consent and the performance by the County of its obligations under this Consent have been duly authorized by all requisite action on the part of the County and will not (1) conflict with or result in a breach of any of the terms, conditions or provisions of any restriction, judgment, order, writ, injunction, decree, agreement, document or instrument to which the County is a party or by which the County or any of its property is bound, or constitute a default by the County under any of the foregoing, (2) require consent or approval (which has not been heretofore obtained) under any agreement, document or instrument to which the County is a party or by which the County or any of its property may be bound or affected, or (3) require consent or approval (which has not been heretofore obtained) under or conflict with or violate any existing law, rule, regulation, restriction, judgment, order, writ, injunction or decree of any governmental authority having jurisdiction over the County or any of the property of the County.

4. This Consent shall be governed by, and construed in accordance with, the laws of the State of New York, as the same may from time to time be in effect, without regard to its principles of conflicts of laws.

5. If any one or more of the provisions of this Consent shall be ruled invalid by any court of competent jurisdiction, the invalidity of such provision(s) shall not affect any of the remaining provisions hereof, but this Consent shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

6. This Consent contains the final, complete and exclusive agreement of the County with respect to the subject matter hereof. Except as expressly provided herein, this Consent shall not be construed to be a waiver or modification, express or implied, of any of the terms or provisions of the PILOT Mortgage or of any of the County's rights thereunder, all of which are and shall remain in full force and effect, nor to result in a loss of priority of the lien of the PILOT Mortgage over the rights of any junior lienor. This Consent shall not be construed to constitute a consent to other or further action by the Company or to entitle the Company to any other consent.

7. This Consent may be modified only by written agreement signed by an authorized representative of the County. This Consent may be signed in counterparts, which together shall constitute but one and the same agreement.

8. This Consent shall become effective on the date on which (i) the County and all of the other parties hereto have executed and delivered counterpart originals of this Consent, and (ii) the Agency shall have executed and delivered to the County a Consent, Reaffirmation, Certification and Amendment of Lease, in form satisfactory to the County, with respect to the subject transaction.

IN WITNESS WHEREOF, the County has caused its name to be subscribed hereto by its authorized officer, all being done as of the year and day first above written.

COUNTY OF NASSAU

By: Arthur A Gianelli

Name: Arthur Gianelli

Title: Deputy County Executive

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

On the 28th day of ~~February~~ January, in the year two thousand four, before me, the undersigned, a Notary Public in and from said State, personally appeared Arthur Giarelli, 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 the behalf of whom the individual acted, executed the instrument.

Notary Public

JOSEPH GIOINO
Notary Public, State of New York
No. 02GI6031662
Qualified in Nassau County
Commission Expires October 12, ~~2001~~ 2005

NYC Doc # 274543.1\Pvo \17847\00048

Other Chicago Agencies
in New England and New Jersey.
National service from the
New York Office.

Chicago Title Insurance Company

330 OLD COUNTRY ROAD, MINEOLA, NEW YORK, 11501-4122 (800) 521-0114
(516) 742-5000 FAX (516) 746-1074

NUMBER	DATE	TRANSACTION	RATE MANUAL REFERENCE	INSURANCE
9805-00633	MAY 8, 1998	MTG FEE X	MTG FEE	MTG $ FEE $

Title Vested In:
SULZER METCO INC.

Insured, Fee:
NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, THE UNITED STATES TRUST COMPANY OF NEW YORK AND COUNTY OF NASSAU

Insured, Mtg:

MUN. DEPT. SEARCHES:
TAXES

SURVEY INSTRUCTIONS:
NONE

Delivery: 1 TO 1 1 TO 2 1 TO 3 1 TO 4 1 TO 5

PREMISES County: NASSAU State: NEW YORK
Dist: Sec: 11 Blk: 329 Lot(s): 369

ROW 370

Address: PROSPECT AVENUE, WESTBURY, NEW YORK

Remarks:
05/11/98 ADDED BUYER

(3) ATTN: RICHARD LEFFER, ESQ.
COUNTY ATTORNEY OFFICE
1 WEST STREET
MINEOLA, NEW YORK 11501

CONTINUED

BANK/CLIENT REQUIREMENTS:

IF THIS IS A REFINANCE WITHIN TEN YEARS, YOU MAY BE ENTITLED TO A REDUCED PREMIUM. CONTACT THIS COMPANY IMMEDIATELY FOR DETAILS.

Mailing Date:
MAY 22, 1998

Closing Date:

Prior Insurer/
Prior Title Number
9405-00317

AMENDMENT DATES
05/11/98 FLS

THANK YOU FOR YOUR APPLICATION FOR THE EXAMINATION OF TITLE TO THE ABOVE DESCRIBED PREMISES. OUR CHARGES ON THE BASIS OF OUR FILED RATE SCHEDULE ARE NOTED, SUBJECT TO ANY REVISION DUE TO ANY DESIRED CHANGE IN LIABILITY AND THE ADDITION OF ANY REQUESTED OR NECESSARY DISBURSEMENTS. WE SHALL DO OUR BEST TO REPORT THIS TITLE PROMPTLY AND FACILITATE ITS CLOSING.

Very truly yours,

Applicant Number: 6111914-000

HOUSE ACCOUNT - NASSAU - 3305 005/KEJ

Applicant FEE(1) Tel:
Fax:

ATTN: RUSS SIEDLEWICZ
SULZER METCO, INC.
1101 PROSPECT AVENUE
WESTBURY, NEW YORK 11590

Applicant MTG(2) Tel:
Fax:

ATTN: TERRI ANDERSON
NASSAU COUNTY INDUSTRIAL DEVELOPMENT
1550 FRANKLIN AVENUE
MINEOLA, NEW YORK 11501

TITLE NUMBER:

9805-00633

DATE:

MAY 8, 1998

ADDITIONAL REMARKS REGARDING THE ABOVE REFERENCED APPLICATION

(4) ATTN: SARA KIM
HAWKINS, DELAFIELD & WOOD
67 WALL STREET
NEW YORK, NEW YORK 10005
(212)820-9467

(5) ATTN: RICHARD RUDOLPH
SULZER U.S. HOLDING
200 PARK AVENUE 16TH FLOOR
NEW YORK, NEW YORK 10166
(212)949-0999

CHICAGO TITLE INSURANCE COMPANY

330 OLD COUNTRY ROAD
MINEOLA, NY 11501
(516) 742-5000

PAGE: 001
DATE: May 21, 1998

TO: ATTN: RUSS SIEDLEWICZ
SULZER METCO, INC.
1101 PROSPECT AVENUE
WESTBURY, NY 11590

TO: ATTN: TERRI ANDERSON
NASSAU COUNTY INDUSTRIAL DEVELOPMENT
1550 FRANKLIN AVENUE
MINEOLA, NY 11501

TITLE NO.: 9805-00633 SULZER METCO INC./NASSAU COUNTY INDUST CUST# 6111914-000

PREMISES: PROSPECT AVENUE, WESTBURY, NY

CODE	DESCRIPTION	AMOUNT
090	FULL SEARCH NO INSURANCE	300.00
	BALANCE DUE:	$300.00

OK TO PAY
5/21/98

**********NOTE**********
The fee for this search is payable immediately upon receipt.
In case of cancellation of this search, the fees charged
will remain the same.

CHICAGO TITLE INSURANCE COMPANY

330 OLD COUNTRY ROAD
MINEOLA, NY 11501
(516) 742-5000

PAGE: 001
DATE: May 21, 1998

TO: ATTN: RUSS SIEDLEWICZ
SULZER METCO, INC.
1101 PROSPECT AVENUE
WESTBURY, NY 11590

TO: ATTN: TERRI ANDERSON
NASSAU COUNTY INDUSTRIAL DEVELOPMENT
1550 FRANKLIN AVENUE
MINEOLA, NY 11501

TITLE NO.: 9805-00633 SULZER METCO INC./NASSAU COUNTY INDUST CUST# 6111914-000

PREMISES: PROSPECT AVENUE, WESTBURY, NY

CODE	DESCRIPTION	AMOUNT
090	FULL SEARCH NO INSURANCE	300.00
	BALANCE DUE:	$300.00

OK TO PAY
5/21/98

**********NOTE**********
The fee for this search is payable immediately upon receipt.
In case of cancellation of this search, the fees charged
will remain the same.

prelim

Number

CERTIFICATE FOR TITLE INSURANCE

Issued by

CHICAGO TITLE INSURANCE COMPANY

Chicago Title Insurance Company, a Missouri Corporation, herein called the Company, certifies to the Applicant named on the following page that an examination of title to premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue the ALTA (10-17-92) Owner's or Lender's form of insurance policy as modified by the New York Coverage Endorsements in the amount and for the transaction set forth herein and subject to the exclusions from coverage and the conditions and stipulations therein contained.

