



Auburn Industrial
Development Authority

MEETING MINUTES
AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY
Wednesday, June 11, 2014 @ 5:00 PM
3rd Floor Training Room
Memorial City Hall

Board Present: Frank DeRosa (Member At Large)
William André (Member of Labor)
Michael Kane (Member of Industry)
Sue Chandler, (Member at Large)
James Dacey (Chair & Member of Business)

Excused: Amanda Grover (School Board Member)
Tricia Ottley (Member At Large)
Mike Quill (Council Member)
Terry Cuddy (Council Member)

Staff: Andrew Fish, CEDA Executive Director
Jennifer Haines, Director, OPED
Rick Cook, Corporation Counsel
Alicia McKeen, Secretary

Jim Dacey calls the meeting to order at 5:03. First agenda item is a resolution for WST33, LLC Mortgage Request.

Andrew Fish: They are changing the property description only, it does not affect the PILOT agreement or any financials.

Rick Cook: There were boundary issues between the applicant and a neighbor that has been resolved and the applicant's boundary lines have changed.

Chair asks for a motion for amendment 1, lease/leaseback agreement. So moved by Mike Kane, seconded by Frank DeRosa. Roll call vote. Motion carried.

Resolution approving execution by AIDA of a mortgage, mortgage tax affidavit, assignment of rents, security agreement and related documents.

Chair asks for a motion accepting the resolution. So moved by Mike Kane, seconded by Sue Chandler.

James A. Dacey
Chairman

24 South Street
Auburn, NY 13021

PHONE
(315) 255-4115

FAX
(315) 253-0282

Rick Cook: Explains the resolution in more detail. States that everything is in order and that, again, AIDA will not be held liable.

Roll call vote. Motion carried.

Agenda Item 2:

Regularly Scheduled Meetings.

Jim Dacey: This has been discussed in the past. There are pluses to the idea but by nature of the business a set schedule is difficult. We should make this a part of discussions for the future.

Andrew Fish: There is a time for special meetings but in speaking with prospective developers I want to be able to give them a set time schedule to work toward instead of calling a special meeting for each individual. There are other items to be discussed at regular meetings such as PILOT monitoring, cost benefit analyses, etc. I propose the third Wednesday of each month which we can discuss more fully when a full board is available.

Jennifer Haines: Trish made a good point in an e-mail about coordinating with the Planning Board and the Zoning Board of Appeals. The third Wednesday would work well in doing that.

Next meeting date set for July 16, 2014 at 5:00 p.m.

Andrew Fish: For the next meeting we will be bringing a draft for PILOT monitoring and talk about cost benefit analyses. We wanted to get that done this month but will have it sent out for next month's meeting.

Staff Transition Update.

Andrew Fish: Jenny has been great in getting files together. Attic archives will remain at City Hall but current files will be transferred to 2 State St. Rick Cook has researched and City Treasurer Bob Gauthier will remain as signatory.

Also, meeting location. It is fine to continue meeting here but we have a nice conference room at 2 State St. I would recommend continuing to use Council Chambers for public hearings. I will leave that decision to the board. We just need to change the mailing address on all pertinent documents.

Jim Dacey: Suggests having the next meeting at 2 State St. for the board to get a feel for it and help make a decision of where to meet in the future.

Motion to adjourn by Mike Kane, seconded by Frank DeRosa.

Meeting adjourned at 5:20.

RESOLUTION
(WST33, LLC Project)

The Auburn Industrial Development Authority met in special session at the Memorial City Hall, 24 South Street, in the City of Auburn, on June ___, 2014, at __:__.m., local time.

RESOLUTION NO. ____

**RESOLUTION APPROVING EXECUTION BY THE AUBURN
INDUSTRIAL DEVELOPMENT AUTHORITY (THE "AUTHORITY") OF
A MORTGAGE, MORTGAGE TAX AFFIDAVIT, ASSIGNMENT OF
RENTS, SECURITY AGREEMENT AND RELATED DOCUMENTS FOR
THE BENEFIT OF WST33, LLC**

WHEREAS, WST33, LLC (the "**Company**") and the Authority have entered into a Lease Agreement and Leaseback Agreements each dated as of September 1, 2013 (collectively, the "**Lease/Leaseback Agreement**") whereby the Company leased the Facility (as defined in the Lease/Leaseback Agreement) to the Authority and the Company agreed to lease the Facility back from the Authority on the terms and conditions set forth therein; and

WHEREAS, the Company has requested the Authority to join in a mortgage (the "**Mortgage**") on the Facility, in favor of First Niagara Bank, N.A. (the "**Lender**") securing a new building loan in the aggregate amount of Two Million Six Hundred Eighty Thousand Dollars and 00/100 (\$2,680,000) to be made available to the Company by the Lender; and

WHEREAS, the Company has also requested the Authority to join in a security agreement and assignment of rents with respect to the Facility (the "**Security Agreement**" and the "**Assignment of Rents**", respectively, and together with the Mortgage, the "**Loan Documents**"); and

WHEREAS, the Authority desires to encourage the Company to preserve and advance the job opportunities, health, general property and economic welfare of the people of the City of Auburn, New York by retaining the Facility in the City of Auburn; and

WHEREAS, the execution of the Loan Documents will help to improve the Facility and enhance opportunities for the citizens of the City of Auburn.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE
AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY AS FOLLOWS:**

1. That this Authority hereby approves the Loan Documents in substantially the form presented to this meeting with such changes, variations, omissions and insertions as the officer of the Authority executing same shall approve, the execution thereof by such officer to constitute conclusive evidence of such approval; and be it further

2. That the Chairman, Vice Chairman or any other officer of this Authority be and the same is hereby authorized to execute the Loan Documents, a Mortgage Tax Affidavit and such other documents and agreements as may be necessary to carry out the intent of these resolutions; and be it further
3. That 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:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
James A. Dacey, Chairman				
Michael Kane, Vice Chairman				
Sue Chandler, Secretary				
Terry Cuddy, Member				
Michael Quill, Member				
Tricia Ottley, Member				
William Andre, Member				
Amanda Grover, Member				
Frank DeRosa, Member				

This Resolution was thereupon duly adopted.

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

I, the undersigned Secretary of the Auburn Industrial Development Authority, do hereby certify:

That I have compared the foregoing extract of the minutes of the meeting of the members of the Auburn Industrial Development Authority (the "**Authority**"), including the Resolution contained therein, held on June ___, 2014, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (i) all members of the Authority had due notice of said meeting, (ii) said meeting was in all respects duly held, (iii) pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and public notice of the time and place of said meeting was given in accordance with said Article 7 and (iv) there was a quorum of the members of the Authority 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 said Authority this ____ day of June, 2014.

**AUBURN INDUSTRIAL
DEVELOPMENT AUTHORITY**

By: _____
Sue Chandler, Secretary

IN THE MATTER OF TAXATION

of

MORTGAGE TAX AFFIDAVIT

WST33, LLC PROJECT

STATE OF NEW YORK)
COUNTY OF CAYUGA) ss.:

JAMES A. DACEY, being duly sworn, deposes and says:

1. That he is the Chairman of the Auburn Industrial Development Authority (the "**Authority**"), a public benefit corporation of the State of New York, established by the Auburn Industrial Development Authority Act, Chapter 915 of the 1969 Laws of New York constituting Title 15 of Article 8 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of New York, as amended (the "**Act**").

2. That the Authority has acquired a leasehold interest in certain land located in the City of Auburn, Cayuga County, New York described in Exhibit "A" hereto and will undertake a project (the "**Project**") for the benefit of WST33, LLC (the "**Company**") consisting of: (i) the acquisition of approximately 0.769 acres of land located at 161 Genesee Street (the "**Land**") improved by 1 building totaling approximately 8,000 square feet (the "**Existing Improvements**"); (ii) demolition of the Existing Improvements; (iii) construction on the Land of a new 20,000 square foot building (the "**Building**") and parking improvements (the "Parking Improvements" and, together with the Building, the "**Improvements**"); and (iv) the acquisition and installation in and around the Building by the Company of certain items of machinery, equipment and other tangible personal property (the "**Equipment**" and, together with the Land and the Improvements, the "**Facility**").

3. That the Authority entered into a Lease Agreement dated as of September 1, 2013 (the "**Lease Agreement**") with the Company whereby the Authority acquired a leasehold interest in the Facility from the Company. The terms of the Lease Agreement are set forth in a Memorandum of Lease Agreement dated as of September 1, 2013 (the "**Memorandum of Lease**").

4. That the Authority entered into a Leaseback Agreement dated as of September 1, 2013 (the "**Leaseback Agreement**") with the Company whereby the Company leased the Facility back from the Authority. The terms of the Leaseback Agreement are set forth in a Memorandum of Leaseback Agreement dated as of September 1, 2013 (the "**Memorandum of Leaseback**").

5. That the Company's obligations under and pursuant to a certain Promissory Note dated on or about the date hereof in the original principal amount of Two Million Six Hundred Eighty Thousand Dollars and 00/100 (\$2,680,000.00) by the Company in favor of First Niagara Bank, N.A. (the "**Bank**") executed in connection with the Project will be secured by a Mortgage dated this date (the "**Mortgage**") and an Assignment of Rents dated this date (the "**Assignment of Rents**") made by the Company and the Authority in favor of the Bank.

6. That pursuant to the provisions of the Leaseback Agreement, the Authority is required to record the Memorandum of Lease, the Memorandum of Leaseback, the Mortgage, the Assignment of Rents and to file any related Uniform Commercial Code financing statements, in the office of the Clerk of Cayuga County, New York and such other places as may be provided by law as the proper place for the recordation or filing thereof.

7. That pursuant to Article 8 of the Public Authorities Law of the State of New York, the Authority is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities, and any bonds or notes issued by the Authority, together with the income therefrom, as well as the property of the Authority, pursuant to such legislation, are exempt from taxation, except for transfer and estate taxes.

8. That deponent submits that no mortgage tax should be imposed upon the Lease Agreement, the Memorandum of Lease, the Leaseback Agreement, the Memorandum of Leaseback, the Mortgage or the Assignment of Rents (collectively, the "**Financing Documents**"), inasmuch as the Financing Documents are being executed and delivered under the state authority creating the Authority, and inasmuch as both the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

JAMES A. DACEY

Sworn to before me this
___ day of _____, 2014.

NOTARY PUBLIC

EXHIBIT "A"

Property Description

WHEN RECORDED, RETURN TO:
Boyle & Anderson, P.C.
110 Genesee Street, Suite 300
Auburn, New York 13021

Property Address: 161 Genesee Street
City of Auburn, New York

Tax ID Number(s): 115.60-2-67.1



MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT is made as of June _____, 2014 (as amended, supplemented, replaced or otherwise modified, the "Mortgage") by WST33, LLC, a limited liability company organized under the laws of New York State, with an address of 69 South Street, Auburn, New York 13021 ("Mortgagor"); and AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY, a public benefit corporation established and existing under the laws of the State of New York having its office at 24 South Street, Memorial City Hall, Auburn, New York 13021 ("Authority") to FIRST NIAGARA BANK, N.A., a national banking association, with a banking office at 726 Exchange Street, Buffalo, NY 14210, Attention: Commercial Loan Administration ("Mortgagee").

