

PAYMENT IN LIEU OF TAX AGREEMENT

THIS AGREEMENT is made by and between NUT BROWN REALTY, LLC, a limited liability company duly organized and validly existing under the laws of the State of New York, having offices at 122 Ithaca Beer Drive, Ithaca, New York 14850, (the "Company"), and the TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its offices at 401 East State Street, Suite 402B, Ithaca, New York 14850 (the "Agency").

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 a leasehold interest in a facility ("the Facility") to be constructed by the Company pursuant to a Lease Agreement, and

WHEREAS, the premises and the buildings thereon will be exempt from city, county and school real estate taxes pursuant to the laws of the State of New York, and

WHEREAS, the Company, however, has agreed to pay sums of money in lieu of real property taxes,

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. Pursuant to the Lease and Leaseback Agreements 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.

(1) (b) It is agreed and understood by the parties that a leasehold interest in the total 10.31-acre premises to be acquired by the Company at 122 Ithaca Beer Drive in the Town of Ithaca, Tompkins County, New York (tax parcel 33.-3-2.10), upon which an approximately 23,800-square-foot expansion of the current building is to be constructed, has been conveyed to the Agency. As long as the total premises are leased to the Agency and, therefore, exempt from general real property taxation, the Company agrees to pay annually to such Taxing Jurisdictions, i.e., the Town of Ithaca, the County of Tompkins and the Ithaca City School District (or cause any mortgagee to release any escrow for payments hereunder annually to such Taxing Jurisdiction) as a payment in lieu of general real property taxes respecting the conveyed premises, commencing the first tax status date following the date hereof:

(i) an amount equal to 100% of the real property taxes which would be due for said premises but for record ownership by the Agency (but without reference to, or utilization of, Section 485-b of the Real Property Tax Law of the State of New York) based on the assessment of the total land portion and any improvements in existence on the conveyed premises prior to 2011, but excluding therefrom the

assessed value of the improvements described in the PILOT Agreement between the Company and the Agency dated December 21, 2011 (the "2011 PILOT") and the further improvements to be constructed thereon;

(ii) with respect to the portion of the assessed value of the premises attributable to the improvements described in the 2011 PILOT, payments pursuant to the 2011 PILOT; and

(iii) with respect to the portion of the assessed value of the premises attributable to the further improvements to be constructed thereon, the following percentages of the general real property taxes which would be due in respect of the improvements to the premises (i.e., the assessed value of the improvements to the premises) but for its record ownership by the Agency (but without any reference to, or utilization of, Section 485-b of the Real Property Tax law of the State of New York), based on a current assessment of such improvements:

<u>YEAR OF EXEMPTION</u>	<u>TAXES</u>	<u>TAXING JURISDICTIONS PAYMENT IN LIEU OF TAX FOR ASSESSED VALUE OF IMPROVEMENTS</u>
1	2016-17 School; 2017 Town & County	10%
2	2017-18 School; 2018 Town & County	23%
3	2018-19 School; 2019 Town & County	36%
4	2019-20 School; 2020 Town & County	49%
5	2020-21 School; 2021 Town & County	61%
6	2021-22 School; 2022 Town & County	74%
7	2022-23 School; 2023 Town & County	87%
8	and thereafter	100% (no abatement; full taxes paid)

(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 Taxing Jurisdictions normal real property taxes).

(1) (c) In addition, the Company agrees to pay on the date of execution and delivery by the Agency of any mortgage on the Facility, as a payment in lieu of mortgage recording tax which would be due in respect of such mortgage on the Facility but for its record ownership by the Agency, a total amount of 3/4 of 1% of the maximum amount secured by any such mortgage, except such amount as reflects repayment of prior indebtedness, to the County of Tompkins and the Town of Ithaca, with said amount allocated between them as follows: County of Tompkins: 1/4 of 1%; Town of Ithaca: 1/2 of 1%.

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

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

(2) (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, penalties, fees and costs 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 Taxing 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 Leaseback Agreement executed concurrently herewith, and the conveyance of its interest in 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 leasehold interest in the Facility based on the then-current assessment.

(6) While the Agency holds a leasehold interest in the Facility, 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 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 Project 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 Project 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.

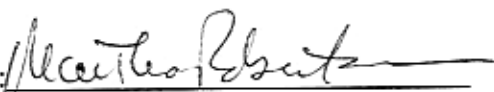
(8) If payments are not made as provided for herein, the Agency and/or the Taxing Jurisdictions, collectively, shall be entitled to pursue any and all remedies afforded a municipal taxing entity at law or in equity.

(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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 17th day of December, 2015.

TOMPKINS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

NUT BROWN REALTY, LLC

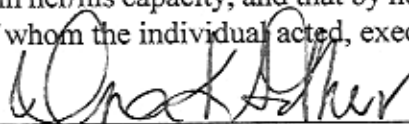
By: 
Name: Martha Robertson
Title: Vice Chair

By: 
Daniel Mitchell, Member

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

On the 15 day of December, in the year 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Martha Robertson, 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 s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

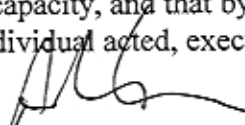
INA K ARTHUR
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01AR6197562
QUALIFIED IN TOMPKINS COUNTY
COMMISSION EXPIRES DECEMBER 1, 2016


Notary Public

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

On the 17th day of December, in the year 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared DANIEL MITCHELL, 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.

ADAM KLAUSNER
Notary Public, State of New York
Qualified in Tompkins County
No. 02KL6032452
My Commission Expires 11-01-2017


Notary Public