After the closing of the transaction, in conformance with the requirements and procedures of the Company, the Company will issue the policy and except (i) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth in Schedule B herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (ii) any questions or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.

Questions concerning the within Certificate should be directed to:

Issued by:
CHICAGO TITLE INSURANCE COMPANY
330 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4122
(800) 521-0114
(516) 742-5000

Dated: 4-25-98
Certified by: _____
Authorized Signature

Redated:
by: _____
Authorized Signature

CHICAGO TITLE INSURANCE COMPANY CORPORATE SEAL

CHICAGO TITLE INSURANCE COMPANY

By: _____ **President**

By: _____ **Secretary**

This certificate is intended for lawyers only. Such exceptions as may be set forth herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents of this certificate. The Company's representative at the closing hereunder may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

CONDITIONS AND STIPULATIONS

1. This Certificate shall be null and void:
   (A) if the fees therefore are not paid;
   (B) if the prospective insured, his attorney or agent makes any untrue statement with respect to any material fact, or if any untrue answers are given to material inquiries by or on behalf of the Company;
   (C) when the policy shall issue or nine months after the effective date hereof, whichever first occurs, provided that the failure to issue such policy is not the fault of the Company.
   (D) until the amount of the policy or policies requested is inserted in Schedule A hereof by the Company, either at the time of the issuance of this Certificate or by subsequent endorsement.

2. If the title, interest or lien to be insured was acquired by the prospective insured prior to delivery hereof, the Company assumes no liability except under its policy when issued.

3. The liability of this Company under this Certificate shall not exceed the amount stated in Schedule A hereof and such liability is subject to the insuring provisions, the Exclusions from Coverage and the Conditions and Stipulations of the form of policy or policies shown in Schedule A hereof in favor of the proposed insured which are hereby incorporated by reference and are made a part of this Certificate except as expressly modified herein.

This Certificate of Title has been prepared in accordance with the information and instructions received. If any changes or additions are desired, please notify the Company promptly.

CLOSING INFORMATION

Closed by _____ Date Closed _____ Title No. _____

Closed at the office of _____

Parties Present:	Interest in Transaction:	Address:

The identity of the parties executing and delivering the closing instruments was established by

_____

_____

HAVE CONTINUATION OF SEARCHES BEEN RECEIVED FROM DATE OF CERTIFICATE to DATE OF CLOSING?

CHICAGO TITLE INSURANCE COMPANY 330 Old Country Road, Suite 200, Mineola, N.Y. 11501

(516) 742-5000 1-800 521-0114 Fax (516) 742-5061

KEY PERSONNEL

Customer Service

Fax (516) 739-0958

Karen Jensen	Ext. 309	Jennifer Lawless	Ext. 339

Status of Title Work in Progress

Filomena Sposito	Ext. 312	Shirley Hart	Ext. 321

Survey Inquiries

Fax (516) 742-1079

Gloria A. Diaz	Ext. 337	Dana Colangelo	Ext. 338

Legal or Clearance Questions

Glen Chernick, Esq.	Ext. 324	Zeynep Baturgil	Ext. 317
Donna Chin	Ext. 322	Barbara Mazarowski	Ext. 315

Closing/Recording Departments

Gloria E. Diaz	Department Supervisor	Ext. 326
Alan Gilmore	Recording Matters	Ext. 323
Christina Quinlan	Closings	Ext. 328

Policy Department

Anna Koebel	Ext. 329

Account Representative

Donald Luhrs	Ext. 325	Anthony J. Circello	Ext. 311
Diana Penate	Ext. 303	Lorraine Seeger	Ext. 308

Associate Account Representative

Diane McLaughlin	Ext. 352

Accounting/Escrow Department (Direct Dial Numbers)

Mary Ellen Johnson, Manager			516-284-7019
Kim Pipczynski	516-284-7016	Carrie Vitale	516-284-7015
Lori VanEssendelft	516-284-7018	Denise Allen	516-284-7017

CAROL DiLAURENZIO - BRANCH MANAGER Ext. 320
GLEN CHERNICK - LEGAL COUNSEL Ext. 324
DONALD LUHRS - SALES MANAGER Ext. 325

1847-1997: Building for the Next 150 Years
Chicago Title and Trust Family of Companies

CHICAGO TITLE INSURANCE COMPANY

SCHEDULE A

Title No.: 9805-00633 Effective Date: APRIL 25, 1998

Owner's Policy to be issued:

ALTA 10-17-92 Owner's Policy with New York Endorsements $TO BE DETERMINED

Proposed Insured:

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, THE UNITED STATES TRUST COMPANY, AND OF NEW YORK AND COUNTY OF NASSAU

Leasehold Policy to be issued:

ALTA 10-17-92 Leasehold Policy with New York Endorsements $_____

Proposed Insured:

Loan Policy to be issued:

ALTA 10-17-92 Loan Policy with New York Endorsements $_____

Proposed Insured:

Borrower:

Loan Policy to be issued:

ALTA 10-17-92 Loan Policy with New York Endorsements $_____

Proposed Insured:

Borrower:

The estate or interest in the land described or referred to in this certificate and covered herein is:

FEE SIMPLE

Title to said estate or interest in said land at the effective date hereof is vested in:

SULZER METCO (WESTBURY) INC. ACQUIRED TITLE BY DEED DATED 9/30/94, RECORDED 10/12/94 IN LIBER 10476 CP 310 MADE BY THE PERKIN-ELMER CORPORATION.

The land referred to in this certificate is described as follows:

SEE ATTACHED

CHICAGO TITLE INSURANCE COMPANY

Title No.: 9805-00633

LEGAL DESCRIPTION

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT NEW CASSEL, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED DISTANT 550.20 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST JOHN STREET AS WIDENED AND THE WESTERLY SIDE OF CATIAGUE LANE;

RUNNING THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS WEST ALONG THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED 611.18 FEET TO THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION;

THENCE NORTH 27 DEGREES 53 MINUTES 16 SECONDS WEST ALONG THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION, 470.14 FEET;

THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS EAST 717.35 FEET;

THENCE SOUTH 14 DEGREES 50 MINUTES 10 SECONDS EAST, 458 FEET TO THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED, AT THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION: 11 BLOCK: 329 LOT: 369

CHICAGO TITLE INSURANCE COMPANY

SCHEDULE B

I. BLANKET POLICY

If the application is for title insurance under a master or blanket policy all of the following items under this Schedule B will be excepted from coverage in the Certificate of Title Insurance to be issued hereon unless disposed of to the satisfaction of the Company on or prior to closing.

II. IDENTITY PARTIES

The identity of parties at the closing of this title should be established to the satisfaction of the closer.

III. SECTION 13 OF LIEN LAW

Deeds and mortgages must contain the covenant required by Section 13 of the Lien Law and such covenant must be absolute and not conditional. The covenant is not required in deeds from referees or other persons appointed by a court for the sole purpose of selling property.

IV. ASSIGNMENT OF MORTGAGE OR OTHER LIENS

When the transaction is an assignment of a mortgage or other lien, an estoppel certificate executed by the owner of the fee and by the holders of all subsequent encumbrances must be obtained. When the transaction is a mortgage, the amount actually advanced should be reported to the Company.

V. MATTERS AFTER EFFECTIVE DATE OF CERTIFICATE

Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by the Certificate.

VI. CORPORATE GRANTOR

If the present transaction consists in whole or in part of a conveyance or lease by a corporate grantor or lessor, there must be compliance with Section 909 of the Business Corporation Law. We will require the written consent to such conveyance or lease by all the holders of the outstanding shares of the said corporation and the instrument on closing should so recite. In lieu thereof the consent of the holders of two-thirds of all the outstanding shares entitled to vote thereon obtained at a meeting duly noticed and called for the purpose of obtaining such consent in the manner provided for in Section 605 of the Business Corporation Law is required and the instrument on closing should so recite.

If neither of the above is obtained, then, the proofs, showing the basis upon which the conveyance or lease is to be made must be submitted to counsel prior to closing.