ARTICLE I. Definitions

The following terms shall have the following respective meanings when used herein.

1.1 **Awards:** Any and all awards heretofore or hereafter made by any federal, state, county, municipal or other governmental authority, or by whomsoever made in any condemnation, eminent domain, or equivalent proceeding, to the present or subsequent owners of any interest encumbered by this Mortgage for the acquisition for public purposes of said interest, or any portion thereof, and for severance and consequential damages on account thereof, including any award for any change of grade of any street affecting said interest, and also any award for any damage to said interest; and all proceeds of insurance on or in connection with the Real Property, the Fixtures, and the Improvements.

1.2 **Improvements:** All buildings, structures and other improvements now or hereafter constructed or located on the Real Property and any related Fixtures.

1.3 **Indebtedness:** All indebtedness and other liabilities of Mortgagor to Mortgagee and affiliates of Mortgagee, now owing or existing or hereunder incurred or created, originally contracted with Mortgagee or with others, and all amendments, extensions, renewals and replacements of any of the foregoing, including, without limitation, all charges, expenses, commitment or facility fees arising under the Note, this Mortgage or any other loan documents evidencing or securing the loan, collateral management or other fees, treasury management obligations, foreign exchange obligations, obligations due pursuant to any Interest Rate Protection Agreement entered into by Mortgagor, reasonable attorneys' fees and expenses relating to collection of the foregoing and any other amount payable by Mortgagor under this Mortgage and any other agreement between the parties whether executed in connection herewith or otherwise; provided, however, that the maximum principal amount secured by this Mortgage does not, and shall not under any contingency, exceed Two Million Six Hundred Eighty Thousand and 00/100ths (\$2,680,000.00) U.S. Dollars.

1.4 **Interest Rate Protection Agreement:** Any agreement, device or arrangement designed to protect such Mortgagor from fluctuations of interest rates, exchange rates or forward rates, including, but not limited to, dollar-denominated or cross-currency exchange agreements, forward currency exchange agreements, interest rate caps, collars or floors, forward rate currency or interest rate options, puts, warrants, swaps, swaptions, U.S. Treasury locks and U.S. Treasury options, and any and all cancellations, buybacks, reversals, terminations or assignments of any of the foregoing.

1.5 **Loan Agreement:** The Loan Agreement dated as of June _____, 2014, between Mortgagor and Mortgagee as such agreement may be amended or supplemented from time to time.

1.6 **Note:** The promissory note dated of even date herewith made by Mortgagor payable to the order of Mortgagee in the principal sum of \$2,680,000.00, plus interest and other sums as provided therein, and all extensions, modifications, renewals and replacements thereof.

1.7 **Fixtures:** All fixtures and all personal property now or hereafter affixed to or installed on the Real Property or the Improvements, including without limitation, heating, ventilation, air conditioning, plumbing, gas and electric fixtures and equipment, engines, motors, incinerators, pumps, fire prevention equipment and floor coverings, now owned or hereafter acquired, all insurance policies covering the Premises and the proceeds thereof, all insurance, conversion and condemnation awards and the Improvements, all lease, rental and sale agreements related to the Real Property and Improvements, any security deposits, down payments and any other payments related to the Real Property, all income or profit, all contracts related to the Premises, all books and records, all options or agreements, all plans and specifications and all renewals and replacements thereof and articles in substitution therefor and all proceeds thereof (collectively, the "Fixtures"). All capitalized terms defined in the Uniform Commercial Code in New York State shall have the same meanings in this definition.

1.8 **Premises:** The Real Property, Improvements, Fixtures, Rents and Avars.

1.9 **Real Property:** The land described on Schedule A attached hereto; all appurtenances and all the estate and rights of Mortgagor thereto; all the right, title, and interest of Mortgagor in and to all streets, alleys, highways, public ways, and waterways adjacent thereto; and all public and private easements and rights of way now or hereafter benefiting, existing, or used or useable in connection therewith.

1.10 **Rents:** All credits, cash, deposits (whether for security or otherwise), rents, advance rentals, issues, profits revenues, royalties, fees, charges, accounts, benefits and other payments and income of every nature of and from any portion of the Premises, including, without limitation, minimum rents, additional rents, termination payments, forfeited security deposits, liquidated damages following an Event of Default or demand, as applicable, and all proceeds payable under any policy of insurance covering loss or rents resulting from untenantability due to destruction or damage to the Premises, or any part thereof, together with the immediate and continuing right to collect and receive the same, whether due or hereafter becoming due, and together with all rights and claims of any kind that Mortgagor may have against any tenant, lessee or licensee under the leases or against any other occupant of the Real Property or Improvements, and all rents, oil and gas or other mineral royalties, revenues, fees, charges, accounts and other payments, and bonuses, issues and profits from any portion of the Premises.

ARTICLE II. Grant of Mortgage

To secure the payment of the Indebtedness to Mortgagee, Mortgagor hereby grants a security interest in and to, and mortgages, the Premises to Mortgagee.

ARTICLE III. Covenants and Representations of Mortgagor

Mortgagor covenants and agrees with, and represents to, Mortgagee and Authority as follows:

3.1 **Payment of Indebtedness:** Mortgagor will pay the Indebtedness when and as due.

3.2 **Payment of Taxes and Assessments:** Mortgagor will pay prior to the addition of any penalty or interest thereon all taxes, assessments, payments in lieu of taxes, charges, sewer bills and water rates, levied against the Premises or levied upon or by reason of the recording of this Mortgage or the recording of any supplemental instrument or agreement (collectively, "Taxes") and provide Mortgagee with copies of receipts for the payment thereof.

3.3 **Insurance:** Mortgagor will keep the Premises continuously insured for the benefit of, and by insurers acceptable to, Mortgagee against such risks and in such form and amount as Mortgagee may from time to time require with deductibles acceptable to Mortgagee. Mortgagor will maintain flood insurance and fire, vandalism, earthquake (if requested), loss of rents and extended coverage casualty insurance for the full replacement value of the buildings and other improvements on the Premises. Mortgagor shall also maintain comprehensive general public liability insurance in such amounts as are acceptable to Mortgagee. Mortgagor will have endorsed on such policies a standard mortgagee and lender loss payee clause in the name of Mortgagee and provide that all moneys payable pursuant to such insurance be payable to Mortgagee, its successors and/or assigns as its interests may appear. Mortgagor will deliver each policy to Mortgagee. All insurance required hereunder shall be placed with companies having a Best rating of "A" or better with a size class rating of XIV or larger. Acceptance of any insurance policy shall not constitute approval by Mortgagee of the insurer, coverage, form, amount or sufficiency of the policy. Mortgagor will comply promptly with all applicable requirements of any insurance rating authorities. Mortgagor will give immediate notice to Mortgagee of any damage by fire or other casualty to the Premises. Any insurance proceeds received by Mortgagee may, at Mortgagee's sole option, be paid wholly or in part to finance repair or replacement of improvements to the Premises or for other purposes proposed by Mortgagor which are acceptable to Mortgagee, without affecting the lien of this Mortgage for the full amount of Indebtedness owing prior to receipt of such proceeds, or may be applied by Mortgagee on the Indebtedness. If the Premises is located in an area which has been identified by any governmental agency, authority or body as a flood hazard area or the like, then Mortgagor shall maintain a flood insurance policy covering the Premises in an amount not less than the original principal amount of the Indebtedness secured hereunder or the maximum limit of coverage available under the federal program, whichever amount is less.

3.4 **Statement of Amount Due:** Mortgagor will within ten (10) days of receipt of Mortgagee's request, furnish a written statement duly acknowledged of the amount due on this Mortgage and whether any offsets or defenses exist against the Indebtedness.

3.5 **Notice of Transfer or Casualty:** Mortgagor will give immediate notice to Mortgagee of any damage by fire or other casualty to the Premises or of any conveyance, transfer or change of ownership of the Premises or any part thereof or interest therein.

3.6 **Demolition or Alteration:** Mortgagor will not remove, replace (except for replacements in the ordinary course of business), demolish or structurally alter any of the Improvements without the prior written consent of Mortgagee.

3.7 **Inspection:** Mortgagor will comply with all government requirements respecting the Premises and will not use the Premises in any way that violates any law, ordinance, rule, regulation or requirement, or in any way that violates any enforceable restrictive covenant on the use of the Premises. Mortgagor will keep and maintain all Improvements, Fixtures and other property constituting the Premises in good order and in rentable and tenantable condition and state of repair. No building, Fixture or other property on the Premises will be removed, demolished or altered without the prior written consent of Mortgagee. Mortgagor will promptly repair or replace to the satisfaction of Mortgagee any buildings or improvements of the Premises damaged by casualty, and will not suffer any waste. Mortgagee and its agents shall have the right to enter and inspect the Premises at any reasonable time.

3.8 Rents: Mortgagor will not accept prepayments of installments of rent more than one month in advance of the time when such rent is due; Mortgagor shall include in all future leases of any part of the Premises a provision prohibiting the prepayment of any rent without the prior written consent of Mortgagee. Mortgagor will promptly send notices of default related to any leases of the Premises to Mortgagee. Mortgagor represents that (a) there is no pledge or assignment of any of the Rents except to Mortgagee; (b) that Mortgagor will make no such pledge or assignment, except to Mortgagee, so long as any portion of the Indebtedness remains unpaid; and (c) no Rents have been paid by any tenants or occupants thereof except rentals which have become due prior to the date hereof.

3.9 Tenancies: Mortgagor will not enter into, cancel, abridge or otherwise modify tenancies, subtenancies, leases or subleases of the Premises nor accept prepayments of installments of rent without Mortgagee's prior written consent, and reference is hereby made to Section 291(f) of the Real Property Law of the State of New York.

3.10 Liens and Encumbrances: Mortgagor will keep the Premises free from all liens and encumbrances, except (a) the lien in favor of Mortgagee, (b) encumbrances of record on the date of this Mortgage which are acceptable to Mortgagee, (c) liens for taxes attaching prior to payment becoming due, if payment is made when due and (d) easements granted to utility companies which may benefit the Premises.

3.11 Representations and Warranties: Mortgagor represents and warrants: (a) good and marketable title to the Premises; (b) the execution and delivery of this Mortgage has been duly authorized and that no other authorization is required; (c) the loan or other financial accommodations included in the Indebtedness secured by this Mortgage were obtained solely for a business or commercial purpose; (d) there is no pledge or assignment of any Rents except to Mortgagee; and (e) all leases of the Premises are valid and enforceable.

3.12 Partial Payments: Mortgagor agrees that any payment or part payment of principal or interest or of any other sum or sums due or to become due hereunder or the doing of any act or acts under the terms hereof by any then owner of the Premises or person liable upon the Indebtedness shall for the purpose of any applicable statute of limitations be deemed to be a payment by or act of every person included in the term Mortgagor.

3.13 Protection of Premises; Cure of Defaults: Mortgagor will maintain the Premises in good repair and condition and cause or permit no waste thereof. Mortgagor agrees that if, in the reasonable opinion of Mortgagee, the Premises are in danger of destruction or deterioration, Mortgagee may enter upon the Premises and perform such acts thereon or with respect thereto as it may deem suitable for preservation or protection of the Premises, and may thereafter remove from the Premises or hold possession thereof at its option. Mortgagee may also perform such acts and make such expenditures as Mortgagee may reasonably deem appropriate or desirable to cure material defaults in any agreement affecting the Premises.

