



Wallace Altes, Chairman  
Andrew Ross, Vice Chairman

Bill Dunne  
Ken Zalewski  
Deputy Mayor Pete Ryan

**TROY LOCAL DEVELOPMENT CORPORATION  
Board of Directors Meeting  
Planning Department Conference Room**

**City Hall  
433 River Street, Suite 5001  
Troy, New York 12180**

**December 5, 2013  
6:00 p.m.**

**AGENDA**

- I. Approval of the Minutes from the November 8, 2013.
- II. TAP funding agreement (Justin)
- III. O'Briens Public House additional funding request (Bill/Monica)
- IV. 9 First Street - approval of assignment of LDA option from 9 First Street Properties LLC to 16 First Street Properties LLC. (Justin)
- V. Authorizing Lease Agreement with Hudson River Natural Product Recycling, LLC (Bill and Justin)
- VI. Authorizing Amendment to Reimbursement Agreement with National Grid, along with Agent Agreement and related documents (Bill and Justin)
- VII. Status Report on King Fuels Site (Bill and Justin)
- VIII. Consideration of Executive Session
- IX. Adjournment

TROY LOCAL DEVELOPMENT CORPORATION

COMMUNITY AND ECONOMIC DEVELOPMENT FUNDING AGREEMENT

THIS COMMUNITY AND ECONOMIC DEVELOPMENT FUNDING AGREEMENT (hereinafter, the “Agreement”) is entered into by and between TROY LOCAL DEVELOPMENT CORPORATION (herein, “TLDC”), a charitable, not-for-profit local development corporation having an address of 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180 and TAP, Inc. (“TAP”), a not-for-profit corporation with an office at 210 River Street, Troy, New York 12180.

WITNESSETH:

WHEREAS, pursuant to Sections 402 and 1411 of the Not-For-Profit Corporation Law (“N-PCL” or the “LDC Act”) of the State of New York, TLDC was established as a domestic, not-for-profit corporation on November 29, 1988, and thereafter reincorporated as a domestic, not-for-profit local development corporation pursuant to N-PCL Section 1411(h) pursuant to a certain Certificate of Reincorporation filed on April 5, 2010 (the “Certificate”), all for certain charitable and public purposes, among other things, including relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding the City of Troy, New York (the “City”) by attracting new industry to the City or by encouraging the development of, or retention of, an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, pursuant to the N-PCL and the Certificate, the TLDC has established a Community and Economic Development Funding Program (the “TLDC Program”) whereby the TLDC provides funding to certain projects, programs and organizations to undertake community and economic development programs within the City; and

WHEREAS, TAP previously submitted a request to TLDC for TLDC Program Funding as matching funds in connection with a certain project (the “Project”) to include the undertaking of studies and reports in connection with identifying and establishing the expansion of historic building and district areas within the City in accordance with regulations of the State Historic Preservation Office (“SHPO”); and

WHEREAS, in furtherance of the Project, TAP will dedicate the efforts toward the **Scope of Work**, as defined herein, which will include the completion of the Project; and

WHEREAS, pursuant to a TLDC authorizing resolution adopted December 5, 2013, the TLDC desires to provide TAP with grant funding (the “Grant”, as defined herein) in furtherance of the Project and in accordance with the terms and conditions set forth within this Agreement.

ARTICLE I  
REPRESENTATIONS AND COVENANTS

Section 1.     Representations and Covenants of TLDC.

TLDC makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a)     The Corporation is a duly established and existing charitable, not-for-profit, local development corporation organized pursuant to the LDC Act and pursuant to the LDC Act and the Certificate, the Corporation has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Corporation has the authority to take the actions contemplated herein under the Act.

(b)     Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of the LDC Act or of any corporate restriction or any agreement or instrument to which the TLDC is a party or by which it is bound, or will constitute default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the TLDC under the terms of any such instrument or agreement.

(c)     TLDC has been induced to enter into this Agreement by the undertaking of TAP to undertake the timely performance of the Scope of Work in furtherance of the Project.

(d)     There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of TLDC, threatened against or affecting TLDC, to which the TLDC is a party, and in which an adverse result would in any way diminish or adversely impact on TLDC's ability to fulfill its obligations under this Agreement.

Section 2.     Representations and Covenants of TAP.