VII. CORPORATE MORTGAGOR

If the present transaction consists in whole or in part of the making of a new mortgage there must be compliance with Section 911 of the Business Corporation Law. We will require a certified copy of the resolution of the board of directors of any corporate mortgagor authorizing the making of said mortgage.

Proof must also be shown that the consent of stockholders of the mortgagor corporation is not required by its certificate of incorporation or amendments thereto for the making of said mortgage.

The mortgage should contain a recital showing that it was made and executed pursuant to the resolution of the board of directors of the mortgagor.

VIII. CONTRACT

If this certificate requires a conveyance of the fee estate and the contract has not been submitted to the Company, it should be furnished for consideration prior to closing.

IX. PROOF OF NO OTHER NAME

Proof is required to show that the persons certified as owners herein have not been known by any other name in the 10 years last past. If they have been known by another name, all searches must be amended and run against such name and title is subject to returns, if any, on such amended searches.

X. PERSONAL PROPERTY

Title to any personal property, whether the same be attached to or used in connection with the premises.
(The policy to be issued will contain an exception as to this Item without change or modification).

XI. MARKET VALUE ENDORSEMENT

Section 6409(c) of the Insurance Law requires that title companies offer, at or prior to closing, an optional endorsement to cover the owner-occupant of real property used predominantly for residential purposes and consisting of not more than four dwelling units, for loss in excess of the purchase price (policy stated amount of liability) and up to the future market value of the property. If you do not wish this additional optional coverage, you must waive the same by signing in the space following this notice.

_____	_____
Authorized Signature	Authorized Signature

CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B-1

Title No.: 9805-00633

The policy will not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of the following exceptions unless they are disposed of to our satisfaction:

A Taxes, tax liens, tax sales, water rates, sewer and assessments set forth in schedule herein.

B NOTE: If the subject transaction is one involving a sale subject to the mortgage(s) returned in this exception, and since many lenders now have the mortgage instrument, state that the debt will become due and payable at the option of the mortgagee upon any transfer of title. It is recommended that the applicant examine the mortgage document(s) as well as the note(s) and bond(s) and any agreement modifying said mortgage(s) or make inquiry of the mortgagee of the current terms of such instrument(s) especially with respect to acceleration of the maturity date in case of a sale. Upon request, we will obtain and furnish a copy of the recorded mortgage(s) for cost.

C Any state of facts which an accurate survey might show.
or
Survey exceptions set forth herein.

D Rights of tenants or persons in possession.

1. SEARCHES HAVE BEEN RUN AGAINST THE NAME SULZER METCO (WESTBURY) INC. AND RETURNS, IF ANY, APPEAR HEREIN.

   NOTHING FOUND

2. PROOF OF PAYMENT OF FRANCHISE TAX ON SULZER METCO (WESTBURY) INC. FROM INCORPORATION TO DATE OF CLOSING IS REQUIRED.

3. CERTIFIED COPY OF THE CERTIFICATE OF INCORPORATION AND ANY AMENDMENTS THERETO OF SULZER METCO (WESTBURY) INC., A(N) DELAWARE CORPORATION, WITH PROOF OF ITS DUE INCORPORATION PRIOR TO MUST BE SUBMITTED TO THE COMPANY AND CONSIDERED IN CONNECTION WITH THIS TITLE, AND THIS COMMITMENT IS SUBJECT TO SUCH FURTHER EXCEPTIONS, IF ANY, AS MAY THEN BE DEEMED NECESSARY.

4. PROOF IS REQUIRED TO SHOW THAT SULZER METCO (WESTBURY) INC., A(N) DELAWARE CORPORATION, IS STILL IN GOOD STANDING AND HAS NOT BEEN DISSOLVED EITHER BY PROCLAMATION OR OTHERWISE IN THE JURISDICTION WHERE IT WAS INCORPORATED. INQUIRY SHOULD BE MADE PROMPTLY TO THE SECRETARY OF STATE OF SAID STATE REGARDING THIS PROOF, AND SUCH PROOF OF GOOD STANDING MUST BE SUBMITTED TO THIS COMPANY, PRIOR TO CLOSING.

5. LEGAL OPINION OF COMPETENT LICENSED COUNSEL IN SAID JURISDICTION OF ORIGIN IS REQUIRED CONFIRMING MATTERS SET FORTH IN EXCEPTIONS SET FORTH ABOVE. SAID OPINION MUST INCLUDE A STATEMENT THEREIN ACKNOWLEDGING THAT THE COMPANY IS RELYING THEREON, AND IT MUST BE SUBMITTED FOR CONSIDERATION PRIOR TO CLOSING.

6. PROOF IS REQUIRED TO SHOW THAT SULZER METCO (WESTBURY) INC. A DELAWARE CORPORATION, HAS PAID ITS LICENSE FEE TO THE STATE OF NEW YORK.

7. UNTIL A GUARANTEED SURVEY IS RECEIVED AND READ INTO TITLE, POLICY WILL NOT INSURE THE EXACT DISTANCES, COURSES AND DIMENSIONS OF THE PREMISES AND WILL EXCEPT ANY STATE OF FACTS AN ACCURATE SURVEY MAY SHOW, INCLUDING COMPLIANCE WITH COVENANTS AND RESTRICTIONS.

8. AGREEMENT IN LIBER 6293 CP 204.

CHICAGO TITLE INSURANCE COMPANY

SCHEDULE B-1 (Continued)

9. EASEMENT IN LIBER 5447 CP 515.

10. WATER EASEMENT IN LIBER 6121 CP 60.

11. ELECTRIC EASEMENT IN LIBER 5545 CP 504.

12. COVENANTS AND RESTRICTIONS IN LIBER 4054 CP 26 AND LIBER 4994 CP 359.

13. TELEPHONE EASEMENT IN LIBER 10768 CP 910.

14. DISHONORED CHECKS - FOR INFORMATION ONLY: BECAUSE OF PROBLEMS WE HAVE HAD WITH DISHONORED CHECKS, NO UNCERTIFIED CHECKS FOR $1,000.00 OR MORE WILL BE ACCEPTED UNLESS APPROVED BY MANAGER, ASSISTANT MANAGER OR COUNSEL. UNDER NO CIRCUMSTANCES WILL THIRD PARTY OR SELLERS CHECKS BE ACCEPTED IN ANY AMOUNT AT CLOSING.

CHICAGO TITLE INSURANCE COMPANY

NOTICE OF AVAILABILITY OF OWNER'S TITLE INSURANCE

Date: May 21, 1998

Title Number: 9805-00633

To: NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, THE UNITED STATES TRUST COMPANY, AND OF NEW YORK AND COUNTY OF NASSAU

Buying property identified as: PROSPECT AVENUE
WESTBURY, NEW YORK

A Mortgagee's Policy of title insurance insuring the title to the property you are buying is being issued to your mortgage lender, but that policy does not provide title insurance coverage to you.

You may obtain an Owner's Policy of Title Insurance which provides title insurance to you. If you request it at this time the total premium for both policies will be $ _____. This is an additional $ _____ above the cost of the Lender's Policy.

If you are uncertain as to whether you should obtain an Owner's Policy of title insurance, you are urged to seek independent advice.

_____ I/We do request an Owner's Policy of title insurance.

_____ I/We do not request an Owner's Policy of title insurance.

Date: _____

Buyer: _____

Buyer: _____

Title No.: 9805-00633

CHICAGO TITLE INSURANCE COMPANY

TAX SEARCH

Taxes, assessments, water rates and sewer charges which are liens on real property

RETURNS

TAXES HEREIN

Our policy does not insure against taxes, water rates, assessments and other matters relating to taxes which have not become a lien up to the date of the policy or installments due after the date of the policy. Neither our tax search nor our policy covers any part of streets on which the premises to be insured about. For information only, we set forth the assessed valuation for the current year.

GILBERT & LESLIE, INC.

SEARCHING NASSAU COUNTY FOR OVER 40 YEARS

516-746-7998 FAX-516-746-7925

NASSAU COUNTY TAX SEARCH

PROPERTY CLASS 440 **NO.** 9805-00633

School District 1 **Town of** North Hempstead

County Tax Map: Section 11 **Block** 329 **Lot(s)** 369

Assessed Value (County) $ 82560/357750

Village of None

Assessed Value(Village) $

RETURNS

1998 Town & County, 1st1/2 a lien 1/1/98 - 2nd1/2 a lien 7/1/98

1st½ tax - $54349.73 PAID
2nd½ tax - $54349.73 OPEN

1997-98 School, 1st1/2 a lien 10/1/97 - 2nd1/2 a lien 4/1/98

Full tax - $150212.07 PAID

Water Westbury Water Dist.