3.14 Change of Law: Mortgagor agrees that in the event of the passage of any law changing in any way the laws for the taxation of mortgages or debts secured by mortgages, for state or local purposes, or the manner of collection of any such taxes, so as to affect this Mortgage, Mortgagee shall have the right to give thirty (30) days written notice to Mortgagor requiring the payment of the Indebtedness or payment by Mortgagor of any such additional taxes imposed, at Mortgagor's option. If such notice is given, the Indebtedness or such additional taxes shall become immediately due and payable at the expiration of said thirty (30) days.

3.15 Fees and Expenses: To the extent permitted by law, Mortgagor will pay all filing, registration, and recording fees and all expenses incident to the preparation, execution, acknowledgement, filing and recording of this Mortgage, and any financing statements, releases, continuation statements, and any instruments of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments, and charges arising out of or in connection with the execution and delivery of this Mortgage. Mortgagor shall further pay all reasonable costs and expenses of Mortgagee, including, without limitation, reasonable attorneys' fees, for the release, discharge and satisfaction of this Mortgage and any other lien or encumbrance relating to this Mortgage, and the preparation of any and all documents necessary to effectuate the foregoing. Mortgagor will pay all costs incidental to the loan(s) secured hereby, including, without limitation, appraisers' fees (whether internal or third party) or review fee for external appraisals, fees for environmental consultants or environmental reviews (whether internal or third party), title examination and insurance fees, surveyors' fees, mortgage tax, recording taxes or fees, flood determination fees, and the fees of Mortgagee's architects, engineers, inspectors, and disbursing agents, if any, are to be paid by Mortgagor upon Mortgagee's request. Mortgagor will pay for a certificate of a qualified entity indicating whether the Premises are in a Special Flood Hazard Area as designated by FEMA. Such certificate(s) will be ordered by Mortgagee, at Mortgagor's expense, as necessary to comply with laws, rules and guidelines. If Mortgagor requests and Mortgagee agrees to the assignment of this Mortgage and the related Indebtedness, Mortgagor agrees to pay to Mortgagee Mortgagee's assignment fee for such service. Mortgagor further agrees to reimburse Mortgagee for all such expenses within ten (10) days of receipt of Mortgagee's demand therefor.

3.16 Certain Rights and Obligations: Mortgagee may take, but is not obligated to take, such action as Mortgagee deems appropriate to protect the Premises or the status or priority of the lien of this Mortgage, including, but not limited to: (a) entry upon the Premises to protect the Premises from deterioration or damage, or to cause the Premises to be put in compliance with any governmental, insurance rating or contract requirements; (b) payment of amounts due on liens having priority over this Mortgage; (c) payment of any tax or charge (not paid when due) for purposes of assuring the priority or enforceability of this Mortgage; (d) obtaining insurance on the Premises; (e) commencement or defense of any legal action or proceeding to assert or protect the validity or priority of the lien of this Mortgage; (f) enforcement of this Mortgage; or (g) reappraisal of the Premises, if required by Mortgagee's policies, at Mortgagor's expense. On demand, Mortgagor shall reimburse Mortgagee for all such amounts spent in taking any such action, with interest, and the amount thereof shall be Indebtedness secured by this Mortgage and shall, to the extent permitted by law, be in addition to the maximum amount of the Indebtedness heretofore stated.

3.17 Comply With Covenants: Mortgagor will not use the Premises in any manner which will violate an enforceable restrictive covenant affecting the same.

3.18 Environmental Matters: Mortgagor covenants and agrees with and represents to Mortgagee, as follows:

(a) That Mortgagor has not obtained any information, notice or request from any governmental agency, other entity or person (collectively, "Authority") for information, or provided any information or notice to any such Authority, or been under investigation for or concerning the unpermitted or unauthorized presence or release of hazardous substances, hazardous wastes or other raw materials or wastes (including petroleum products) as such are defined by any applicable federal, state or local law, on, above, within, in the vicinity of, related to or affecting the Premises. Mortgagor has not received any notice that it has liability or responsibility under any Environmental Requirement with respect to the Premises.

(b) That Mortgagor has performed all of its obligations under, has obtained all necessary approvals, permits, authorizations or other consents required by, and is not in material violation of, any applicable federal, state or local health, safety or environmental law, ordinance, rule, regulation, order or judgment (the "Environmental Requirements").

(c) That Mortgagor shall conduct its operations in compliance with the provisions of all applicable Environmental Requirements related to any natural or environmental resource or media located on, above, within or in the vicinity of, related to, or affected by, the Premises. No underground storage tanks are located on the Premises. Mortgagor shall conduct its operations in compliance with the provisions of all applicable federal, state or local laws, ordinances, rules, regulations and orders related to any natural or environmental resource or media located on, above, within or in the vicinity of, related to, or affected by, the Premises.

(d) That Mortgagor shall promptly notify Mortgagee in writing if (i) Mortgagor receives any information or notice or request from any Authority for information and shall promptly forward copies of such to Mortgagee, or (ii) if Mortgagor provides any information or notice to any such Authority, concerning the unpermitted or unauthorized presence or release of hazardous substances, hazardous wastes or other raw materials or wastes (including petroleum products) as such terms are defined by any applicable federal, state or local law, on, above, within, in the vicinity of, related to or affecting the Premises or (iii) any of the representations or warranties contained herein become false or misleading.

(e) That Mortgagor, upon Mortgagee's request, shall promptly provide Mortgagee, at Mortgagor's expense, with a completed environmental questionnaire, site assessment or environmental audit report prepared by a firm acceptable to Mortgagee, to assess with a reasonable degree of certainty the environmental condition of the Premises.

(f) That Mortgagor shall at all times indemnify, defend, reimburse and hold harmless Mortgagee (and its affiliates, employees, agents, officers and directors) from and against any and all claims, suits, actions, damages, judgments, expenses, demands, losses, penalties, costs, settlements, fines or liabilities of whatever kind or nature (including, without limitation, arising from personal injury or property damage) known or unknown, contingent or otherwise, incurred by Mortgagee (in any capacity) in any way related to any environmental condition or threat on, above, within, in the vicinity of, related to or affected by the Premises whether or not it originates or emanates from the Premises, or any costs of removal or remedial action or damages from injury to, destruction of or loss of natural resources, or liability for injury or property damage and/or any other environmental matter, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. The provisions of this paragraph shall survive termination of this Mortgage and shall apply to any and all such claims, expenses, demands, losses, costs, fines or liabilities of whatever kind or nature, notwithstanding the discharge of this Mortgage and the payment of the Indebtedness.

3.19 Real Estate Tax and Insurance Account: Upon Event of Default or if requested by Mortgagee, Mortgagor will pay to Mortgagee by depositing into a non-interest bearing deposit account with Mortgagee ("Imposition Account") on the first day of each month during the term hereof, a sum equal to one-twelfth (1/12) of the annual aggregate amount, as estimated from time to time by Mortgagee, of the aggregate of all taxes, assessments and sewer charges (collectively "Impositions") on the Premises. On the date hereof, if requested by Mortgagee, Mortgagor will deposit with Mortgagee a lump sum in the amount necessary to establish a fund which, with the monthly payments, will be sufficient for payment of all such expenses when due, which will be held by Mortgagee and applied by Mortgagee to the payment of such Impositions as they become due and payable. If such payments shall be deemed by Mortgagee to be insufficient to pay such Impositions, Mortgagor will pay the amount of such deficiency, on demand, to Mortgagee.

Mortgagee shall have no obligation to apply any sums held by Mortgagee pursuant to this Section 3.19 to the payment of such Impositions unless directed to do so by Mortgagor in writing delivered during a period of time when no uncured Event of Default shall exist setting forth the particular Imposition to be paid. Notwithstanding the foregoing, Mortgagee may, in its discretion but shall not be required to, pay any such Imposition without written direction from Mortgagor or contrary to the direction of Mortgagor. So long as no Event of Default shall exist and after giving written notice to Mortgagee, Mortgagor may in good faith contest any Imposition and permit such Imposition to remain unpaid during the period under any such contest provided that (a) the amounts held by Mortgagee in the Imposition Account are at all times sufficient to pay such contested Impositions and all other non-contested Impositions as and when the same shall come due and payable or Mortgagor shall, upon demand by Mortgagee, deposit amounts sufficient for these purposes with Mortgagee, (b) Mortgagor shall deposit with Mortgagee as and when the same shall accrue all late charges, interest and penalties which result from the contest or which would ultimately be payable in the event such contest is unsuccessful, and (c) no portion of the Premises shall be at risk of forfeiture or foreclosure on account of the non-payment of any amounts under contest or otherwise. Upon the occurrence and during the continuation of any Event of Default or if any conditions set forth in clauses (a), (b) or (c) of this paragraph shall fail to be satisfied, then Mortgagee may, in its discretion but shall not be required to, pay any such contested Imposition out of the Imposition Account or otherwise even if such payment is to prejudice Mortgagor's ability thereafter to contest such items.

3.20 Security Agreement/Fixture Filing:

(a) This Mortgage shall also constitute a security agreement and financing statement within the meaning of Article 9 of the New York Uniform Commercial Code (as amended from time to time, "UCC"). Mortgagor and Authority hereby grants to Mortgagee a security interest in the Fixtures, whether now owned or hereafter acquired, and all proceeds thereof in order to secure the Indebtedness. Notwithstanding the filing of any financing statement covering any of the Premises in the records normally pertaining to personal property, at Mortgagee's option, all of the Fixtures, for all purposes and in all proceedings, legal or equitable, shall be regarded (to the extent permitted by law) as part of the Real Property. The mention in any such financing statement of any of the Premises shall not be construed as in any way altering any of the rights of Mortgagee or adversely affecting the priority of the lien granted hereby or by the loan documents, but such mention in the financing statement is hereby declared to be for the protection of Mortgagee in the event any court shall at any time hold that notice of Mortgagee's priority of interest, to be effective against any third party, must be filed in the UCC records.

(b) Mortgagor and Authority hereby agrees that it shall execute and hereby authorizes Mortgagee to file such documents, instruments and further assurances (including, without limitation, any financing or continuation statements), in each case in form and substance satisfactory to Mortgagee, as Mortgagee may, from time to time, reasonably consider necessary to create, perfect and preserve Mortgagee's security interest hereunder. Mortgagor and Authority hereby irrevocably authorizes Mortgagee to cause financing statements (and amendments and continuations thereof) and any such documents, instruments and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest, and Mortgagor shall pay all reasonable costs and expenses incurred by Mortgagee in connection therewith, including, without limitation, reasonable attorneys' fees and costs of filing or recordation.

(c) This Mortgage shall also constitute a "fixture filing" for the purposes of the UCC against all of the Premises which is or is to become Fixtures related to the Premises. Mortgagor is the "Debtor" and its name and mailing address are set forth in the preamble of this Mortgage. Mortgagee is the "Secured Party" and its name and mailing address from which information concerning the security interest granted herein may be obtained are also set forth in the preamble of this Mortgage. The definition of Fixtures is set forth herein. Mortgagor is the record owner of the applicable fee title.