TAP makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a)     TAP is a duly formed and validly existing not-for-profit corporation of the State of New York with purposes and powers necessary to undertake the Scope of Work and the Project. TAP has duly authorized the execution and delivery of this Agreement.

(b)     Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which TAP is a party or by which it is bound, or will constitute a default under any of the foregoing,

or result in the creation or imposition of any lien of any nature upon any of the property of TAP under the terms of any such instrument or agreement.

(c) The Project-related activities of TAP will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Scope of Work and Project, and TAP shall defend, indemnify and hold TLDC harmless from any liability or expenses resulting from any failure by TAP to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of TAP, threatened against or affecting TAP, to which the TAP is a party, and in which an adverse result would in any way diminish or adversely impact on TAP's ability to fulfill its obligations under this Agreement.

## **ARTICLE II SCOPE OF WORK**

### **SCOPE OF WORK TO BE UNDERTAKEN BY TAP**

In exchange for the Grant, TAP will undertake the following Scope of Work:

Preparation of studies and reports to expand historic district areas within the City and identify additional buildings and structures to be included on historic registries in accordance with SHPO regulations. TAP shall provide TLDC with copies of all completed work product and reports.

## **ARTICLE III DISBURSEMENT OF GRANT**

### **GRANT FUNDING TO BE PROVIDED BY TLDC**

In consideration of the Scope of Work to be undertaken by TAP as described in Section One above, TLDC hereby agrees to provide TAP with a Total of \$4,000.00 in Grant Funding. The Grant will be disbursed by TLDC through an initial payment of \$4,000.00 upon execution of this agreement, to underwrite a portion of the cost incurred in completing the Scope of Work.

IN WITNESS WHEREOF, TLDC and TAP have caused this Agreement to be executed in their respective names, all as of the date first above written.

TROY LOCAL DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Name: William Dunne  
Title: Executive Director

TAP, INC.

By: \_\_\_\_\_  
Name:  
Title:

State of New York            )  
  )  
County of Rensselaer        )        ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2013 before me, the undersigned, personally appeared **William Dunne**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures 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 Rensselaer    )        ss.:

On the \_\_ day of \_\_\_\_\_ in the year 2013 before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public



**TROY LOCAL DEVELOPMENT CORPORATION  
Board of Director  
Meeting Minutes**

**November 8, 2013  
8:30 a.m.**

**BOARD MEMBERS PRESENT: Wallace Altes, Bill Dunne, Hon. Ken Zalewski, Andy Ross and Dep. Mayor Pete Ryan**

**ABSENT:**

**ALSO IN ATTENDANCE: Justin Miller Esq., Monica Kurzejeski, Joe Mazzariello,, Selena Skiba, Andy Piotrowski, Andrew Kreshik, Laban Coblentz, Kevin Blodgett, Ken Crowe and Denee Zeigler**

**Minutes**

Wallace Altes, Chairman, called the meeting to order at 8:35 a.m. and advised that they will be meeting as a committee of the whole.

- I. Approval of Minutes from October 11, 2013 and October 18, 2013 board meetings

**Andy Ross made the motion to approve the minutes.  
Ken Zalewski seconded the motion, motion carried.**

- II. Center of Gravity

Laban Coblentz spoke about news and updates at the Center of Gravity. Mr. Coblentz presented to the board a proposal to sponsor phase II of the project. This phase focuses on sustainability. Mr. Coblentz advised that he has scaled back his involvement of the day to day operations and things seem to be moving along fine. They are now entering the phase of expanding the capabilities of the center. Many companies have approached them to be a part of the project if it expands to the Quackenbush building. Start Up New York wants to set up a hub and have several spokes – Center of Gravity would hopefully be one of those spokes. Whether or not the Quackenbush goes through we would still want to try and expand the space. The Chairman asked if David Bryce would still be the owner of the Quackenbush if the CFA grant was approved. Mr. Coblentz explained that the grant application originally shows Center of Gravity as the applicant. That may be something they have to change. The Chairman also asked about the potential tenants

on the 3<sup>rd</sup> and 4<sup>th</sup> floors. Mr. Coblentz advised that the potential tenants are a little of both. Monica Kurzejeski noted that there are other businesses that are looking to get on board that are in varying stages of maturity. Mr. Coblentz explained that he is looking to expand paid staff and work on the shared business services. There is a way to market this on the state/federal level that includes Troy and allows them to act as a business incubator. A discussion took place about some of the smaller businesses that are currently working through the center.