EXCEPT. Computer down.

Subsequent, obtain meter reading.

Up-to-date bill or receipt MUST be produced at closing.

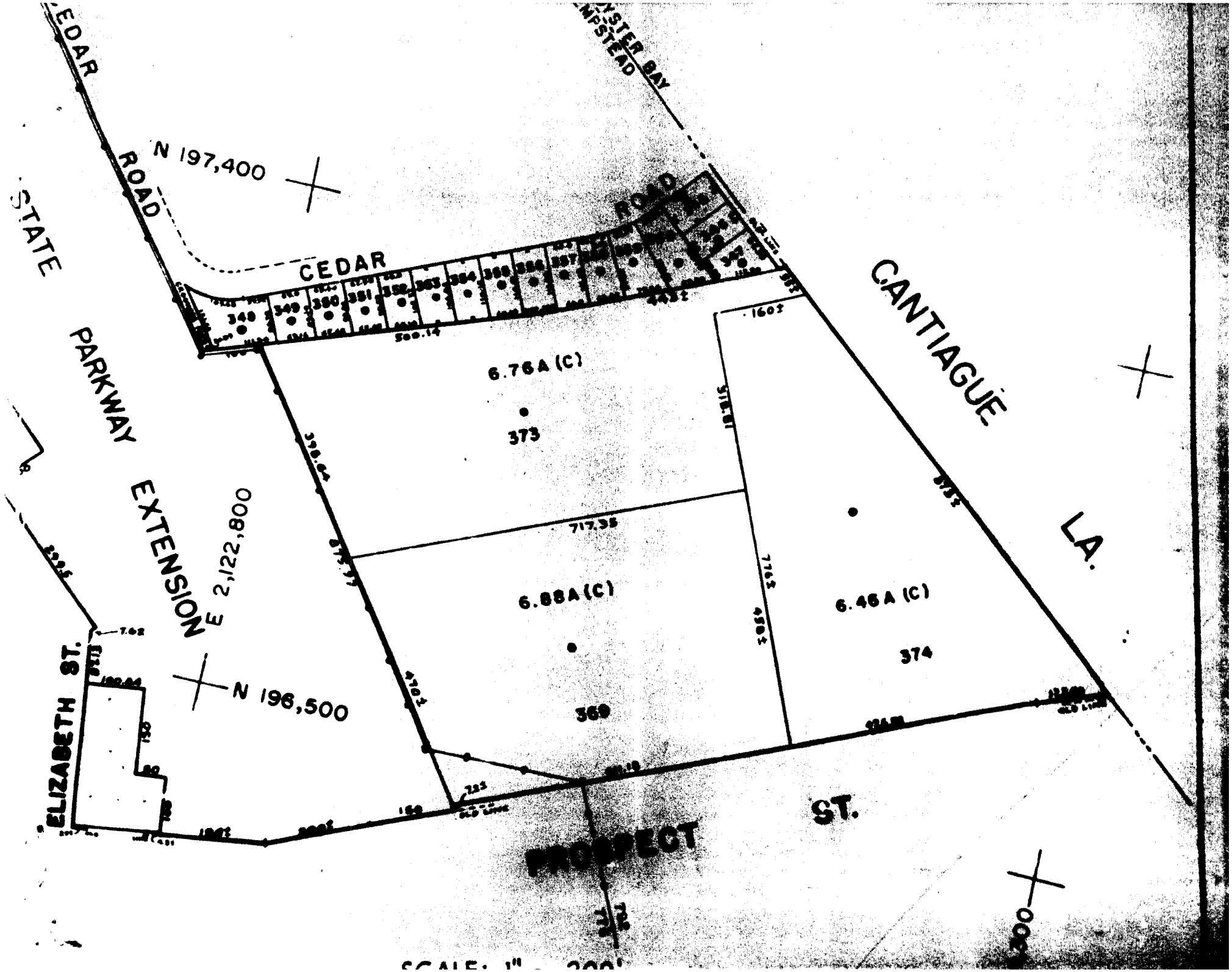
Dated: May 12 1998

Owner may have received notice to install or repair sidewalk/curb on premises. 6

Tax search does not guarantee against existence of such notices.

1998 Town & County (Period covers 1/1/98 to 12/31/98)

1997-98 School (Period covers 7/1/97 to 6/30/98)



CEDAR ROAD
N 197,400
CEDAR ROAD
STATE PARKWAY EXTENSION
E 2,122,800
N 196,500
ELIZABETH ST.
CANTIAGUE LA.
PROSPECT ST.
6.76 A (C)
373
6.88 A (C)
369
6.46 A (C)
374
348
349
350
351
352
353
354
355
356
357
500.14
717.35
160±

NASSAU COUNTY REAL ESTATE TAXES

Locality	Tax	Due Dates	Period Covered	Grace	Penalties
Hempstead, North Hempstead and Oyster Bay	Town (Incl. Co. Tax)	Jan. 1 and * July 1	Jan. 1 to Dec. 31	40 Days	1% per Month
	School	Oct. 1 and ** Apr. 1	July 1 to June 30	40 Days	1% per Month
**Discount allowed if paid before Feb. 10.*					
*** Discount allowed if paid before Nov. 10.*					
	City	Dec. 1 and June 1	Jan. 1 to Dec. 31	40 Days	3/4 %per Month
Glen Cove	School	Aug. 1 and Feb. 1	July 1 to June 30	30 Days	1 %per Month*
	County	Jan. 1 and July 1	Jan. 1 to Dec. 31	40 Days	1 %per Month
	City	July 1 and Jan. 1	July 1 to June 30	30 Days	1-1/2 %per Month
	County	Jan. 1 and July 1	Jan. 1 to Dec. 31	40 Days	1 %per Month
Long Beach	School	Oct. 1 and April 1	July 1 to June 30	30 Days	1-1/2 %per Month

** After March 1 add an additional penalty of 1/2% per month.* ADD additional 5% penalty plus advertising charge after June 1

School Taxes for the Towns of Hempstead, North Hempstead, Oyster Bay and the City of Long Beach only are returned to the County Treasurer on June 1st.

Town (including State and County) Taxes and County Taxes for the Cities of Glen Cove and Long Beach are returned to the County Treasurer on September 1st.

On and after the above return dates, the said taxes, with additional penalties and charges, are payable to the County Treasurer up to the time of sale of liens thereof.

INCORPORATED VILLAGE REAL ESTATE TAXES

PENALTY: ---5% for the first month and .86% for each additional month.

Fiscal Periods of Incorporated Villages are for the years beginning with the due dates as shown below:

DUE DATE --- MARCH 1

Freeport, Great Neck Plaza, Hewlett Bay Park, Kensington, Russell Gardens, Saddle Rock, Thomaston, Woodsburgh.

DUE DATE --- JUNE 1

Atlantic Beach, Baxter Estates, Bayville, Bellerose, Brookville, Cedarhurst, Center Island, Cove Neck, East Hills, East Rockaway, East Williston, Farmingdale, Floral Park, Flower Hill, Garden City, Great Neck, Great Neck Estates, Hempstead, Hewlett Harbor, Hewlett Neck, Island Park, Kings Point, Lake Success, Lattingtown, Laurel Hollow, Lawrence, Lynbrook, Malverne, Manorhaven, Massapequa Park, Matinecock, Mill Neck, Mineola, Munsey Park, Muttontown, New Hyde Park, North Hills, Old Brookville, Old Westbury, Oyster Bay Cove, Plandome, Plandome Heights, Plandome Manor, Port Washington North, Rockville Centre, Roslyn, Roslyn Estates, Roslyn Harbor, Sands Point, Sea Cliff, South Floral Park, Stewart Manor, Upper Brookville, Valley Stream, Westbury, Williston Park.

NOTE: All Village Taxes are liens for the full year's tax on the due date as shown even though some villages allow payments in halves.

THIS INFORMATION IS BELIEVED TO BE ACCURATE BUT IS NOT GUARANTEED.