(d) At Mortgagee's request, Mortgagor and Authority shall execute and deliver to Mortgagee all further documents and perform all other acts which Mortgagee reasonably deems necessary or appropriate to perfect or protect its security for the Indebtedness, and Mortgagor shall pay all reasonable costs and expenses incurred by Mortgagee in connection therewith, including, without limitation, reasonable attorneys' fees and costs of filing or recordation.

3.21 Condemnation: Immediately after obtaining knowledge of the institution of condemnation or eminent domain proceedings on any part of the Premises, Mortgagor shall notify Mortgagee. Mortgagee may participate in such proceedings. Any awards made for any taking by eminent domain or in any condemnation proceeding, or for consequential damages on account thereof, are hereby assigned to Mortgagee with power to collect, receive and apply same on the Indebtedness, whether or not then due and payable, but such application shall not affect any obligation to continue making payments in accordance with the terms of any note or other obligation evidencing the Indebtedness.

3.22 Due on Sale Clause: Mortgagor shall not sell, convey or otherwise transfer any interest in the Premises (whether voluntarily or by operation of law), or agree to do so, without Mortgagee's prior written consent, including (a) any sale, conveyance, encumbrance, assignment, or other transfer of, or the grant of a security interest in, all or any part of the legal or equitable title to the Premises, except as otherwise permitted hereunder; (b) any lease of all or any portion of the Premises; or (c) any sale, conveyance, encumbrance, assignment, or other transfer of, or the grant of a security interest in, any share of stock of Mortgagor, if a corporation or any partnership interest in Mortgagor, if a partnership, or any membership interest, if a limited liability entity, except in favor of Mortgagee. Any default under this Section shall cause an immediate acceleration of the Indebtedness without any demand by Mortgagee.

ARTICLE IV. Events of Default

In addition to any Events of Default which may appear in the Loan Agreement, if any, or the Note, if any, the existence of any of the following conditions or the occurrences of any of the following events shall constitute events of default hereunder ("Events of Default"):

4.1 Sale or Transfer: Sale or transfer of the Premises or any part thereof, or of any legal or equitable interest therein without the prior written consent of Mortgagee;

4.2 Other Liens: The existence of any mortgage, encumbrance, security interest, or lien to secure debt other than in favor of Mortgagee affecting all or any part of the Premises;

4.3 Legal or Equitable Title Sold: If legal or equitable title to, or any interest in, the Premises is directly or indirectly sold or transferred in whole or in part, or if any rentals from the Premises are assigned to anyone while this Mortgage shall remain a lien thereon;

4.4 Failure to Comply with Terms of Lease: Failure of Mortgagor to perform or comply with the terms of any lease of the Premises or any part thereof;

4.5 Material Adverse Change: A material adverse change in the Premises; or

4.6 Material Misrepresentation of Facts for Obtaining Mortgage: Any certificate, statement, representation, warranty or audit heretofore or hereafter furnished by or on behalf of Mortgagor, or any third party, pursuant to or in connection with this Mortgage, or otherwise (including, without limitation, representations and warranties contained herein), or as an inducement to Mortgagee to extend any credit to or to enter into any agreement with Mortgagor proves to have been false in any material respect at the time as of which the facts therein set forth were stated or certified, or to have omitted any substantial contingent or unliquidated liability or claim against any such third party; or, if upon the date of execution of this Mortgage, there shall have been any materially adverse change in any of the facts disclosed by any such certificate, statement, representation, warranty or audit, which change shall not have been disclosed in writing to Mortgagee at or prior to the time of such execution.

ARTICLE V. Remedies

Upon demand or the occurrence of an Event of Default, as applicable, Mortgagee shall have the absolute right, at its option and election and in its sole discretion, to exercise alternatively or cumulatively any or all of the following remedies:

- 5.1 Accelerate Indebtedness:** Declare the Indebtedness immediately due and payable;
- 5.2 Foreclose Mortgage:** Institute judicial or non-judicial proceedings to foreclose the lien of this Mortgage to the fullest extent permitted by applicable law;
- 5.3 Take Possession of Premises:** Enter into and take possession of all or any of the Premises (and Mortgagor agrees to peaceably surrender the same immediately upon receipt of Mortgagee's demand therefor) whether in connection with a judicial or non-judicial proceeding to foreclose or not, to the extent permitted by applicable law; lease and re-lease all or any of the Premises; collect the Rents and apply the same against the Indebtedness; collect reasonable rent from Mortgagor if Mortgagor remains in possession after Mortgagee's demand to surrender; dispossess by summary proceeding any tenant (including Mortgagor) defaulting in the payment of rent; provided, however, that no such acts by or on behalf of Mortgagee shall constitute Mortgagee a "mortgagee in possession." The rights enumerated herein shall inure to the benefit of any receiver appointed respecting the Premises;
- 5.4 Receiver:** Obtain the appointment of a receiver of rents, issues and profits without notice and whether or not in connection with an action to foreclose this Mortgage;
- 5.5 Right of Setoff:** Upon and at any time and from time to time after any occurrence or existence of any Event of Default, Mortgagee shall have the right to place an administrative hold on, and setoff against each obligation of Mortgagor pursuant to the Note, each obligation of Mortgagee or any other direct or indirect subsidiary of First Niagara Financial Group, Inc. (in any capacity) owing to Mortgagor, whether now existing or hereafter arising or accruing, whether or not then due and whether pursuant to any deposit account or certificate of deposit or any other manner. Such setoff shall become effective at the time Mortgagee opts therefor even though evidence thereof is not entered in the records of Mortgagee until later;
- 5.6 Sell in One or More Parcels:** In the event of a judicial or non-judicial foreclosure hereof, cause the Premises to be sold at one or more sales and in one or more parcels, any provision of law to the contrary notwithstanding;
- 5.7 Fixtures:** Mortgagee shall have all rights and remedies contemplated hereunder, including, without limitation, the right to take possession of the Fixtures, and for this purpose, Mortgagee shall have the right to enter upon any Premises on which any or all of the Fixtures are situated without being deemed guilty of trespass and without liability for damages thereby occasioned, and take possession of and operate the Fixtures or remove them therefrom. Mortgagee shall have the further right, as Mortgagee may determine, to repair, refurbish or otherwise prepare the Fixtures for sale, lease or other use or disposition, and to sell at public or private sale or otherwise dispose of, lease or utilize the Fixtures and any part thereof in any manner authorized or permitted by law and to apply the proceeds thereof toward payment of any costs and expenses incurred by Mortgagee including, to the fullest extent not prohibited by applicable law, attorneys' fees and expenses, and toward payment of the indebtedness secured hereby, in such order and manner as Mortgagee may determine. To the fullest extent not prohibited by applicable law, Mortgagor expressly waives any notice of sale or other disposition and any other rights or remedies of a debtor or formalities prescribed by law relative to a sale or disposition or to exercise any other right or remedy existing. To the extent any notice is required and cannot be waived, Mortgagor agrees that if such notice is deposited for mailing, postage prepaid, certified or registered mail, to the owner of record of the Premises, directed to such owner at the last address actually furnished to Mortgagee at least five (5) days before the time of sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirements for giving of such notice. Mortgagee shall have the right to dispose of any or all of the Fixtures at the same time and place upon giving the same notice, if any, provided for in this Mortgage, and in the same manner as the nonjudicial foreclosure sale provided under the terms and conditions of this Mortgage; and
- 5.8 Other:** Exercise any other remedy and obtain any other relief as may be available to Mortgagee in law or equity.

ARTICLE VI. Miscellaneous

6.1 Releases: Mortgagee may, without the consent of Mortgagor or any other person liable for the payment of the Indebtedness, release any portion or portions of or interest or interests in the Premises from the lien of this Mortgage, either with or without consideration, and may release or discharge in whole or in part any other property which it may at any time hold as security for payment of the Indebtedness or any part thereof and may take any other bond, note or obligation as evidence of the Indebtedness, payable at such time and on such terms as Mortgagee may approve.

6.2 Application of Payments: If Mortgagee receives from or on behalf of Mortgagor any sum less than the full amount then due and payable, Mortgagee may, but shall not be obligated to, accept the same and if it elects to accept any such payment, it may hold the same or any part thereof, without liability for interest, in a special account and may from time to time apply the same or any part thereof to the Indebtedness or to the payment of any taxes, assessments, sewer or water charges or insurance premiums which Mortgagee deems desirable to maintain the lien of this Mortgage, or to any expenses, including costs and attorneys' fees and disbursements, incurred by Mortgagee in attempting to collect any amount owing on the Indebtedness and in bringing foreclosure proceedings with respect to this Mortgage.

6.3 Notice: All notices, elections or demands permitted or required herein shall be in writing, signed by the party giving such notice, election or demand, and given personally or by mail, addressed to the appropriate party at the address designated for such party in the heading of this Mortgage, or such other address in the continental United States as the party who is to receive such notice may designate by notice to the other party. Notice by mail shall be by registered or certified United States mail, addressed to the party to be notified, and with the proper amount of postage affixed thereto. The effective date of the notice, election or demand shall be the date of personal delivery or the third business day following the date of mailing, as the case may be. Rejection or other refusal to accept, or inability to deliver because of a change of address of which no notice was given shall be deemed to be receipt of the notice, election or demand sent.

6.4 Parties: Except as expressly set forth herein, if more than one party join in the execution of this Mortgage, the covenants and agreements herein contained shall be the joint and several obligation of each and all of them and of their respective heirs, executors, administrators, successors and assigns, and relative words herein shall be read as if written in the plural when appropriate. Any reference herein to Mortgagee shall be deemed to include and apply to every subsequent holder of this Mortgage and any reference herein to Mortgagor shall be deemed to include and apply to every subsequent owner of the Premises and every person liable upon the Indebtedness, unless the language or circumstances clearly requires the contrary.

6.5 Waiver: No course of dealing and no delay or omission by Mortgagee in exercising any right or remedy hereunder or with respect to any indebtedness of Mortgagor to Mortgagee shall operate as a waiver thereof or of any other right or remedy and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Mortgagee may remedy any default by Mortgagor to Mortgagee or any other person, firm or corporation in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by Mortgagor and shall be reimbursed for any and all of its expenses in so remedying such default. All rights and remedies of Mortgagee hereunder are cumulative.

6.6 Property Encumbered: This Mortgage does not cover real property principally improved or to be improved by one or more structures containing in the aggregate not more than six (6) residential units, each having its own separate cooking facilities.

6.7 Trust Fund Provisions: This Mortgage is subject to the trust fund provisions of Section 13 of the Lien Law of the State of New York.

6.8 Governing Law: This Mortgage, and the rights and obligations of the parties hereto, shall be construed and interpreted in accordance with the internal laws of the State of New York, without regard to principles of conflicts of laws.

6.9 Limitation of Liability: To the fullest extent permitted by applicable law, Mortgagor shall not assert, and hereby waives any claim against Mortgagee, on any theory of liability, for special, indirect, consequential or punitive damages (but excluding direct or actual damages) arising out of, in connection with or as a result of, this Mortgage, any related loan documents, the transactions contemplated hereby or thereby or any loan or the use of the proceeds.