Mr. Coblentz referred to the handout to show the first phase was through the Rensselaer County IDA and TLDC. This phase is asking for \$75,000 over the next nine months. Andy Ross asked about the timeframe and questioned why not a year. Mr. Coblentz advised that he wanted to set a nine month deadline rather than a year to really push themselves with a harder deadline. Ken Zalewski wanted to note the growing enthusiasm for the Center of Gravity and the need for additional space. Bill Dunne asked if the shared business services would have a different membership level. Mr. Coblentz advised that he thinks no, but will be discussing it more in the future. Mr. Dunne added that it is important to have a component that can do the books, grant writing, etc. It will also be great if it could be one of the spokes. Mrs. Kurzejeski added that it would be a great way to introduce the businesses to the corporate world. The Chairman asked what the leveraging possibilities would be for the City. Mr. Dunne explained that we can recoup if the businesses stay and flourish here. If they can populate the vacant spaces and rent or own in Troy, that is where we recoup it. This extends out and people start to see Troy as a place to start a business.

The Chairman advised that legal counsel has not seen the proposal yet. If the board agrees, we could endorse the idea and move forward with the details of the contract. Justin Miller noted that it seems like a contract for services and we would have to follow the procurement. The financial officers would also have to take a look at it. It could be put together as a contract item and present to the board formally.

**Ken Zalewski made a motion to endorse the concept and prepare a formal agreement.**

**Andy Ross seconded the motion, motion carried.**

III. Kevin Blodgett, former Trojan Hardware

Monica Kurzejeski introduced Kevin Blodgett owner of the former Trojan Hardware building to the board members. Kevin Blodgett advised that he is doing work on two of the storefronts of the building. Rare Form Brewery will be moving into one of the spaces, their license will be approved in January 2014. Mr. Blodgett advised that 90 Congress Street is currently asking for a \$50,000 loan to bridge the gap to finish façade and structural work. They are also preparing a space on the 1<sup>st</sup> floor of one of the other buildings. It will be a bar/restraunt/delli that will take up about 3,000 SF. It will be one business that shares a common kitchen, but will appear on the outside to be two separate businesses. Each establishment will have a different target group and atmosphere. Ken Zalewski clarified the addresses of the building noting it spans from 90 Congress St., 96-98 Congress St. and 135 Fourth St. Monica Kurzejeski wanted to note that as far as an economic development

stand point, the urban core needs to expand out a little towards Congress Street. Bill Dunne agreed that establishing a business at that corner will help to create a different atmosphere in that section. It is an anchor location. Mrs. Kurzejeski also stated that there are seven residential units upstairs that are near completion. Justin Miller questioned the parcel/building owners. Mr. Blodgett stated he is the owner of the building free and clear. The Chairman asked if the board was ready to approve the idea in concept than the legal counsel can prepare the documents. Mrs. Kurzejeski stated that it will be great to see that corner brightened up. Mr. Blodgett agreed and added that it is an important gateway into the downtown coming from Brunswick, Averill Park and other areas East. The board had a brief discussion of other projects that Mr. Blodgett has been working and completed.

**Ken Zalewski made a motion to approve the proposal.  
Andy Ross seconded the motion, motion carried.**

The Chairman recessed the regular board meeting and conveyed as the Governance Committee.

## **Governance Committee**

### IV. Policies and Procedures

Monica Kurzejeski distributed a packet outlining the process for loan and grant applicants follow when applying for assistance from the board. Andy Ross indicated that he would like to add a sheet that allows for scoring the applicants to weigh their strengths. The Chairman explained that Monica would screen the applicants to make sure the info is here and ready to go. Justin Miller also noted that we should have a way to classify and track the projects. A suggestion was made to look at them in a competitive sense similar to the CFA with a review every six months. Mrs. Kurzejeski advised that economic development doesn't happen at one time. Ken Zalewski added that he thought the idea of a check list would help make the process fairer. Bill Dunne suggested adding an application fee and credit check. Mrs. Kurzejeski advised all of the updates will help screen out people that don't have their ducks in a row and show what was done for each project from beginning to end. Joe Mazzariello questioned when we would ask for the financing documentation. Justin Miller suggested that we expand the taxes paid section as well as do an in depth credit check. Mrs. Kurzejeski explained that she would like to get the applicants to the board easier. She also noted that there are about 1/2 that get referred to other agencies. The one's that come to us are pretty established. Ken Zalewski suggested combining the checklists into one form.