Title No.: 9805-00633

CHICAGO TITLE INSURANCE COMPANY

MORTGAGES

1. NONE OF RECORD.

This certificate does not purport to show all the terms and provisions of the preceding mortgage(s). Interested parties should communicate with the holder(s) thereof to consider the terms thereof, the obligation(s) secured and the effect of any unrecorded agreements in modification thereof.

(A) MUN. DEPT. SEARCHES

H & B _____

Fire _____

C. O. _____

Oil Burner Permit _____

Dept. of Health _____

Air Pollution _____

Dept. of Highway _____

_____

(B) SURVEY

New ☐ or use existing ☐

Surveyor _____.

Ordered _____, received _____.

Certified to _____.

(C) MORTGAGE: Existing ☐ V.A. ☐ Conventional ☐ F.H.A. ☐ Application for mortgage to _____

Commitment received from _____, on _____.

Expiration date of commitment _____, for $_____, _____ years at _____%.

(D) LEASES: existing _____, to be made with _____

(E) MISCELLANEOUS ITEMS:

- ☐ Pay-off letter
- ☐ Certificate of Reduct.
- ☐ Combustible Permit
- ☐ C. of O's
- ☐ Electrical Inspect. Cert.
- ☐ Elevator Cert.
- ☐ Fire Underwriter Cert.
- ☐ Keys
- ☐ L.R.O. Orders
- ☐ Leases

(F) CLOSING DOCUMENTS

Affidavit of Title	☐	Deed	☐			Lease	☐
Assign of Contract	☐	Extension Agreements	☐			Mortgage	☐
Assign of Mortgage	☐	Estoppel Certificates	☐			Bond or Note	☐
Broker's Contract	☐	Owner ☐	Lienor ☐	Landlord	☐	Satisfaction	☐

MATTERS TO BE DISPOSED OF SUBSEQUENT TO CLOSING

(G) ITEMS TO BE RECEIVED BY MAIL

☐ deed ☐ lease ☐ mortgage

Received on _____,

Recorded on _____, Book _____ page _____

Title Policy received _____

Endorsements received _____

Commission received _____

Other items: _____

_____

_____

_____

(G) NOTICES TO BE SENT BY MAIL

Notice to		date
Tax Collector	☐	_____
Mortgagees	☐	_____
Tenants	☐	_____
Rent Office	☐	_____
Dept. of Bldgs.	☐	_____
Insurance Cos.	☐	_____
Others		_____
		_____
		_____

(H) ITEMS TO BE FORWARDED TO CLIENT

		date mailed
deed	☐	_____
mortgage	☐	_____
bond or note	☐	_____
Title policy	☐	_____
Ins. policy	☐	_____

Other: _____

_____

_____

Nassau County Clerk
RECORDS OFFICE
RECORDING PAGE

Deed Number (RETT):
RETT005938

DEED LIBER

Type of Instrument: Deed

Control No: 199410120808

PERKIN-ELMER CORP

SULZER METCO WESTBURY INC

Recorded: 10/12/1994
At: 11:44:26 AM
In Liber: 10476
Of: Deed Book
From Page: 0310
Through Page: 0313

Refers to Liber: 00000
Of:
Page: 0000

Location:	Section:	Block:	Lot:	Unit:
N. Hempstead (2822)	00000011	00329-00	00369	

EXAMINED AND CHARGED AS FOLLOWS:

Consider Amt $ 2,500,000.00

Received Following Fees For Above Instrument

			Exempt				Exempt
Recording	$	27.00	NO	State Fee	$	4.75	NO
Equal/Cty	$	5.00	NO	St.Fee/Cty	$	.25	NO
Gains Tax	$	1.00	NO	Trans Tax	$	10000.00	NO
Surchg/NYS	$	22.00	NO				
Surchg/Cty	$	3.00	NO				

Fees Paid: $ 10,063.00

Deed Number (RETT): RETT005938

THIS PAGE IS A PART OF THE INSTRUMENT

GAH001

Karen V. Murphy
County Clerk, Nassau County

Form [illegible]

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS O[illegible]

DEED LIBER 10476

10,000

THIS INDENTURE, made the 30th day of September, nineteen hundred and ninety four BETWEEN THE PERKIN-ELMER CORPORATION*, a New York corporation, having an address at 761 Main Avenue, Norwalk, CT 06859-0313

* AS SUCCESSOR BY MERGER TO METCO INC. PURSUANT TO CERTIFICATE OF MERGER FILED NOV. 13, 1985 WITH THE NEW YORK SECRETARY OF STATE

party of the first part, and SULZER METCO (WESTBURY) INC. Delaware corporation, having an address at c/o Sulzer Inc., 200 Park Avenue, New York, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the New Cassel, Town of Hempstead, County of Nassau, State of New York and commonly known as 1101 Prospect Avenue

Said Premises is more particularly described in Schedule A attached hereto and made a part hereof.

TAX MAP DESIGNATION

11

329

369

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

THE PERKIN-ELMER CORPORATION

John B. McBurnett

By:

Name: John B. McBurnett, Corp. Controller

DEED LIBER 10475

SCHEDULE "A"

ALL THAT CERTAIN PLOT, PIECE, OR PARCEL OF LAND, SITUATE, LYING, AND BEING AT NEW CASSEL, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED DISTANT 550.20 FEET WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST JOHN STREET AS WIDENED AND THE WESTERLY SIDE OF CATIAGUE LANE;

RUNNING THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS WEST ALONG THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED 611.18 FEET TO THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION;

THENCE NORTH 27 DEGREES 53 MINUTES 16 SECONDS WEST ALONG THE EASTERLY SIDE OF THE WANTAGH STATE PARKWAY EXTENSION, 470.14 FEET;

THENCE NORTH 75 DEGREES 09 MINUTES 50 SECONDS EAST 717.35 FEET;

THENCE SOUTH 14 DEGREES 50 MINUTES 10 SECONDS EAST, 458 FEET TO THE NORTHERLY SIDE OF WEST JOHN STREET, AS WIDENED, AT THE POINT OR PLACE OF BEGINNING.

FOR INFORMATION ONLY: SECTION: 11 BLOCK: 329 LOT: 369

Said Premises is conveyed subject to the following:

1. Agreement in Liber 6293 Page 204
2. Easement in Liber 5447 Page 515
3. Water Easement in Liber 6121 Page 60
4. Electric Easement in Liber 5545 Page 504
5. Covenant and Restriction in Liber 4054 Page 26 and Liber 4944 Page 359
6. Those matters disclosed on a survey made by Barrett Bonacci Hyman & VanWeeledated April 11,1994.
7. Current taxes, assessments and special assessments not yet due and payable
8. Laws, ordinances and governmental regulations (including without limitation building and zoning regulations) affecting said premises.

STATE OF NEW YORK)
) SS.
COUNTY OF NEW YORK)

On this, the 30th day of September, A.D. 1994, before me, the undersigned officer, personally came JOHN B. MCBRIDE to me known, who, being by me duly sworn, did depose and say that he resides at 761 MAIN, NORWALK, CT that he is the CORPORATE CONTROLLER of The Perkin-Elmer Corporation, the corporation described in and which executed the foregoing instrument.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:

FRANIA B. SHELLEY
NOTARY PUBLIC, State of New York
No. 31-4879542
Qualified in New York County
Certificate Filed in New York County
Commission expires Nov. 24, 1994

BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTORS ACTS THE PERKIN-ELMER CORPORATION Grantor, TO SULZER METCO (WESTBURY) INC. Grantee.	SECTION 11 BLOCK 339 LOT 369 COUNTY Dated: September 30, 1994

RECORD AND RETURN TO

CHICAGO TITLE INS. CO.
330 Old Country Road
Mineola, NY 11501-4122
ATTENTION: RECORDING DEPT.