6.10 JURISDICTION: MORTGAGOR KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY (a) CONSENTS IN EACH ACTION AND OTHER LEGAL PROCEEDING COMMENCED BY MORTGAGEE AND ARISING OUT OF OR OTHERWISE RELATING TO THIS MORTGAGE, ANY OF THE OBLIGATIONS, OR ANY COLLATERAL TO THE JURISDICTION OF ANY COURT THAT IS EITHER A COURT OF RECORD OF THE STATE OF NEW YORK OR A COURT OF THE UNITED STATES LOCATED IN THE STATE OF NEW YORK, (b) WAIVES EACH OBJECTION TO THE LAYING OF VENUE OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING, (c) WAIVES IN EACH SUCH ACTION AND OTHER LEGAL PROCEEDING EACH RIGHT TO ASSERT ANY NONMANDATORY COUNTERCLAIM, ANY SETOFF OR ANY DEFENSE BASED UPON ANY STATUTE OF LIMITATIONS OR CLAIM OF LACHES, (d) WAIVES EACH RIGHT TO ATTACK ANY FINAL JUDGMENT THAT IS OBTAINED AS A RESULT OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING AND (e) CONSENTS TO EACH SUCH FINAL JUDGMENT BEING SUED UPON IN ANY COURT HAVING JURISDICTION WITH RESPECT THERETO AND ENFORCED IN THE JURISDICTION IN WHICH SUCH COURT IS LOCATED AS IF ISSUED BY SUCH COURT.

6.11 WAIVER OF TRIAL BY JURY: MORTGAGOR (a) KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES EACH RIGHT MORTGAGOR MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO, AND IN, ANY ACTION OR OTHER LEGAL PROCEEDING, WHETHER BASED ON ANY CONTRACT OR NEGLIGENCE, INTENTIONAL OR OTHER TORT OR OTHERWISE, ARISING OUT OF OR OTHERWISE RELATING TO (i) THIS MORTGAGE, ANY OF THE OBLIGATIONS, OR ANY COLLATERAL, (ii) ANY TRANSACTION ARISING OUT OF OR OTHERWISE RELATING TO THIS MORTGAGE, ANY OF THE OBLIGATIONS, OR ANY COLLATERAL OR (iii) ANY NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS MORTGAGE, ANY OF THE OBLIGATIONS, OR ANY COLLATERAL AND (b) CERTIFIES THAT NEITHER MORTGAGEE NOR ANY REPRESENTATIVE OF MORTGAGEE HAS REPRESENTED TO

MORTGAGOR THAT MORTGAGEE WILL NOT SEEK TO ENFORCE THE WAIVER MADE BY MORTGAGOR IN THIS SECTION 6.11.

6.12 No Recourse; Special Obligation: (A) The obligations and agreements of the Authority contained herein and in 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 Authority, and not of any member, officer, director, agent (other than the Mortgagor) or employee of the Authority in his individual capacity, and the members, officers, directors, agents (other than the Mortgagor) and employees of the Authority 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 or thereby.

(B) The obligations and agreements of the Authority contained herein and therein shall not constitute or give rise to an obligation of the State of New York or the City of Auburn, New York, and neither the State of New York nor the City of Auburn, New York shall be liable hereon or thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Authority, but rather shall constitute limited obligations of the Authority payable solely from the revenues of the Authority derived and to be derived from the sale or other disposition of the Premises and the other security pledged to the payment of the Debt.

(C) No order or decree of specific performance with respect to any of the obligations of the Authority hereunder or thereunder shall be sought or enforced against the Authority unless (1) the party seeking such order or decree shall first have requested the Authority in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Authority shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten [10] days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) if the Authority refuses to comply with such request and the Authority'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 Authority an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Authority refuses to comply with such request and the Authority's refusal to comply is based on its reasonable expectation that it or any of its members, directors, officers, agents (other than the Mortgagor) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Authority and its members, directors, officers, agents (other than the Mortgagor) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Authority, shall furnish to the Authority satisfactory security to protect the Authority and its members, officers, agents (other than the Mortgagor) and employees against all liability expected to be incurred as a result of compliance with such request.

(D) The limitations on the obligations of the Authority contained in this Section 23 by virtue of any lack of assurance or indemnity required by paragraph (C) hereof shall not be deemed to prevent the occurrence and full force and effect of any event of default hereof.

6.13 Hold Harmless Provisions: (A) The Mortgagor agrees that the Authority, its directors, members, officers, agents (other than the Mortgagor) and employees shall not be liable for and agrees to defend, indemnify, release and hold the Authority, its directors, members, officers, agents (other than the Mortgagor) and employees harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Premises or arising by reason of or in connection with the use thereof or under this Mortgage, or (ii) liability arising from or expense incurred by the Authority's acquisition, renovation, construction, installation, owning and leasing of the Premises, including without limitation the generality of the foregoing, all claims arising from the breach by the Mortgagor of any of its covenants contained herein and all causes of action and reasonable attorneys fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of the foregoing, provided that any such losses, damages, liabilities or expenses of the Authority are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Authority or any of its directors, members officers, agents (other than the Mortgagor) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Authority, or any of its members, directors, officers, agents (other than the Mortgagor) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(B) Notwithstanding any other provisions of the Mortgage, the obligations of the Mortgagor pursuant to this Section 6.13 shall remain in full force and effect after the termination of this Mortgage until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all reasonable expenses and charges incurred by the Authority, or its respective members, directors, officers, agents (other than the Mortgagor) and employees, relating to the enforcement of the provisions herein specified.

(C) In the event of any claim against the Authority or its members, directors, officers, agents (other than the Mortgagor) or employees by any employee or contractor of the Mortgagor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Mortgagor hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

6.14 Counterparts: This Mortgage may be executed in any number of counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Mortgagor has duly executed this Mortgage on the date first set forth herein.

WST33, LLC

By: _____
R. Daniel Soules, Member

Auburn Industrial Development Authority

By: _____
Name:
Title:

Rev. 05/07/2014

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

On the _____ day of June, in the year 2014, before me, the undersigned, personally appeared **R. Daniel Soules, being a Member of WST33, LLC**, 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.

Notary Public

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

On the _____ day of June, in the year 2014, before me, the undersigned, personally appeared _____ being a _____ of **Auburn Industrial Development Authority**, 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.

Notary Public

SCHEDULE A

Property Description



Record and Return to:
Boyle & Anderson, P.C.
110 Genesee Street, Suite 300
Auburn, New York 13021

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment"), dated as of June _____, 2014, by WST33, LLC, a limited liability company organized under the laws of New York State, whose address is 69 South Street, Auburn, New York 13021 ("Assignor"); and AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY, a public benefit corporation established and existing under the laws of the State of New York having its office at 24 South Street, Memorial City Hall, Auburn, New York 13021 ("Authority"); to FIRST NIAGARA BANK, N.A., a national banking association, with a banking office at 726 Exchange Street, Buffalo, NY 14210, Attention: Commercial Loan Administration ("Lender"), evidences:

I. DEFINITIONS

1.1 BUSINESS DAY: A day of the year which is neither a Saturday or Sunday nor a legal holiday on which banks are required or authorized by law to closing in New York State.

1.2 INDEBTEDNESS: As used herein, "Indebtedness" shall mean all indebtedness and other liabilities of Assignor to Lender and affiliates of Lender of every kind and character, arising under this Assignment or any other loan documents or by operation of law, whether direct, indirect, primary, absolute, contingent, as borrower or guarantor, matured or unmatured, now owing or existing or hereafter incurred or created, originally contracted with Lender or with others, evidenced by a negotiable or non-negotiable instrument or other writing, and all amendments, extensions, renewals and replacements thereof, including, without limitation, all principal, interest, charges, expenses, commitment or facility fees, collateral management or other fees, treasury management obligations, foreign exchange obligations, obligations due pursuant to any Interest Rate Protection Agreement entered into by Assignor, reasonable attorneys' fees and expenses related to collection of the foregoing and any other amount payable by Assignor hereunder and any other agreement between the parties whether executed in connection herewith or otherwise. "Interest Rate Protection Agreement" shall mean any agreement, device or arrangement designed to protect such Assignor from fluctuations of interest rates, exchange rates or forward rates, including, but not limited to, dollar-denominated or cross-currency exchange agreements, forward currency exchange agreements, interest rate caps, collars or floors, forward rate currency or interest rate options, puts, warrants, swaps, swaptions, U.S. Treasury locks and U.S. Treasury options, and any and all cancellations, buybacks, reversals, terminations or assignments of any of the foregoing.

1.3 LEASES: All agreements now existing or hereafter arising for the rental of space in or affecting the Premises or the right to enter upon, occupy, possess or use the Premises, including subleases, and other agreements for the leasing or rental of the Premises or any part thereof, now existing or hereafter made, and all proceeds of any of the foregoing, including, without limitation, all revenues, receipts, income, fees, charges, accounts, accounts receivable and other payments and receivables; all rents and other amounts now or hereafter due thereon; all proceeds thereof; and all replacements and substitutions and all renewals, extensions and modifications thereof from time to time amended.

1.4 MORTGAGE: The Mortgage given by Assignor to Lender of even date herewith recorded on June _____, 2014, in Book _____ of Mortgages at Page _____ encumbering the real property described on Schedule A hereto, as such mortgage may be amended, supplemented, replaced or otherwise modified from time to time.

1.5 PREMISES: The real property and additional interests so defined as the Premises in the Mortgage.

II. ASSIGNMENT

As continuing collateral security for the payment of the Indebtedness, Assignor and Authority hereby assigns to Lender all Assignor's right, title and interest in and to the Leases, such assignment being present, absolute and unconditional; provided, however, that in the absence of an Event of Default (as hereafter defined), Lender agrees that Assignor may collect the payment of any rents, issues, income, royalties and profits and retain and use the rents and other amounts now or hereafter due on the Leases. Upon the occurrence of an Event of Default, Assignor's right to collect such rents, issues, income and profits shall immediately terminate without further notice thereof to Assignor. Lender shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

The above assignment shall not be deemed to impose upon Lender any of the obligations or duties of the landlord or Assignor provided in any Lease.

III. COVENANTS AND REPRESENTATIONS OF ASSIGNOR

3.1 EXISTING LEASES: Any existing Leases submitted to Lender by or on behalf of Assignor are now valid and enforceable according to their terms, and have not, since their execution, been altered or amended in any manner which would cause a reduction of the rental or other sums due to Assignor or to create greater financial obligations on the part of Assignor, and no rents thereunder have been collected more than one (1) month in advance of the time when such rent is due.

3.2 COMPLIANCE WITH LEASES: Assignor will duly perform all the duties of, and comply with all the terms, covenants, conditions, provisions and agreements required of or made by Assignor in accordance with the Leases.

3.3 NEW LEASES; CANCELLATION AND AMENDMENT: Assignor will not, without Lender's prior written consent: (a) enter into any new Lease; (b) cancel, abridge, or modify any Lease; (c) transfer, mortgage or otherwise encumber the rents or other amounts due under Leases; or (d) accept prepayments of installments of rent to become due in excess of one (1) month.

3.4 AUTHORITY: Assignor has (a) the right to the rents presently due or to become due under the existing Leases; (b) has not previously assigned such rents or any part thereof except to Lender; (c) has the right and authority to make this Assignment; (d) has performed or will perform all necessary acts to authorize payment of the rents to Lender; and (e) will execute and deliver to Lender any and all other documents and perform all acts requested by Lender in connection with the Leases and this Assignment.

