

## PAYMENT IN LIEU OF TAX AGREEMENT

This Payment in Lieu of Tax Agreement (the "Agreement"), dated as of September 30, 2002, is made by and between COLLEGE CIRCLE ASSOCIATES, LLC, a limited liability company duly organized and existing under the laws of the State of New York, having offices at 15 Thornwood Drive, Ithaca, New York 14852-4860, (the "Company"), the TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its offices at 200 East Buffalo Street, Ithaca, New York 14850 (the "Agency"), and ITHACA COLLEGE, an Educational Corporation chartered under the Education Law of the State of New York, and having its principal office at 200 Job Hall, Ithaca, New York 14850 ("Ithaca College").

### WITNESSETH:

WHEREAS, the Agency was created pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York as amended by Chapter 535 of the Laws of 1971, of the State of New York (collectively, the "Act"), as a body corporate of the State of New York, and

WHEREAS, the Agency has been asked to participate in the project whereby it will accept an assignment of the ground lease between the Company and South Hill Land Associates, LLC dated as of May 31, 2002 (the "Ground Lease") together with title to a facility ("the Facility") as constructed and to be constructed by the Company located on the leased premises ("the Premises"), and

WHEREAS, the Agency will sublease the Premises to the Company for 40 years (the "Sublease Agreement"), and

WHEREAS, the Premises and the improvements thereon, due to the Agency's ownership thereof, will be exempt from town, county and school real estate taxes pursuant to the laws of the State of New York, and

WHEREAS, the Company, however, shall, pursuant to the terms hereof, make certain payments in lieu of real property taxes, for the benefit of the Town of Ithaca, Tompkins County and the Ithaca City School District (collectively referred to "Affected Tax Jurisdictions") during the term of the Sublease Agreement,

NOW THEREFORE, in consideration of \$1.00 each to the other in hand paid and receipt of which is hereby acknowledged, and other good and valuable consideration, the parties agree as follows:

(1) (a) The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special *ad valorem* levies, service charges and improvement district charges or similar tax equivalents, and this Agreement shall in no way be construed to exempt the Company from payment of such charges. Pursuant to the Sublease Agreement described herein, the Company is required to pay all special assessments and special *ad valorem* levies, service charges and improvement district charges or similar tax equivalents lawfully levied and/or assessed against the Facility.

(b) It is agreed and understood by the parties that the total Premises leased by the Company at 1033 Danby Road in the Town of Ithaca upon which the new east residential campus with up to 750 beds of apartment-style student housing will be located are being conveyed to the Agency by means of an assignment of the Ground Lease from the Company to the Agency dated as of September 30, 2002. The buildings and improvements presently existing are likewise being conveyed to the Agency by the Company by means of a warranty deed with lien covenant. As long as the total Premises are owned by the Agency and, therefore, exempt from general real property taxation, the Company agrees to pay annually to the Affected Tax Jurisdictions, as a payment in lieu of general real property taxes respecting the Premises, commencing on March 1, 2003, the first tax status date following the date hereof (it being understood and agreed that from the date hereof until such tax status date, said date being the first day of March following the execution of this agreement, the Company shall be obligated to pay or cause to be paid annually to the Affected Tax Jurisdictions real property tax as if the Agency were not in title):

<u>YEAR OF EXEMPTION</u>	<u>SCHOOL TAX YR</u>	<u>TWN/CNTY TAX YR</u>	<u>TAXING JURISDICTIONS PAYMENT IN LIEU OF TAX</u>
1	2003-04	2004	\$235,000.00 total aggregate payment, allocated as follows: a. Town and County: 26% (5% Town of Ithaca, 21% Tompkins County) (\$61,100.00 is the "TC Base Payment" allocated \$12,220.00 to Town and \$48,880.00 to County Tax); and b. School: 74% (\$173,900.00 is the "School Base Payment").
2 - 40	2004-05 thru 2042-43	2005 thru 2043	\$235,000.00 plus an amount determined by multiplying each of the TC Base Payment and the School Base Payment by the percentage of increase in the Town Tax rate, County Tax rate and the School Tax rate, respectively, for each year over the rate in effect in the previous year, allocated as set forth above.
41	thereafter		100% (no abatement; full taxes paid unless owned by tax-exempt entity)

By way of illustration and example only, assume that the Town Tax rate for 2005 increases by 3% over the Town Tax rate for 2004, and the County Tax rate for 2005 increases by 15% over the County Tax rate for 2004 and the School Tax rate for 2004-05 increases by 5% over the School Tax rate for 2003-04. The computations would then be as follows:

Town:	\$ 12,220.00 x 1.03 =	\$ 12,587.00
County:	\$ 48,880.00 x 1.15 =	\$ 56,212.00
School:	\$173,900.00 x 1.05 =	\$182,595.00

TOTAL AGGREGATE PAYMENT  
for 2004-05 School Tax and 2005 Town and  
County Tax, exclusive of special district  
charges, special assessments and special  
*ad valorem* levies \$251,394.00

In addition, the Company agrees to pay on the date of execution and delivery by the Agency of any mortgage on the Facility, to Tompkins County as a payment in lieu of mortgage tax which would be due in respect of such mortgage on the Facility but for its record ownership by the Agency, an amount equal to 1/2 of 1% ( 50 basis points) of the maximum amount secured by any such mortgage.

(2) (a) Special district charges and special assessments, and special *ad valorem* levies, unless otherwise exempt, and pure water and sewer charges, if any, are to be paid in full in accordance with normal billing practices.

(b) The Company shall pay to the Affected Tax Jurisdictions, at the times real estate taxes are due and prior to incurrance of any penalty, the amounts set forth in paragraph 1(b).