NASSAU COUNTY
DEPARTMENT OF PUBLIC WORKS

APPLICATION FOR A PERMIT TO DISPOSE OF INDUSTRIAL WASTES BY SIGNIFICANT INDUSTRIAL USERS INTO NASSAU COUNTY POTW

[Reference Nassau County Sewer Ordinance 266-1985 and 40 CFR 403 in particular 40 CFR 403.12 - Copies Attached]

IPP ID#: 33116002

PART I. BASELINE MONITORING REPORT [BMR]

A. IDENTIFYING INFORMATION

1. Company Name: Metco Inc(Duffy Ave Plant)

2. Headquarter Address: 1101 Prospect Avenue
   Westbury NY 11590

3. Facility Address: 325 Duffy Avenue
   Hicksville NY 11801

4. Name and Title of
   Signing Official: Thomas Fisher
   General Manager

   Telephone: 516-334-1300

5. Alternate Person to Contact
   Concerning Information
   Provided Herein: Abraham Teicher
   Plant Engineering Supervisor

   Telephone: 516-334-1300

6. Name and Title of Person
   Completing the Application:

   Abraham Teicher, C.P.E.
   Supervisor, Plant Engineering

IPP 410 (3/86 Revised)

B. PERMITS

1. List all environmental control permits held by or for this facility:

NYDO 57731663 EPA Hazardous Material Generator

Nassau County Air Pollution Discharge Permits

C. DESCRIPTION OF OPERATIONS

1. Description of activities, facilities, and plant unit processes on the premises including all materials which are or could be discharged (into the Nassau County POTW):

Manufacture and testing of thermal spray equipment using various machine tools. During test firing, various metal wires or powders are used. A very small quantity of various metals is discharged with the contact cooling water used to cool the equipment. A copy of the laboratory report on the analysis of this water is attached.

2. List final product(s) produced by type, amount, process or processes and average rate of production:

Type	Amount/Year	Process Type	Average Rate of Production (Amount/Day)
Thermal Spray Equipment	$45,000.00	Machine Shop	200

3. List Standard Industrial Classification Code(s) for all processes:

3542
~~3563~~

IPP 410 (3/86 Revised)

C. PLANT OPERATIONAL CHARACTERISTICS (cont'd)

3. List number and function of employees (management, manufacturing, clerical):

Number	Function
7	Management
8	Clerical
61	Production

4. Shift Information:

a. Number of work shifts per work day: 1

b. Number of work days per week: 5

c. Average number of employees per shift:

1st: 2nd: 3rd:

Total: ~~XXX~~ 76

D. PRETREATMENT

1. List proposed or actual hours of operation of pretreatment system:

N.A.

2. Does your facility have a spill prevention program:

YES [x] NO [ ]

If so, please describe:

All hazardous wastes are collected in approved 55 gallon drums and stored in a secure area inside the building with no discharge to the outside ground. No more than six (6) drums are allowed to accumulate before they are disposed of by pick-up by a licensed hazardous waste hauler.

E. SEWER AND PERMIT INFORMATION

1. If your firm has ever submitted EPA Form 8700-12, or if your firm generates any residual waste(s) please complete the following:

Type of Waste	Amount/Year	Method of Disposal
Waste Solvent	300 gal.	Licensed Hauler
Waste Oil	150 gal.	" "

F. WASTEWATER CHARACTERISTIC INFORMATION

1. Priority Pollutant Information: Please indicate by placing an "x" in the appropriate box by each listed chemical whether it is "Suspected to be Absent," "Known to be Absent," "Suspected to be Present," or "Known to be Present" in your manufacturing or service activity or generated as a by-product. Some compounds may be known by other names. Please refer to Attachment V for those compounds which have an asterisk (*).

ITEM NO.	CHEMICAL COMPOUND	SUSPECT ABSENT	KNOWN ABSENT	SUSPECT PRESENT	KNOWN PRESENT
1.	asbestos(fibrous)	[ ]	[X]	[ ]	[ ]
2.	cyanide(total)	[ ]	[X]	[ ]	[ ]
3.	antimony(total)	[ ]	[X]	[ ]	[ ]
4.	arsenic(total)	[ ]	[X]	[ ]	[ ]
5.	beryllium(total)	[ ]	[X]	[ ]	[ ]
6.	cadmium(total)	[ ]	[ ]	[ ]	[X]
7.	chromium(total)	[ ]	[ ]	[ ]	[X]
8.	copper(total)	[ ]	[ ]	[ ]	[X]
9.	lead(total)	[ ]	[ ]	[ ]	[X]
10.	mercury(total)	[ ]	[X]	[ ]	[ ]
11.	nickel(total)	[ ]	[ ]	[ ]	[X]
12.	selenium(total)	[ ]	[X]	[ ]	[ ]
13.	silver(total)	[ ]	[X]	[ ]	[ ]
14.	thallium(total)	[ ]	[X]	[ ]	[ ]

ITEM NO.	CHEMICAL COMPOUND	SUSPECT ABSENT	KNOWN ABSENT	SUSPECT PRESENT	KNOWN PRESENT
15.	zinc(total)	[ ]	[ ]	[ ]	[X]
16.	acenaphthene	[ ]	[X]	[ ]	[ ]
17.	acenaphthylene	[ ]	[X]	[ ]	[ ]
18.	acrolein	[ ]	[X]	[ ]	[ ]
19.	acrylonitrile	[ ]	[X]	[ ]	[ ]
20.	aldrin	[ ]	[X]	[ ]	[ ]
21.	anthracene	[ ]	[X]	[ ]	[ ]
22.	benzene	[ ]	[ ]	[ ]	[X]
23.	benzidine	[ ]	[X]	[ ]	[ ]
24.	benzo(a)anthracene*	[ ]	[X]	[ ]	[ ]
25.	benzo(a)pyrene*	[ ]	[X]	[ ]	[ ]
26.	benzo(b)fluoranthene	[ ]	[X]	[ ]	[ ]
27.	benzo(g,h,i)perylene*	[ ]	[X]	[ ]	[ ]
28.	benzo(k)fluoranthene*	[ ]	[X]	[ ]	[ ]
29.	a-BHC(alpha)	[ ]	[X]	[ ]	[ ]
30.	b-BHC(beta)	[ ]	[X]	[ ]	[ ]
31.	d-BHC(delta)	[ ]	[X]	[ ]	[ ]
32.	g-BHC*(gamma)	[ ]	[X]	[ ]	[ ]
33.	bis(2-chloroethyl)ether*	[ ]	[X]	[ ]	[ ]
34.	bis(2-chloroethoxy)methane*	[ ]	[X]	[ ]	[ ]
35.	bis(2-chloroisopropyl)ether*	[ ]	[X]	[ ]	[ ]
36.	bis(chloromethyl)ether*	[ ]	[X]	[ ]	[ ]
37.	bis(2-ethylhexyl)phthalate*	[ ]	[X]	[ ]	[ ]
38.	bromodichloromethane*	[ ]	[ ]	[ ]	[X]
39.	bromoform*	[ ]	[ ]	[ ]	[X]
40.	bromomethane*	[ ]	[X]	[ ]	[ ]
41.	4-bromophenylphenyl ether	[ ]	[X]	[ ]	[ ]
42.	butylbenzyl phthalate	[ ]	[X]	[ ]	[ ]
43.	carbon tetrachloride*	[ ]	[ ]	[ ]	[X]
44.	chlordane	[ ]	[X]	[ ]	[ ]
45.	4-chloro-3-methylphenol*	[ ]	[X]	[ ]	[ ]
46.	chlorobenzene	[ ]	[X]	[ ]	[ ]
47.	chloroethane*	[ ]	[X]	[ ]	[ ]
48.	2-chloroethylvinyl ether	[ ]	[X]	[ ]	[ ]
49.	chloroform*	[ ]	[ ]	[ ]	[X]
50.	chloromethane*	[ ]	[X]	[ ]	[ ]
51.	2-chloronaphthalene	[ ]	[X]	[ ]	[ ]
52.	2-chlorophenol*	[ ]	[X]	[ ]	[ ]
53.	4-chlorophenylphenyl ether	[ ]	[X]	[ ]	[ ]
54.	chrysene*	[ ]	[X]	[ ]	[ ]
55.	4,4'-DDD*	[ ]	[X]	[ ]	[ ]
56.	4,4'-DDE*	[ ]	[X]	[ ]	[ ]
57.	4,4'-DDT*	[ ]	[X]	[ ]	[ ]
58.	dibenzo(a,h)anthracene*	[ ]	[X]	[ ]	[ ]
59.	dibromochloromethane*	[ ]	[X]	[ ]	[ ]
60.	1,2-dichlorobenzene*	[ ]	[ ]	[X]	[ ]
61.	1,3-dichlorobenzene*	[ ]	[ ]	[X]	[ ]
62.	1,4-dichlorobenzene*	[ ]	[ ]	[X]	[ ]
63.	3,3'-dichlorobenzidine	[ ]	[ ]	[X]	[ ]

IPP 410 (3/86 Revised)