3.5 ATTORNEY-IN-FACT: Lender is hereby appointed attorney-in-fact of Assignor with full power and authority to act in the name of Assignor after the occurrence of any Event of Default in the exercise of any remedy permitted Lender hereunder but nothing herein shall in any way obligate Lender to act in any manner on behalf of Assignor or relieve Assignor from its duty to perform according to the provisions of the Leases and this Assignment. The rights and powers granted to Lender hereby shall be irrevocable so long as the Indebtedness remains unpaid.

IV. EVENTS OF DEFAULT

The occurrence of any of the events or existence of any of the conditions described in this Article IV shall constitute an event of default hereunder ("Event of Default"):

4.1 NONPAYMENT OF INDEBTEDNESS: Failure by Assignor to pay the Indebtedness when due.

4.2 EVENT OF DEFAULT: The failure to comply with the provisions hereof or any other document evidencing or securing the Indebtedness.

V. REMEDIES

Upon demand or the occurrence of an Event of Default, Lender may, at its option and sole discretion, exercise, alternatively or cumulatively, any or all of the following remedies, without in any way waiving such Event of Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor or any guarantor of any Indebtedness from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien or security interest granted by any other document evidencing or securing the Indebtedness:

5.1 COLLECT RENTS: Demand, recover and receive any and all rents and income from the Leases and apply the same to the Indebtedness.

5.2 PERFORM LEASES: Perform such acts as may be required of Assignor by the Leases.

5.3 LEASE AND SUBLEASE PREMISES: Lease, sublease, license or otherwise permit the use of the Premises or any part thereof which is now or may become vacant for such periods as Lender may deem proper.

5.4 MAINTAIN ACTIONS: Maintain any and all actions or proceedings to recover rents or other income from the Premises or to remove tenants, subtenants or occupants therefrom.

5.5 PAY EXPENSES: Pay all sums Lender deems necessary toward taxes, assessments, utility charges, prior liens, insurance premiums, service contracts, or repairs affecting the Premises and the obligations of Assignor under the Leases, and for exercising any remedies hereunder, and if the income of the Premises is not sufficient to cover such payments, together with sums then due on the Indebtedness secured hereby, Assignor will promptly reimburse Lender to the extent thereof and such sums shall be secured hereby.

5.6 RENEGOTIATE LEASES: Renegotiate (including the making of rent concessions and making of tenant improvements), cancel, accept the surrender of, and enforce the terms of, the Leases.

5.7 RIGHT OF SETOFF: Upon and at any time and from time to time after any occurrence or existence of any Event of Default, Lender shall have the right to place an administrative hold on, and setoff against each obligation of Assignor pursuant to this Assignment, each obligation of Lender or any other direct or indirect subsidiary of First Niagara Financial Group, Inc. (in any capacity) owing to Assignor, whether now existing or hereafter arising or accruing, whether or not then due and whether pursuant to any deposit account or any other manner. Such setoff shall become effective at the time Lender opts therefor even though evidence thereof is not entered in the books and records of Lender until later.

5.8 OTHER: Exercise any other right or remedy available to Lender in law or equity.

In the exercise of any of the foregoing rights and powers, Lender shall not be liable to Assignor for any loss or damage thereby sustained unless due solely to the willful misconduct of Lender.

VI. MISCELLANEOUS

6.1 WAIVERS: Nothing contained in this Assignment shall operate as or be deemed to be an extension of the time for payment of the Indebtedness or to in any way affect any of Lender's rights, powers or remedies to enforce payment of the Indebtedness or any part thereof, no delay or omission by Lender in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other

right or remedy. Lender may remedy any default by Assignor hereunder in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by Assignor.

6.2 SUCCESSORS AND ASSIGNS: This Assignment shall be binding upon Assignor and its successors and assigns, and shall inure to the benefit of Lender and its successors and assigns, including without limitation any future holder of the Mortgage or a participating interest in the Indebtedness.

6.3 GOVERNING LAW: This Assignment and the rights and obligations of the parties hereto shall be construed and interpreted in accordance with the internal laws of the State of New York, without regard to the principles of conflict of laws.

6.4 LIMITATION OF LIABILITY: To the fullest extent permitted by applicable law, Assignor shall not assert, and hereby waives any claim against Lender, on any theory of liability, for special, indirect, consequential or punitive damages (but excluding direct or actual damages) arising out of, in connection with or as a result of, this Assignment, any related loan documents, the transactions contemplated hereby or thereby or any loan or the use of the proceeds.

6.5 JURISDICTION: ASSIGNOR KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY (a) CONSENTS IN EACH ACTION AND OTHER LEGAL PROCEEDING COMMENCED BY LENDER AND ARISING OUT OF OR OTHERWISE RELATING TO THIS ASSIGNMENT, ANY OF THE OBLIGATIONS, ANY OF THE LEASES OR RENTS OR ANY OTHER COLLATERAL TO THE JURISDICTION OF ANY COURT THAT IS EITHER A COURT OF RECORD OF THE STATE OF NEW YORK OR A COURT OF THE UNITED STATES LOCATED IN THE STATE OF NEW YORK, (b) WAIVES EACH OBJECTION TO THE LAYING OF VENUE OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING, (c) WAIVES IN EACH SUCH ACTION AND OTHER LEGAL PROCEEDING EACH RIGHT TO ASSERT ANY NONMANDATORY COUNTERCLAIM, ANY SETOFF OR ANY DEFENSE BASED UPON ANY STATUTE OF LIMITATIONS OR CLAIM OF LACHES, (d) WAIVES EACH RIGHT TO ATTACK ANY FINAL JUDGMENT THAT IS OBTAINED AS A RESULT OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING AND (e) CONSENTS TO EACH SUCH FINAL JUDGMENT BEING SUED UPON IN ANY COURT HAVING JURISDICTION WITH RESPECT THERETO AND ENFORCED IN THE JURISDICTION IN WHICH SUCH COURT IS LOCATED AS IF ISSUED BY SUCH COURT.

6.6 WAIVER OF TRIAL BY JURY: ASSIGNOR KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES EACH RIGHT ASSIGNOR MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO, AND IN, ANY ACTION OR OTHER LEGAL PROCEEDING OF ANY NATURE, RELATING TO (a) THIS ASSIGNMENT, ANY RELATED LOAN DOCUMENT OR ANY COLLATERAL RELATED HERETO, (b) ANY TRANSACTION CONTEMPLATED BY ANY SUCH DOCUMENTS OR (c) ANY NEGOTIATION, PERFORMANCE OR ENFORCEMENT OF THIS ASSIGNMENT, OR ANY COLLATERAL RELATED HERETO. ASSIGNOR CERTIFIES THAT NEITHER LENDER NOR ANY REPRESENTATIVE THEREOF HAS REPRESENTED TO ASSIGNOR THAT LENDER WILL NOT SEEK TO ENFORCE THE WAIVER MADE BY ASSIGNOR IN THIS SECTION. ASSIGNOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL AS NECESSARY AND APPROPRIATE.

6.7 NO RECOURSE; SPECIAL OBLIGATION: (A) The obligations and agreements of the Authority contained herein and in 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 Authority, and not of any member, officer, director, agent (other than the Mortgagor) or employee of the Authority in his individual capacity, and the members, officers, directors, agents (other than the Mortgagor) and employees of the Authority 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 or thereby.

(B) The obligations and agreements of the Authority contained herein and therein shall not constitute or give rise to an obligation of the State of New York or the City of Auburn, New York, and neither the State of New York nor the City of Auburn, New York shall be liable hereon or thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Authority, but rather shall constitute limited obligations of the Authority payable solely from the revenues of the Authority derived and to be derived from the sale or other disposition of the Premises and the other security pledged to the payment of the Debt.

(C) No order or decree of specific performance with respect to any of the obligations of the Authority hereunder or thereunder shall be sought or enforced against the Authority unless (1) the party seeking such order or decree shall first have requested the Authority in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Authority shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten [10] days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) if the Authority refuses to comply with such request and the Authority'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 Authority an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Authority refuses to comply with such request and the Authority's refusal to comply is based on its reasonable expectation that it or any of its members, directors, officers, agents (other than the Mortgagor) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Authority and its members, directors, officers, agents (other than the Mortgagor) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Authority, shall furnish to the Authority satisfactory security to protect the Authority and its members, officers, agents (other than the Mortgagor) and employees against all liability expected to be incurred as a result of compliance with such request.

(D) The limitations on the obligations of the Authority contained in this Section 23 by virtue of any lack of assurance or indemnity required by paragraph (C) hereof shall not be deemed to prevent the occurrence and full force and effect of any event of default hereof.

6.8 HOLD HARMLESS PROVISIONS: (A) The Mortgagor agrees that the Authority, its directors, members, officers, agents (other than the Mortgagor) and employees shall not be liable for and agrees to defend, indemnify, release and hold the Authority, its directors, members, officers, agents (other than the Mortgagor) and employees harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Premises or arising by reason of or in connection with the use thereof or under this Mortgage, or (ii) liability arising from or expense incurred by the Authority's acquisition, renovation, construction, installation, owning and leasing of the Premises, including without limitation the generality of the foregoing, all claims arising from the breach by the Mortgagor of any of its covenants contained herein and all causes of action and reasonable attorneys fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of the foregoing, provided that any such losses, damages, liabilities or expenses of the Authority are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Authority or any of its directors, members officers, agents (other than the Mortgagor) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Authority, or any of its members, directors, officers, agents (other than the Mortgagor) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(B) Notwithstanding any other provisions of the Mortgage, the obligations of the Mortgagor pursuant to this Section 6.8 shall remain in full force and effect after the termination of this Mortgage until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all reasonable expenses and charges incurred by the Authority, or its respective members, directors, officers, agents (other than the Mortgagor) and employees, relating to the enforcement of the provisions herein specified.

(C) In the event of any claim against the Authority or its members, directors, officers, agents (other than the Mortgagor) or employees by any employee or contractor of the Mortgagor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Mortgagor hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

IN WITNESS WHEREOF, Assignor has duly executed this Assignment as of the date set forth above.

WST33, LLC

By: _____
R. Daniel Soules, Member

Auburn Industrial Development Authority

By: _____
Name: _____
Title: _____

Rev. 03/11/2014

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

On the _____ day of June, in the year 2014, before me, the undersigned, personally appeared **R. Daniel Soules being a Member of WST33, LLC**, 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.

Notary Public

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

On the _____ day of June, in the year 2014, before me, the undersigned, personally appeared _____ being a _____ of **Auburn Industrial Development Authority**, 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.