The Chairman adjourned the Governance Committee portion of the meeting.

## **Board Meeting**

### V. Old Business

Bill Dunne updated the board members on the King Fuels site noting that he received the letters of condemnation for the two buildings. Andrew Kreshik spoke to the board about the process of soliciting three quotes for the two buildings. Currently, they are selecting the bidder to use. Andy Ross asked

about the qualifications. Mr. Kreshik explained that they are qualified demolition companies and are local. Mr. Dunne added that the Hudson Mohawk Gateway was advised of the proposed demolition and they found that nothing historic is currently on the site. He also explained that once the buildings are down the site will be clear on top of the round and they will be able to start remediation in the spring. It should be completed by the end of 2014 or beginning of 2015. The LDC board approved up to \$200,000 for this process.

Justin Miller asked if there was a proposed agreement set up yet for both the air monitor and demolition contractor. Andrew Kreshik advised that the contract for air monitoring will be with Alpine Environmental for \$10,000. Mr. Kreshik advised the demolition contractor would be Provincial Contracting for \$49,000. Mrs. Kurzejeski asked if there was a contingent fee or miscellaneous fees. Mr. Kreshik explained that it is a fairly simple demo. The buildings are also full of scrap that the demolition company will be able to recoup. Mr. Ross asked if change orders are allowed. Mr. Kreshik advised no, it is a flat rate. The contract is very specific.

Ken Zalewski questioned if both the Benzoil building and the fire house (bldg 3) area are contaminated with asbestos. Mr. Kreshik advised that we will get another quote in the next week to do the abatement on the four other buildings. He also advised that we may also have to wait until spring due to cost increases of abatement in the winter. The Chairman asked if there were any other comments or questions.

**Ken Zalewski made a motion to authorize the executions of contracts for air monitoring and demolition.  
Andy Ross seconded the motion, motion carried.**

VI. Natural Products Recycling

Bill Dunne spoke to the board about a 4.3 acre parcel located North of the Wynantskill creek on the King Fuels site just outside the clean up area. The contractor is interested in leasing the space from us in order to put in a facility to recycle natural products such as brick, dirt, stone, concrete, etc. It would benefit us greatly because they will be cleaning up the site, generate some rental income and allow the City to bring materials to them and keep it out of the City waste stream. Mr. Dunne advised this will assist with the removal of debris during the removal of the last four buildings on the site.

VII. Financials

Joe Mazzariello discussed the balance sheet and explained some updates that were made to break down the incomes and expenses. Mr. Mazzariello explained that many of the economic development approvals showing on the sheet have not been dispersed yet. The loans for Essence Salon and Old World Provisions are currently having difficulty repaying the loans and Mr. Mazzariello would like to discuss in detail. Justin Miller advised that they move into executive session to discuss any further. The board discussed some other changes that can be made to the financial sheet in the future that can assist with creating the budget. Justin Miller noted that there is a lot of activity for this board due to the fact that there is a large amount of funding

available. For the future, it would be a good idea to lay some framework for the loan programs from beginning to end.

VIII. 444 River Street

Bill Dunne gave an update to the board about Vecino's closing for the Neitzel Building at 444 River Street. They are working to finalize their financing and should be completed in the first quarter.

One of the tenants, Collar Works wanted to see if they would be able to stay part time in the building until 623 River Street is finalized. Mr. Dunne noted that they would have to come up with a new, short term lease. Justin Miller noted that it would be up to Vecino to keep them as a tenant until their other project is finalized.

The three window air conditioners discussed at a previous meeting were posted on Craigs List for sale.

Mr. Dunne advised that they also received a price from Finelli's to winterize the building and roof. Andy Ross questioned if the utilities and heat will be kept on. Mr. Dunne advised that the heat will be on. Finelli's budgeted 32 hours to deal with the roof issues, check plumbing and deal with other issues. Discussions have also taken place with Matthew's Sprinkler to take a look at the building.

Bill Dunne planned on taking Tom Carroll from the Hudson Mohawk Industrial Gateway to see if there were any items that he would be interested in salvaging for the gateway museum.

The Chairman asked if there were any additional items to be discussed before they go over potential legal matters and financial issues.