ITEM NO.	CHEMICAL COMPOUND	SUSPECT ABSENT	KNOWN ABSENT	SUSPECT PRESENT	KNOWN PRESENT
64.	dichlorodifluoromethane*	[ ]	[X]	[ ]	[ ]
65.	1,1-dichloroethane*	[ ]	[ ]	[ ]	[X]
66.	1,2-dichloroethane*	[ ]	[ ]	[ ]	[X]
67.	1,1-dichloroethene*	[ ]	[X]	[ ]	[ ]
68.	trans-1,2-dichloroethene*	[ ]	[X]	[ ]	[ ]
69.	2,4-dichlorophenol	[ ]	[X]	[ ]	[ ]
70.	1,2-dichloropropane*	[ ]	[X]	[ ]	[ ]
71.	(cis & trans) 1,3-dichloropropene*	[ ]	[X]	[ ]	[ ]
72.	dieldrin	[ ]	[X]	[ ]	[ ]
73.	diethyl phthalate*	[ ]	[X]	[ ]	[ ]
74.	2,4-dimethylphenol*	[ ]	[X]	[ ]	[ ]
75.	dimethyl phthalate	[ ]	[X]	[ ]	[ ]
76.	di-n-butyl phthalate	[ ]	[X]	[ ]	[ ]
77.	di-n-octyl phthalate*	[ ]	[X]	[ ]	[ ]
78.	4,6-dinitro-2-methylphenol*	[ ]	[X]	[ ]	[ ]
79.	2,4-dinitrophenol	[ ]	[X]	[ ]	[ ]
80.	2,4-dinitrotoluene	[ ]	[X]	[ ]	[ ]
81.	2,6-dinitrotoluene	[ ]	[X]	[ ]	[ ]
82.	1,2-diphenylhydrazine*	[ ]	[X]	[ ]	[ ]
83.	endosulfan I*	[ ]	[X]	[ ]	[ ]
84.	endosulfan II*	[ ]	[X]	[ ]	[ ]
85.	endosulfan sulfate	[ ]	[X]	[ ]	[ ]
86.	endrin	[ ]	[X]	[ ]	[ ]
87.	endrin aldehyde	[ ]	[X]	[ ]	[ ]
88.	ethylbenzene	[ ]	[ ]	[ ]	[X]
89.	fluoranthene	[ ]	[X]	[ ]	[ ]
90.	fluorene*	[ ]	[X]	[ ]	[ ]
91.	heptachlor	[ ]	[X]	[ ]	[ ]
92.	heptachlor epoxide	[ ]	[X]	[ ]	[ ]
93.	hexachlorobenzene*	[ ]	[X]	[ ]	[ ]
94.	hexachlorobutadiene	[ ]	[X]	[ ]	[ ]
95.	hexachlorocyclopentadiene*	[ ]	[X]	[ ]	[ ]
96.	hexachloroethane*	[ ]	[X]	[ ]	[ ]
97.	indeno(1,2,3-cd)pyrene*	[ ]	[X]	[ ]	[ ]
98.	isophorone*	[ ]	[X]	[ ]	[ ]
99.	methylene chloride*	[ ]	[ ]	[ ]	[X]
100.	naphthalene	[ ]	[X]	[ ]	[ ]
101.	nitrobenzene	[ ]	[X]	[ ]	[ ]
102.	2-nitrophenol*	[ ]	[X]	[ ]	[ ]
103.	4-nitrophenol*	[ ]	[X]	[ ]	[ ]
104.	N-nitrosodimethylamine*	[ ]	[X]	[ ]	[ ]
105.	N-nitrosodi-n-propylamine*	[ ]	[X]	[ ]	[ ]
106.	N-nitrosodiphenylamine*	[ ]	[X]	[ ]	[ ]
107.	PCB-1016*	[ ]	[X]	[ ]	[ ]
108.	PCB-1221*	[ ]	[X]	[ ]	[ ]
109.	PCB-1232*	[ ]	[X]	[ ]	[ ]
110.	PCB-1242*	[ ]	[X]	[ ]	[ ]
111.	PCB-1248*	[ ]	[X]	[ ]	[ ]

IPP 410 (3/86 Revised)

ITEM NO.	CHEMICAL COMPOUND	SUSPECT ABSENT	KNOWN ABSENT	SUSPECT PRESENT	KNOWN PRESENT
112.	PCB-1254*	[ ]	[X]	[ ]	[ ]
113.	PCB-1260*	[ ]	[X]	[ ]	[ ]
114.	pentachlorophenol	[ ]	[X]	[ ]	[ ]
115.	phenanthrene	[ ]	[X]	[ ]	[ ]
116.	phenol	[ ]	[X]	[ ]	[ ]
117.	pyrene	[ ]	[X]	[ ]	[ ]
118.	2,3,7,8-tetrachlorodibenzo-p-dioxin*	[ ]	[X]	[ ]	[ ]
119.	1,1,2,2-tetrachloroethane*	[ ]	[X]	[ ]	[ ]
120.	tetrachloroethene*	[ ]	[ ]	[ ]	[X]
121.	toluene*	[ ]	[ ]	[ ]	[X]
122.	toxaphene	[ ]	[X]	[ ]	[ ]
123.	1,2,4-trichlorobenzene	[ ]	[X]	[ ]	[ ]
124.	1,1,1-trichloroethane*	[ ]	[ ]	[ ]	[X]
125.	1,1,2-trichloroethane*	[ ]	[X]	[ ]	[ ]
126.	trichloroethene*	[ ]	[X]	[ ]	[ ]
127.	trichlorofluoromethane*	[ ]	[X]	[ ]	[ ]
128.	2,4,6-trichlorophenol	[ ]	[X]	[ ]	[ ]
129.	vinyl chloride*	[ ]	[ ]	[ ]	[X]

2. For chemical compounds in F.1 which are indicated to be "Known Present", please list and provide the following data for each:

ITEM NO.	CHEMICAL COMPOUND	ANNUAL USAGE	ESTIMATED LOSS TO SEWER
6	cadmium	0	mg/L <0.001 day
7	chromium	2000 lbs.	mg/L <0.02 day
8	copper	50000 lbs.	mg/L 0.12 day
9	lead	0	mg/L <0.005 day
11	nickel	2000 lbs	mg/L <0.10 day
15	zinc	0	mg/L 0.18 day
22	benzene	0	ug/L <1 day
38	bromodichloromethane	0	ug/L <1 day
39	bromoform	0	ug/L <2 day
43	carbon tetrachloride	0	ug/L <1 day
49	chloroform	0	ug/L <1 day
65	1,1-dichloroethane	0	ug/L 8 day
66	1,2-dichloroethane	0	ug/L 10 day
88	ethylbenzene	0	ug/L <1 day
99	methylene chloride	0	ug/L <2 day

Note: Items marked "0" usage are found in incoming well water. Nothing used in this building could generate those chemicals.

IPP 410 (3/86 Revised)

PART III. CERTIFICATION

(1) Qualified Professional Certification -

I hereby certify under penalty of law that this information was obtained in accordance with the applicable procedures and requirements specified in the General Pretreatment Regulations and amendments thereto. I am fully aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

_____

Name (Please print) Signature

_____

Title Date Phone Number

(2) Authorized Representative Statement -

I certify under penalty of law that I have personally examined and am familiar with the information contained in this report and all attachments therein. Furthermore, based on my inquiry of those persons immediately responsible for obtaining the information contained in this report, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I further certify that the reported sampling results are representative of the facility's normal work cycles and expected pollutant discharges.

Abraham Teicher

Name (Please print) Signature

Supervisor, Plant Engineering 11/18/86 516-334-1300

Title Date Phone Number

(1) Qualified Professional - It is strongly suggested that you retain the services of a licensed engineer experienced in the sanitary or environmental field. If the `qualified professional' (whether engaged by or an employee of the firm) is not a licensed engineer, a statement describing the person's qualifications must be included with your submission.

(2) Authorized Firm Representative - A principal executive (of at least the level of vice president) if the facility is owned by a corporation, or a general partner or proprietor if the facility is not a corporation.