Notary Public

Schedule A

Real Property Description



SECURITY AGREEMENT

1. **SECURITY INTEREST.** WST33, LLC, a limited liability company organized under the laws of New York State and having its chief executive office at 69 South Street, Auburn, New York 13021 ("Debtor"); and AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY, a public benefit corporation established and existing under the laws of the State of New York having its office at 24 South Street, Memorial City Hall, Auburn, New York 13021 ("Authority"); hereby grants to **FIRST NIAGARA BANK, N.A.**, a national banking association, with a banking office at 726 Exchange Street, Buffalo, NY 14210, Attention: Commercial Loan Administration, and any of its affiliates ("Secured Party") a continuing security interest ("Security Interest") in all property of Debtor described in Schedule A annexed to this Security Agreement (together with all amendments, supplements or other modifications, the "Agreement") hereto and made part hereof and on any separate schedule(s) at any time or from time to time furnished by Debtor to Secured Party, (all of which are hereby deemed part of this Agreement), in all supporting obligations thereof and in all increases or profits received therefrom, the software and books and records related thereto, and in all parts, accessories, special tools, attachments, additions, accessions, replacements and substitutions thereto or therefor, wherever located, whether now existing or hereafter acquired or created, and in all proceeds of all of the foregoing in any form (the "Collateral").

2. **INDEBTEDNESS SECURED.** The Security Interest granted by Debtor secures the full payment of all loans, advances, debts, liabilities, indebtedness, obligations, and credit of any kind or character owing by Debtor to Secured Party of any kind or nature, present or future, whether as borrower or guarantor, however evidenced, whether arising under this Agreement or any other loan, note, letter of credit, guaranty, collateral or other agreement or by operation of law, and whether direct or indirect, absolute or contingent, due or to become due, now owing or existing or hereafter arising or created and however acquired, and any amendments, extensions, renewals or increases thereof, including, without limitation, all principal, interest, charges, expenses, commitment or facility fees, collateral management or other fees, treasury management obligations, foreign exchange obligations, obligations due pursuant to any Interest Rate Protection Agreement entered into by Debtor, reasonable attorneys' fees and expenses related to the collection of the foregoing, and any other amounts payable by Debtor under this Agreement or any other agreements between Debtor and Secured Party whether executed in connection herewith or otherwise (collectively, the "Indebtedness"). "Interest Rate Protection Agreement" shall mean any agreement, device or arrangement designed to protect such Debtor from fluctuations of interest rates, exchange rates or forward rates, including, but not limited to, dollar-denominated or cross-currency exchange agreements, forward currency exchange agreements, interest rate caps, collars or floors, forward rate currency or interest rate options, puts, warrants, swaps, swaptions, U.S. Treasury locks and U.S. Treasury options, and any and all cancellations, buybacks, reversals, terminations or assignments of any of the foregoing.

3. **REPRESENTATIONS AND WARRANTIES OF DEBTOR.** Debtor represents and warrants, and so long as any Indebtedness remains unpaid shall be deemed continuously to represent and warrant, that:

(a) Debtor is the owner of the Collateral free and clear of all security interests, liens or other encumbrances, except the Security Interest in favor of Secured Party and any Permitted Lien identified on Schedule B attached hereto;

(b) Debtor has the power and authority to own the Collateral, to grant the Security Interest and to enter into and perform this Agreement and any other document or instrument delivered in connection herewith; and

(c) Except as may hereafter be disclosed in writing by Debtor to Secured Party, the Collateral is located at and used in connection with Debtor's business operations at the address(es) specified on Schedule B hereto, and Debtor's records concerning the Collateral are kept only at such address(es).

4. **COVENANTS OF DEBTOR.**

(a) Debtor will defend the Collateral against the claims and demands of all other parties including, without limitation, defenses, setoffs, claims and counterclaims asserted by any obligor against Debtor and/or Secured Party, will keep the Collateral free from all security interests, liens or other encumbrances, except for Permitted

Liens, and will not sell, transfer, lease, assign, deliver or otherwise dispose of any Collateral or any interest therein without the prior written consent of Secured Party except for sales of Inventory in the ordinary course of Debtor's business;

(b) Debtor will keep, in accordance with generally accepted accounting principles consistently applied, accurate and complete records concerning the Collateral, and at Secured Party's request, Debtor will mark any and all such records to indicate the Security Interest and will permit Secured Party or its agents to inspect the Collateral and to audit and make extracts from such records or any of Debtor's books, ledgers, financial reports, correspondence or other records;

(c) Except in connection with Permitted Liens, Debtor will deliver to Secured Party, upon demand, any instruments, documents and chattel paper constituting, representing or relating to the Collateral or any part thereof and any schedules, invoices, shipping documents, delivery receipts, purchase orders, contracts or other documents representing or relating to the Collateral or any part thereof;

(d) Without thirty (30) days prior written notice to Secured Party, Debtor will not (i) change its state of personal residence, business addresses or chief executive office, or (ii) make any change in Debtor's name (such as a change in name on Debtor's driver's license, if an individual), state of formation, identity or organizational status;

(e) Debtor will keep the Collateral in good condition, working order and repair and will not use the Collateral in violation of any provisions of this Agreement, any applicable law or governmental regulation or of any policy insuring the Collateral, unless the failure to so keep the Collateral will not have a material adverse effect on Debtor, the Collateral, or the business, operation, assets or affairs of Debtor;

(f) Debtor will (i) pay all taxes, assessments and other charges of every nature which may be levied or assessed against the Collateral other than taxes, assessments, fees and charges being contested in good faith by appropriate proceedings being diligently pursued and (ii) at all times keep the Collateral insured against loss, damage, theft and other risks, in such amounts, with such insurance carriers and under such form of policies as shall be reasonably acceptable to Secured Party, with appropriate endorsements designating Secured Party as lender loss payee and additional insured, as requested by Secured Party, and which policies of insurance shall provide that all losses thereunder shall be payable to Secured Party, as its interest may appear, and Secured Party may apply any proceeds of such insurance received by it toward payment of any of the Indebtedness, whether or not due, in such order of application as Secured Party may determine, and the original or duplicates of such policies of insurance or certificates thereof shall be delivered to Secured Party, on the date hereof, upon each renewal and upon its request;

(g) Debtor will not permit any part of the Collateral to be or become an accession to other goods not covered by this Agreement;

(h) If all or any part of the Collateral is located on property which is not owned by Debtor, Debtor will deliver to Secured Party for each such location a Landlord's Waiver; and

(i) Debtor will execute and deliver to Secured Party such certificates of title, assignments and other documents and will take such other actions relating to the Security Interest and the perfection thereof as Secured Party may reasonably request and will pay all costs of title searches and filing financing statements, certificates of title, assignments and other documents in all public offices requested by Secured Party.

5. **PROVISIONS RELATED TO ACCOUNTS.** Debtor irrevocably makes, constitutes and appoints Secured Party (and any of Secured Party's designated officers, employees or agents) as its true and lawful attorney in fact with power to sign its name and to take any of the following actions, in its name or in the name of Secured Party, as Secured Party may determine, at any time (except as expressly limited in this Section 5) without notice to Debtor and at Debtor's expense:

(a) Verify the validity and amount of, or any other matter relating to, the accounts with account debtors;

(b) Notify all account debtors that the accounts have been assigned to Secured Party and that Secured Party has a Security Interest in the accounts;

(c) Take control in any manner of any cash or noncash items of payment or proceeds of the accounts;

(d) In any case and for any reason, notify the United States Postal Service to change the addresses for delivery of mail addressed to Debtor to such address as Secured Party may designate;

(e) In any case and for any reason, receive, open and dispose of all mail addressed to Debtor; and

(f) Upon demand for repayment of the Indebtedness or upon the occurrence of an Event of Default, as applicable, enforce payment of and collect any accounts, by legal proceedings or otherwise, and for such purpose Secured Party may:

(i) Demand payment of any accounts or instruct any account debtors to make payment of accounts directly to Secured Party (whether to a lockbox account or otherwise);

(ii) Receive and collect all monies due or to become due to Debtor;

(iii) Exercise all of Debtor's rights and remedies with respect to the collection of the accounts;

(iv) Settle, adjust, compromise, extend, renew, discharge or release the accounts;

(v) Endorse the name of Debtor upon any chattel papers, documents, instruments, invoices, freight bills, bills of lading or similar documents or agreements relating to accounts or goods pertaining to accounts or upon any checks or other medium of payment or evidence of security interest that may come into Secured Party's possession;

(vi) Sign the name of Debtor to verifications of accounts sent by account debtors to Debtor; or

(vii) Take all other actions necessary or desirable to protect Debtor's interest(s) in the accounts.

Debtor irrevocably authorizes and directs each account debtor to honor any demand by Secured Party that all payments in respect of the accounts thereafter be paid directly to Secured Party. In each such case account debtor may continue directing all such payments to Secured Party until account debtor shall have received written notice from Secured Party either that the Indebtedness has been paid in full or that Secured Party has released its security interest. No account debtor shall have any responsibility to inquire into Secured Party's right to make any such demand or to follow Secured Party's disposition of any moneys paid to Secured Party by account debtor.

Debtor further agrees to use its best efforts to assist Secured Party in the collection and enforcement of the accounts and will not hinder, delay or impede Secured Party in any manner in its collection and enforcement of the accounts.

6. **VERIFICATION OF COLLATERAL.** Secured Party shall have the right to verify all or any Collateral in any manner and through any medium Secured Party may consider appropriate, and Debtor agrees to furnish all assistance and information and perform any acts which Secured Party may reasonably require in connection therewith.

7. **NOTIFICATION AND PAYMENTS.** Secured Party may notify Debtor in writing, at any time after demand or the occurrence of an Event of Default, as applicable, and without waiving in any manner the Security Interest, that any payments on account of and from the Collateral received by Debtor (a) shall be held by Debtor in trust for Secured Party in the same medium in which received, (b) shall not be commingled with any assets of Debtor and (c) shall be turned over to Secured Party not later than the next business day following the day of their receipt.

8. **EVENTS OF DEFAULT.** This Agreement is executed and delivered subject to the terms of a Loan Agreement dated as of the date hereof between Debtor and Secured Party (as the same may be amended or

supplemented from time to time, the "Loan Agreement") and reference is hereby made to the Loan Agreement for the provisions relating to the Events of Default (as defined in the Loan Agreement).

(a) Upon demand or the occurrence of an Event of Default as set forth in the loan documents, as applicable, Secured Party's rights and remedies with respect to the Collateral shall be those of a Secured Party under the Uniform Commercial Code and under any other applicable law, as the same may from time to time be in effect, in addition to those rights granted herein and in any other agreement now or hereafter in effect between Debtor and Secured Party. Without in any way limiting the foregoing, Secured Party, upon demand or the occurrence and during the continuance of an Event of Default, may at any time and from time to time, with or without judicial process, enter upon any premises in which any Collateral may be located and, without resistance or interference by Debtor, take possession of the Collateral; and/or dispose of any Collateral on any such premises; and/or require Debtor to assemble and make available to Secured Party at the expense of Debtor any Collateral at any place or time designated by Secured Party; and/or remove any Collateral from any such premises for the purpose of effecting sale or other disposition thereof. Secured Party may apply the net proceeds actually received from any sale or other disposition to the reasonable expenses of retaking, holding, preparing for sale, selling, leasing and the like, to reasonable attorney's fees and all legal, travel and other expenses incurred by Secured Party in attempting to collect any part of the Indebtedness or enforcing this Agreement; and then to the Indebtedness in such order of application as Secured Party may elect; and Debtor shall remain liable and will pay to Secured Party on demand the amount of any deficiency remaining, together with interest thereon at the highest rate then payable on the Indebtedness.