**Ken Zalewski made a motion to discuss potential legal matters of tenants.**

**Andy Ross seconded the motion, motion carried.**

The board moved out of executive session with no action taken.

IX. Adjournment

**Ken Zalewski made a motion to adjourn the meeting.**

**Andy Ross seconded the motion, motion carried.**

The meeting was adjourned at 11:00 a.m.

**TROY LOCAL DEVELOPMENT CORPORATION**

**TO**

**HUDSON RIVER NATURAL PRODUCT RECYCLING, LLC**

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**LEASE AGREEMENT**

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*Materials Recycling Facility – Lease Agreement  
City of Troy, New York*

Tax Map Number:

111.67-1-3 (Approximately 3.75 Acre Portion)

**Dated as of December 5, 2013**

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## LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter the “Lease Agreement”), dated as of December 5, 2013, is by and between the **TROY LOCAL DEVELOPMENT CORPORATION**, a domestic, not-for-profit local development corporation having an address of City Hall, 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180 (the “Corporation”) and **HUDSON RIVER NATURAL PRODUCT RECYCLING, LLC**, a New York limited liability company having offices at 551 Main Avenue, Wynantskill, New York 12198 (the “Company”), with acknowledgment and guaranty of **CASALE CONSTRUCTION SERVICES, INC.**, a New York business corporation having offices at 551 Main Avenue, Wynantskill, New York 12198.

### WITNESSETH:

WHEREAS, pursuant to Sections 402 and 1411 of the Not-For-Profit Corporation Law (“N-PCL” or the “Law”) of the State of New York, the Corporation was established as a domestic, not-for-profit corporation on November 29, 1988, and thereafter reincorporated as a domestic, not-for-profit local development corporation pursuant to N-PCL Section 1411(h) pursuant to a certain Certificate of Reincorporation filed on April 5, 2010, all for certain charitable and public purposes, among other things, including relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding the City of Troy, New York (the “City”) by attracting new industry to the City or by encouraging the development of, or retention of, an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, in furtherance of the Corporation’s purposes and powers, the Corporation previously acquired what is commonly known and referred to as the “Former King Fuels Site” (hereinafter, the “Site”) pursuant to a certain Trustee’s Deed, dated October 6, 2006 and recorded in the Rensselaer County Clerk’s Office at Book 3752 of Deeds at Page 265 (the “Deed”) relating to the Site, such Deed conveying, among other interests, two (2) contiguous parcels of real estate comprising a total of approximately 20.55 acres of land, such parcels being more particularly identified as TMID No’s 111.75-1-1./1 (“Parcel 1”, being 16.16 acres, more or less) and 111.67-1-3 (“Parcel 2”, being 4.41 acres, more or less); and

WHEREAS, Parcel 1 is subject to the terms of (1) a certain Order on Consent Index No. A4-0473-0000 between Niagara Mohawk Power Corporation, d/b/a National Grid (“National Grid”) and the New York State Department of Environmental Conservation (“NYSDEC”) effective November 17, 2003, superseding and replacing Order on Consent Index No. D0-0001-9210 between NYSDEC and the Company, effective December 7, 1992; (2) NYSDEC Record of Decision (“ROD”), NIMO Troy – Water Street MGP Site, Operable Unit No. 1, Area 2 – Former Plant Site, Site Number 4-42-029, July 2003; and (3) The Decision and Order of Supreme Court Justice James B. Canfield dated June 1, 2005, in Application of NYSDEC v. The King Service, Inc., d/b/a King Fuels, Richard Slote and Daniel Slote (Renss. Co. Index No. 214569) (collectively, the above documents are referred to herein as the “Order”); and

WHEREAS, the Corporation and National Grid previously entered into a certain Reimbursement Agreement with License, dated as of January 25, 2012 (the “Reimbursement Agreement”) for purposes of providing National Grid with access rights to Parcel 1 for purposes of undertaking required remediation of the Site pursuant to and in accordance with the Order and NYSDEC-approved selected remedies (collectively herein, the “Remediation”); and

WHEREAS, the Corporation is undertaking certain redevelopment activities for the Site to allow for the utilization of the Site as a multi-tenanted commercial and industrial park as soon as practical following the completion of phases of the Remediation (collectively, the “Project”); and

WHEREAS, in furtherance of the Remediation and Project, the Corporation desires to undertake certain materials removal and demolition activities on Parcel 1 (the “Parcel 1 Work”); and