IPP 410 (3/86 Revised)

ECOTEST LABORATORIES, INC. ENVIRONMENTAL TESTING

377 SHEFFIELD AVE. • N. BABYLON, N.Y. 11703 • (516) 422-5777

LAB NO. C862061/3 11/03/86

Metco
1101 Prospect Av.
Westbury, NY 11590
ATTN: Abe Teicher

PO# 59326 YB

SOURCE OF SAMPLE: Metco plant at Duffy Ave.
COLLECTED BY: Client DATE COL'D: RECEIVED: 10/01/86

SAMPLE: Wastewater 8hr compisite

ANALYTICAL PARAMETERS

Vinyl Chloride	ug/L	<1
Freon 113	ug/L	<1
Methylene Chloride	ug/L	<2
11 Dichloroethane	ug/L	8
12 Dichloroethene	ug/L	10
Chloroform	ug/L	<1
111 Trichloroethane	ug/L	1600
Carbon Tetrachloride	ug/L	<1
12 Dichloroethane	ug/L	<2
Trichloroethylene	ug/L	55
12 Dichloropropane	ug/L	<2
Bromodichloromethane	ug/L	<1
Tetrachloroethene	ug/L	47
Chlorodibromomethane	ug/L	<1
Bromoform	ug/L	<2
Benzene	ug/L	<1
Toluene	ug/L	<2
Ethyl Benzene	ug/L	<1
m Xylene	ug/L	<2
o+p Xylene	ug/L	<4
m Dichlorobenzene	ug/L	<2
o Dichlorobenzene	ug/L	<2
p Dichlorobenzene	ug/L	<2

pH units 6.5

ANALYTICAL PARAMETERS

COD	mg/L	<40
Tot Dissolved Solids	mg/L	210
Tot Suspended Solids	mg/L	<4
Cadmium as Cd	mg/L	<0.001
Chromium as Cr	mg/L	<0.02
Copper as Cu	mg/L	0.12
Iron as Fe	mg/L	0.08
Lead as Pb	mg/L	<0.005
Nickel as Ni	mg/L	<0.10
Zinc as Zn	mg/L	0.18
Manganese as Mn	mg/L	0.02
Oil and Grease	mg/L	<1.0

cc:

REMARKS: Sample contains 100 ug/L of 11Dichloroethene.

DIRECTOR Thomas R. Jenette

rn= 6202

METCO INC.

1101 PROSPECT AVENUE
WESTBURY, NEW YORK 11590
TELEPHONE: (516) 334-1300
CABLE: METCO
TELEX: 96-7759 METCO INC. WERY

March 11, 1986

Mr. Andrew R. Yerman, P.E.
Associate Sanitary Engineer
New York State Department of Environmental Conservation
Building 40 SUNY
Stony Brook, New York 11794

Dear Mr. Yerman:

In reply to your letter of February 25, 1986 and our telephone conversation on Tuesday March 4, 1986, I would like to reiterate what we discussed.

At the Duffy Avenue Building, the source of water is a deep well. This well has always been contaminated with chlorinated solvents. The Nassau County Department of Health has monitored this over the past seven years that METCO has owned this facility. The level of contamination has not decreased to my knowledge. This well water is used on a once through basis and no treatment is permitted. During the air conditioning season the well water is used for plant cooling and cooling of the air conditioning equipment. This water will continue to be discharged to the recharge basin located on our property. This non contact cooling water is not permitted to be discharged into the municipal sewer system. Use of this well is covered by our state permit for the well.

As far as the large amount of zinc that you mentioned, we have monitored this discharge ever since we started to operate this building. The analysis is done by an outside laboratory service. After reviewing all the reports I cannot find any time where the amount of zinc in the discharge water ever exceeded 1 mg/l. I suggest that you examine your test procedure or resample this discharge.

As I mentioned to you on the phone, the discharge from this building was sampled by the Nassau County Department of Public Works and no conditions were found that would not permit us to hook up to the sewer system.

As to the Miller Place discharge, I cannot explain the finding of nitrogen in the water. Nothing in our manufacturing process generates nitrogen. Tuluol is used in one of the products in very small quantities. However all of this solvent is recovered and disposed of as a hazardous waste to a licensed scavenger. I cannot explain how you were able to find toluol in the discharge water as the two processes are widely seperated. The Nassau County Department of Public works did sample the water discharge and approved it for connection to the county sewage system.

continued....

I hope that I have supplied you with sufficient information to remove the alleged violations from both buildings, if you require any additional information please contact me.

Very truly yours,

Abraham Teicher
Supervisor,
Plant Engineering

AT:gl

NASSAU COUNTY
DEPARTMENT OF PUBLIC WORKS

Division of Sanitation and Water Supply
INDUSTRIAL PRETREATMENT PROGRAM

FIELD INSPECTION REPORT

Permit No. N/A

Name of Inspector: JOE MILITO / INNA ARGOVICH Date: 08/23/88 Time: 11:00

Company name: METCO INC (DUFFY AVE. PLANT)

Facility address: 325 DUFFY AVE, HICKSVILLE, NY 11301

Company officials providing information: PATRICK A TIGHE, OPERATIONS ADMINISTRATOR
~~BOB HOIEBSCH (LEAD TECH)~~

Business description: THERMAL SPRAY EQUIPMENT MANUFACTURING AND TESTING (90% MACHINE SHOP)

No. of employees: 85 Hours per day: 8/4 Days per wk: 6

Description of processes (include flow diagram and chemicals used):
NO WATER IS USED FOR MANUFACTURING; ALL CUTTING OIL SOLUTIONS ARE DISPOSED AS HAZARDOUS WASTE.

IT IS A MACHINE SHOP AND ASSEMBLY OF THERMAL SPRAY EQUIPMENT.

	Yes	No
Were any changes made in the process during last year:	[]	[]

If yes, explain:

Description of all wastestreams (source, volume, point of discharge):
THERE ARE 3 SOURCES OF INDUSTRIAL WATER USE:
1) NON-CONTACT COOLING WATER OF THE DEGREASER (1,1,1-TRICHLOROETHANE)
2) CONTACT-COOLING WATER FROM SPRAY GUN TESTING (EIGHT BOOTHS) USED ON NON-CONSISTENT BASIS. ONLY OVERFLOW FROM SCRUBBING EQUIPMENT IS DISCHARGED TO THE SEWER, SLUDGE IS DISPOSED AS HAZARDOUS WASTE IN 55-GAL. DRUMS
3) WASHING DOWN OF EQUIPMENT

Has average daily industrial flow changed?	[X]	[]

If yes, how? 1986 – 3,170 GPD REASONS: a) PRODUCTION WAS INCREASED
1988 – 9,425 GPD b) NEW EQUIPMENT USING MORE WATER

Has total wastewater discharge changed?	[X]	[]

If yes, how: INCREASED

Description of pretreatment: ALL INDUSTRIAL WASTEWATER IS COLLECTED IN "DISTRIBUTION BOX" OR MANHOLE, IN SOUTH-EAST CORNER OF THE BUILDING. THE TRAP IS USED FOR SEDIMENTATION OF METALLIC PARTICLES.

Were any changes made in pretreatment?	[]	[X]

If yes, explain:

Is pretreatment adequate?	[X]	[]

	N/A	Yes	No
Was Schedule of Compliance fulfilled?	[X]	[]	[]

List tasks and dates: _____

Hazardous waste hauled away during last year:

Type	Amount (gal/lb)
METAL WASTE	10-15 DRUMS
CUTTING OIL & SOLVIENT	

Hazardous waste haulers:

Name	EPA ID #

Are any toxic organics used at the facility:	[X]	[]
Are any toxic organics used in the process:	[]	[X]

List them: 1,1,1-TRICHLOROETHANE (DEGREASER)

Location of chemical storage and condition: IN WAREHOUSE (IN THE CORNER) ~~AND OT~~ AND IN PAINT ROOM

Location of hazardous waste storage and condition: ON LOADING DOCK

Description of spill prevention: NO DRAINS

Is Spill Prevention and Solvents Management adequate?	[X]	[]

Evaluation of housekeeping in general: GOOD

SELF-MONITORING

Frequency: _____ Required: N/A [] []

Analysis performed by: _____

Are self-monitoring equipment and methods adequate?	[]	[]

If no, explain: _____

Describe sampling location(s): MANHOLE AT NORTH-CENTER OF THE BLDG.
(Note sampling locations on flow diagram) BEFORE CONNECTION TO THE PUBLIC SEWER AT DUFFY AVENUE

Noted deficiencies: NONE

Proposed and/or suggested remedial actions: NONE

Signatures: County Inspector: [signature] Date: 09/01/88
Company Official: [signature] Date: 9/8/88
Title: Maintenance Supv.
Reviewed by Chief Chemist: _____ Date: _____

Encl.: [] []