(c) If the Company shall fail to make any payment required by this Agreement when due, its obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with interest thereon, to the extent permitted by law, at the same rate per annum as if such amounts were delinquent taxes, until so paid in full.

(3) In the event that the Facility is transferred from the Agency to the Company, and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption is less

than that described in paragraph 1(b) herein, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period) to the Affected Tax Jurisdictions an amount which would have been levied on the Facility if the Facility had been classified as fully taxable, pro rata for the unexpired portion of the year of transfer.

The Company agrees that in the event the Facility covered by this Agreement is sold, the purchaser will be required by the Company to continue to make payments in lieu of taxes according to the terms of this Agreement until the property being sold has been returned to the taxable assessment rolls and until payment of property taxes becomes due according to the Real Property Tax Law of the State of New York. Any amounts paid in lieu of taxes will be eligible for proration up to the time of payments of property taxes.

The intent of this paragraph is to ensure that the current and future owners are at all times paying either the payment in lieu of taxes or real estate taxes as assessed from time to time on the property conveyed. There shall be no duplication of payments in any year.

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

(5) Following the expiration of the term of the Sublease Agreement executed concurrently herewith, and the conveyance of the Facility to the Company by the Agency, the Company shall thereafter pay 100% of all such taxes which would be due but for the Agency's ownership of the Facility based on the then current assessment.

(6) While the Agency is the owner of the Facility and the Lessee pursuant to the Ground Lease, to the extent permitted by law, the Company or any tenant of the Facility shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company or any tenant of the Facility were the owner of the Facility and Lessee pursuant to the Ground Lease with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Taxing Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or the amount of any tax equivalent provided for herein. The Agency agrees to sign any papers, petitions, notices or other documents to permit the Company or any tenant of the Facility to contest assessments of the Facility and to otherwise cooperate, at the Company's or tenant's cost, with efforts of the Company or tenant to contest assessments of the Facility.

(7) To the extent the Facility is declared to be subject to general real property taxation by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent be null and void.

(8) If payments are not made as provided for herein, the Agency and/or the Affected Tax Jurisdictions, collectively, shall be entitled to pursue any and all remedies afforded a municipal taxing entity at law or in equity.

(9) The rights and obligations of the Company hereunder may not be assigned, transferred or assumed without the prior written consent of the Agency which consent shall not be unreasonably withheld or delayed.

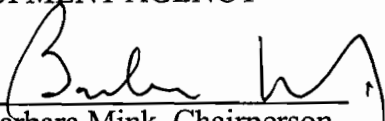
(10) This Agreement is executed by Ithaca College solely for the purpose of acknowledging and affirming the obligation of Ithaca College to continue to make the payments in lieu of taxes due and owing pursuant to the schedule set forth in section 1(b) of this Agreement for the full forty (40) year period set forth in this Agreement. In the event that the Premises and Facility are conveyed to Ithaca College prior to the expiration of the forty (40) year period, Ithaca College hereby agrees to continue to make payments under this Agreement notwithstanding any exemption from real property taxes that may be available to Ithaca College based upon its not-for-profit status or otherwise. Ithaca College shall have no further obligations under this Agreement and shall not be bound by any other term or condition of this Agreement.

status or otherwise. Ithaca College shall have no further obligations under this Agreement and shall not be bound by any other term or condition of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 30th day of September, 2002.

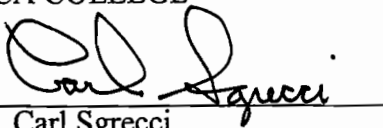
TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY

COLLEGE CIRCLE ASSOCIATES, LLC

By:   
Barbara Mink, Chairperson

By:   
Philip Proujansky, Member

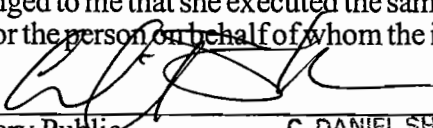
ITHACA COLLEGE

By:   
Carl Sgrecci

Title: V.P. & TREASURER

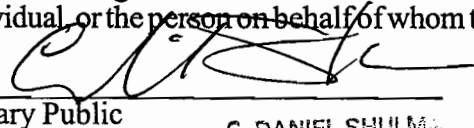
STATE OF NEW YORK )  
COUNTY OF TOMPKINS ) s.s.:

On the 30<sup>th</sup> day of September, in the year 2002, before me, the undersigned, personally appeared BARBARA MINK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

  
Notary Public  
C. DANIEL SHULMAN  
Notary Public, State of New York  
Qualified in Onondaga County  
No. 34-8981350  
Commission Expires 2/28/2003

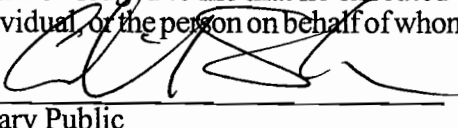
STATE OF NEW YORK )  
COUNTY OF TOMPKINS ) s.s.:

On the 30th day of September, in the year 2002, before me, the undersigned, personally appeared PHILIP PROUJANSKY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

  
Notary Public  
C. DANIEL SHULMAN  
Notary Public, State of New York  
Qualified in Onondaga County  
No. 34-8981350  
Commission Expires 2/28/2003

STATE OF NEW YORK )  
COUNTY OF TOMPKINS ) s.s.:

On the 30th day of September, in the year 2002, before me, the undersigned, personally appeared CARL SGRECCI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

  
Notary Public  
C. DANIEL SHULMAN  
Notary Public, State of New York  
Qualified in Onondaga County  
No. 34-8981350  
Commission Expires 2/28/2003