WHEREAS, the Company desires to lease portions of Parcel 2 from the Corporation for the exclusive purposes of constructing and operating a registered materials recycling facility (the “Facility”, as defined herein); and

WHEREAS, the Corporation proposes to lease portions of Parcel 2 (THE “Land”, as further defined herein) to the Company for purposes of developing and operating the Facility upon the terms and conditions hereinafter set forth in this Lease Agreement; and

WHEREAS, as a condition of the leasehold rights granted herein, the Company shall undertake certain elements of the Parcel 1 Work on behalf of the Corporation (as more particularly outlined herein) and accept, process and remove certain materials delivered to the Facility by the Corporation and/or the City (the “Materials Processing”, as more particularly outlined herein); and

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby formally covenant, agree and bind themselves as follows:

## **ARTICLE I** **REPRESENTATIONS AND COVENANTS**

**Section 1.1. Representations and Covenants of the Corporation.** The Corporation makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Corporation is a duly established and existing not-for-profit, local development corporation organized pursuant to the N-PCL (the “Act”) and pursuant to the Act and the Corporation’s Certificate of Incorporation, the Corporation has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Corporation has the authority to take the actions contemplated herein under the Act.

(b) The Corporation is the fee owner of the Site, including Parcel 2, and has duly authorized the execution and delivery of this Agreement.

(c) Subject and pursuant to the terms and conditions contained herein, it is contemplated that the Corporation will lease portions of Parcel 2 (the “Land”, as described herein) to the Company for the exclusive purposes of constructing and operating the Facility (as defined herein). The foregoing activities will be undertaken contemporaneously with National Grid’s undertaking of the Remediation and the Corporation’s undertaking of the Project, all in furtherance of the purposes and powers contained within the Act and the Certificate, to lessen the burdens of government, and for the purposes of promoting the health, welfare, convenience and prosperity of the inhabitants of the State and the City, and improving their standard of living. In furtherance of same, the Corporation has adopted findings stating that the undertaking of the Project is in furtherance of the purposes and powers contained within the Act.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of the Act or of any corporate restriction or any agreement or instrument to which the Corporation is a party or by which it is bound, or will constitute default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Corporation under the terms of any such instrument or agreement.

(e) The Corporation has been induced to enter into this Agreement by the undertaking of the Company to (i) develop and operate the Facility in accordance with this Lease Agreement; (ii) undertake certain elements of the Parcel 1 Work; (iii) accept, process and remove all materials delivered to the Facility by the Corporation and/or the City (as more particularly outlined herein); and (iv) pay the Corporation certain rents and other consideration, as more particularly described and defined herein.

**Section 1.2. Representations and Covenants of the Company.** The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a domestic limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, has the authority to enter into this Lease Agreement and has duly authorized the execution and delivery of this Lease Agreement.

(b) Neither the execution and delivery of this Lease Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Lease Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform to all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Corporation harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c). The Company shall operate the Facility in accordance with this Lease Agreement.

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Lease Agreement.

(e) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company, upon receiving any information or notice contrary to the representations contained in this Section, shall immediately notify the Corporation in writing with full details regarding the same. The Company hereby releases the Corporation from liability with respect to, and agrees to defend, indemnify, and hold harmless the Corporation, its executive director, directors, members, officers, employees, agents (other than the Company), representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Corporation in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Corporation upon demand, and agrees that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

(f) The Company has provided to the Corporation a certificate or certificates of insurance containing all of the insurance provision requirements included under Sections 3.4 and 3.5 hereof. If the insurance is canceled for any reason whatsoever, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to any loss payee or additional insured until at least thirty (30) days after receipt by such party of written notice by the insurer of such cancellation, lapse, expiration, reduction or change.

**Section 1.3. Public Authorities Law Representations.** The parties hereto hereby acknowledge that the leasing of portions of Parcel 2 (the “Land”) and Facility, once constructed, by the Corporation pursuant hereto constitutes the disposition by the Corporation of real property for annual rent over the term hereof (as further defined herein) of less than fifteen thousand dollars (\$15,000.00). Therefore, the issuance of an explanatory statement by the Corporation is not required pursuant to Section 2897 of the Public Authorities Law (“PAL”).