(b) Without in any way requiring notice to be given in the following manner, Debtor agrees that any notice by Secured Party of sale, disposition or other intended action hereunder or in connection herewith, whether required by the Uniform Commercial Code or otherwise, shall constitute reasonable notice to Debtor if such notice is mailed by regular mail, postage prepaid, at least ten (10) days prior to such action, to the address set forth above as the location of Debtor's chief executive office or to any other address which Debtor has specified in writing to Secured Party as the address to which notices hereunder shall be given to Debtor.

(c) Debtor agrees to pay on demand all reasonable costs and expenses incurred by Secured Party in enforcing this Agreement, in realizing upon or protecting any Collateral and in enforcing and collecting any Indebtedness or any guaranty thereof, including, without limitation, if Secured Party retains counsel for advice, suit, insolvency proceedings or any of the above purposes, the reasonable counsel's fees and expenses incurred by Secured Party.

9. MISCELLANEOUS.

(a) Debtor hereby appoints Secured Party as attorney-in-fact of Debtor, irrevocably and with power of substitution, in the same manner, to the same extent and with the same effect as if Debtor were to do the same to file financing statements relating to the Collateral or to execute and file any such financing statement in Debtor's name, all as Secured Party may deem appropriate to perfect and continue the Security Interest; upon demand or the occurrence and during the continuance of an Event of Default (i) to make, adjust or settle and receive payment on any insurance claims with respect to the Collateral; (ii) to endorse the name of Debtor on any instruments, documents or other evidences of the Collateral that may come into Secured Party's possession; (iii) to execute proofs of claim and loss or similar documents; (iv) to execute endorsements, assignments or other instruments of sale, conveyance or transfer for any Collateral; and (v) to perform all other acts which Secured Party deems appropriate to protect and preserve the Collateral and to enforce the terms of this Agreement. Debtor ratifies and approves all acts of said attorney-in-fact and agrees that said attorney shall not be liable for any acts of commission or omission, nor for any error of judgment or mistake of fact or law. This power, being coupled with an interest, is unconditional and irrevocable until the Indebtedness is paid in full and Debtor shall have performed all of its obligations under this Agreement.

(b) Upon Debtor's failure to perform any of its covenants or obligations hereunder, Secured Party may, but shall not be obligated to, perform any or all such covenants or obligations, and Debtor shall pay an amount equal to the expense thereof to Secured Party upon demand by Secured Party, and all such amounts shall become part of the Indebtedness secured hereby.

(c) No course of dealing and no delay or omission by Secured Party in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Secured Party may remedy any default by Debtor hereunder or with respect to any Indebtedness in any

reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by Debtor. All rights and remedies of Secured Party hereunder are cumulative, and are in addition to any and all rights and remedies available to Secured Party under the Uniform Commercial Code and other applicable law in effect from time to time.

(d) Secured Party shall have no obligation to take, and Debtor shall have the sole responsibility for taking, any and all steps to preserve rights against any and all prior parties to any instrument or chattel paper constituting Collateral whether or not in Secured Party's possession. Secured Party shall not be responsible to Debtor for loss or damage resulting from Secured Party's failure to enforce or collect any Collateral or to collect any moneys due or to become due thereunder. Debtor waives protest of any instrument constituting Collateral at any time held by Secured Party on which Debtor is in any way liable and waives notice of any other action taken by Secured Party.

(e) Without limiting its rights of setoff under New York law generally, upon and at any time and from time to time after demand or any occurrence or existence of any Event of Default, Secured Party shall have the right to place an administrative hold on, and setoff against each obligation of Debtor pursuant to this Agreement, each obligation of Secured Party or any affiliate of Secured Party (in any capacity) owing to Debtor, whether now existing or hereafter arising or accruing, whether or not then due and whether pursuant to any Deposit Account or certificate of deposit or in any other manner. Such setoff shall become effective at the time Secured Party determines even though evidence thereof is not entered in the records of Secured Party until later.

(f) The rights and benefits of Secured Party hereunder shall, if Secured Party so agrees, inure to any party acquiring any interest in the Indebtedness or any part thereof. Secured Party and Debtor shall include the heirs, distributees, executors or administrators, or successors or assigns, of those parties.

(g) Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If, however, any such provision shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law, or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

(h) No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be binding except by a written agreement subscribed by Debtor and by a duly authorized officer of Secured Party.

(i) This Agreement and the transaction evidenced hereby shall be construed under the laws of New York State as the same may from time to time be in effect. All terms defined in the Uniform Commercial Code, unless otherwise defined in this Agreement or in any financing statement, shall have the definitions set forth in the Uniform Commercial Code adopted in New York State as in effect on the date of this Agreement and as the same may be amended, modified or supplemented from time to time. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby.

(j) This Agreement is and is intended to be a continuing Security Agreement and shall remain in full force and effect until all of the Indebtedness and any extensions or renewals thereof shall be paid in full.

(k) To the fullest extent permitted by applicable law, Debtor shall not assert, and hereby waives any claim against Secured Party, on any theory of liability, for special, indirect, consequential or punitive damages (but excluding direct or actual damages) arising out of, in connection with or as a result of, this Agreement, any related loan documents, the transactions contemplated hereby or thereby or any loan or the use of the proceeds.

(l) This Agreement 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 agreement. Debtor agrees that in any legal proceeding, a copy of this Agreement kept in Secured Party's course of business may be admitted into evidence as an original.

10. **CONSENTS AND WAIVERS RELATING TO LEGAL PROCEEDINGS.**

(a) DEBTOR KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY (i) CONSENTS IN EACH ACTION AND OTHER LEGAL PROCEEDING COMMENCED BY SECURED PARTY AND ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT, ANY OF THE OBLIGATIONS, ANY OF THE COLLATERAL OR ANY OTHER COLLATERAL TO THE JURISDICTION OF ANY COURT THAT IS EITHER A COURT OF RECORD OF THE STATE OF NEW YORK OR A COURT OF THE UNITED STATES LOCATED IN THE STATE OF NEW YORK AND (ii) WAIVES EACH OBJECTION TO THE LAYING OF VENUE OF ANY SUCH ACTION OR OTHER LEGAL PROCEEDING.

(b) DEBTOR KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES EACH RIGHT DEBTOR MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO, AND IN, ANY ACTION OR OTHER LEGAL PROCEEDING OF ANY NATURE, RELATING TO (i) THIS AGREEMENT, ANY RELATED LOAN DOCUMENT OR ANY COLLATERAL, (ii) ANY TRANSACTION CONTEMPLATED BY ANY SUCH DOCUMENT OR (iii) ANY NEGOTIATION, PERFORMANCE OR ENFORCEMENT OF THIS AGREEMENT, OR ANY COLLATERAL. DEBTOR CERTIFIES THAT NEITHER SECURED PARTY NOR ANY REPRESENTATIVE THEREOF HAS REPRESENTED TO DEBTOR THAT SECURED PARTY WILL NOT SEEK TO ENFORCE THE WAIVER MADE BY DEBTOR IN THIS SECTION. DEBTOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL AS NECESSARY AND APPROPRIATE.

11. **NO RECOURSE; SPECIAL OBLIGATION.**

(a) The obligations and agreements of the Authority contained herein and in 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 Authority, and not of any member, officer, director, agent (other than the Mortgagor) or employee of the Authority in his individual capacity, and the members, officers, directors, agents (other than the Mortgagor) and employees of the Authority 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 or thereby.

(b) The obligations and agreements of the Authority contained herein and therein shall not constitute or give rise to an obligation of the State of New York or the City of Auburn, New York, and neither the State of New York nor the City of Auburn, New York shall be liable hereon or thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Authority, but rather shall constitute limited obligations of the Authority payable solely from the revenues of the Authority derived and to be derived from the sale or other disposition of the Premises and the other security pledged to the payment of the Debt.

(c) No order or decree of specific performance with respect to any of the obligations of the Authority hereunder or thereunder shall be sought or enforced against the Authority unless (1) the party seeking such order or decree shall first have requested the Authority in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Authority shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) if the Authority refuses to comply with such request and the Authority'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 Authority an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Authority refuses to comply with such request and the Authority's refusal to comply is based on its reasonable expectation that it or any of its members, directors, officers, agents (other than the Mortgagor) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Authority and its members, directors, officers, agents (other than the Mortgagor) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Authority, shall furnish to the Authority satisfactory security to protect the Authority and its members, officers, agents (other than the Mortgagor) and employees against all liability expected to be incurred as a result of compliance with such request.

(d) The limitations on the obligations of the Authority contained in this Section 23 by virtue of any lack of assurance or indemnity required by paragraph (C) hereof shall not be deemed to prevent the occurrence and full force and effect of any event of default hereof.

12. **HOLD HARMLESS PROVISIONS.**

(a) The Mortgagor agrees that the Authority, its directors, members, officers, agents (other than the Mortgagor) and employees shall not be liable for and agrees to defend, indemnify, release and hold the Authority, its directors, members, officers, agents (other than the Mortgagor) and employees harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Premises or arising by reason of or in connection with the use thereof or under this Mortgage, or (ii) liability arising from or expense incurred by the Authority's acquisition, renovation, construction, installation, owning and leasing of the Premises, including without limitation the generality of the foregoing, all claims arising from the breach by the Mortgagor of any of its covenants contained herein and all causes of action and reasonable attorneys fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of the foregoing, provided that any such losses, damages, liabilities or expenses of the Authority are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Authority or any of its directors, members officers, agents (other than the Mortgagor) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Authority, or any of its members, directors, officers, agents (other than the Mortgagor) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(b) Notwithstanding any other provisions of the Mortgage, the obligations of the Mortgagor pursuant to this Section 12 shall remain in full force and effect after the termination of this Mortgage until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all reasonable expenses and charges incurred by the Authority, or its respective members, directors, officers, agents (other than the Mortgagor) and employees, relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the Authority or its members, directors, officers, agents (other than the Mortgagor) or employees by any employee or contractor of the Mortgagor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Mortgagor hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

Dated this ____ day of June, 2014.

WST33, LLC

By: _____
R. Daniel Soules, Member

Auburn Industrial Development Authority

By: _____
Name: _____
Title: _____

Rev. 04/30/2014

SCHEDULE A

All terms, unless otherwise defined in this Agreement or in any financing statement, shall have the definitions set forth in the Uniform Commercial Code adopted in New York State, as in effect on the date of this Agreement and as may be amended, modified or supplemented from time to time.

“Collateral” includes all of Debtor’s accounts (including, without limitation, health-care-insurance receivables), equipment, inventory, goods, (excluding consumer goods), fixtures, general intangibles, chattel paper, instruments, documents, deposit accounts, investment property, letters of credit and letter-of-credit rights, supporting obligations, commercial tort claims (if any, as described), insurance proceeds, and property in Secured Party’s control or possession, software, books and records, all attachments, replacements, substitutions, and the proceeds of all the foregoing.

SCHEDULE B

Locations at which Debtor's business is conducted and at which the Collateral and records concerning Collateral are located:

<u>Address</u>	<u>County</u>	<u>Record Owner of Location</u>
161 Genesee Street Auburn, New York 13021	Cayuga	WST33, LLC

"Permitted Liens" as used in this Agreement means:

<u>Name of Secured Party</u>	<u>Collateral</u>	<u>Lien Position</u>
Prior First Niagara Bank, N.A. Lien only		