**ARTICLE II**  
**FACILITY SITE, DEMISING CLAUSES AND RENTAL PROVISIONS**

**Section 2.1. Land and Facility to be Leased; Reimbursement Agreement and Remediation; Facility Site Development.** The Corporation is the fee owner of the real property hereinabove defined as Parcel 2, including all buildings, structures or improvements thereon. Parcel 2 is more particularly identified as that certain approximately 4.4 acre parcel of real estate identified as TMID No. 111.67-1-3 acquired as part of “Parcel 1” described within the Deed, such parcel being situated entirely North of the Wynantskill Creek and being the same parcel of real estate described as “Parcel No. 1” within that certain Deed, dated as of August 21, 1973 from Republic Steel Corporation to King Service, Inc., such Deed being recorded in the Office of the Rensselaer County Clerk at Book 1253 of Deeds at Page 531. The portion of Parcel to be leased pursuant to this Agreement is described and set forth within **Exhibit A** attached hereto (hereinafter, the “Land”). The Company agrees that the Corporation’s interest in the Land is sufficient for the purposes intended by this Lease Agreement and agrees that it will defend, indemnify and hold the Corporation harmless from any expense or liability arising out of any defect in title or a lien adversely affecting the Land or Facility created by the Company and will pay all reasonable expenses incurred by the Corporation in defending any such action respecting title to or a lien affecting the Facility.

The Company hereby acknowledges and confirms that National Grid was previously granted access and egress rights through the Land within the Reimbursement Agreement entered into by the Corporation and National Grid. Notwithstanding the foregoing, the Reimbursement Agreement contains provisions requiring National Grid to avoid disturbance of the Corporation’s tenants and invitees. The Company agrees to work cooperatively with the Corporation and National Grid to allow the Remediation to be undertaken in a timely and uninterrupted fashion. The Company further agrees to undertake elements of the Parcel 1 Work under the direction of the Corporation in order to allow for the timely commencement of the Remediation.

The Company further agrees that the planning, design, permitting, construction, equipping and operation of the Facility shall be subject to the Corporation’s prior review and approval and undertaken at the exclusive cost of the Company. The Facility shall be constructed and operated in compliance with that certain Site Plan approval granted by the Planning Commission of the City of Troy, dated November 14, 2013, a copy of such site plan being attached hereto as **Exhibit B**.

**Section 2.2. Operation, Construction, Maintenance, and Use of the Facility.**

(a) Pursuant to the terms hereof, the Company is granted the right, obligation and authority to undertake the planning, design, permitting, construction, equipping and operation

of the Facility. The Land and the Facility, once constructed by the Company, shall be exclusively used and occupied by the Company only for the purpose of operating, maintaining, and use of Parcel 2 as a solid waste management facility registered as a processing facility (but not permitted by NYSDEC or otherwise) exclusively to:

- (i) accept and process Land Clearing Debris (Part 360-7.2(a));
- (ii) accept and process recognizable uncontaminated concrete, asphalt pavement, brick, soil or rock (Part 360-16.1(d)(1)(i)); and
- (iii) accept and process uncontaminated unadulterated wood materials.

The Company shall operate the Facility in compliance with all applicable laws and regulations, including, but not limited to the facility registration requirements contained at Part 360.1-8(h) and the operational requirements contained at subdivisions 360-1.14(b), (d), (e), (i), (j), (k), (l), (m), (p), (r), (s) and (w) of Part 360. Failure to comply in any respect with said registration and operational requirements shall constitute an Event of Default hereunder. The Company shall provide copies of all State and Federal registration and reporting materials to the Corporation commensurate with filing of same.

Prior to any construction or improvement of the Facility by the Company, the Company shall secure written approval from the Corporation with respect to Facility design and layout. To the extent required, the Company shall also apply for and secure applicable site plan approvals, SWPP permits and building permits prior to modifying the existing conditions of the Land and undertaking construction of any improvements associated with the Facility. The Company shall further secure written authorization for and at all times comply with Corporation-authorized hours of operation and truck and traffic routes for all access and egress from the Land and Facility.

The Company shall not use or occupy the Facility (i) contrary to any statute, rule, order, ordinance, requirement or regulation applicable thereto; (ii) in any manner which would violate any site plan approval, permit, registration or certificate of occupancy affecting the same, or (iii) in any manner which would constitute a public or private nuisance or waste.

**Section 2.3. Demise of Facility; Retained Roadway Rights.** The Corporation hereby demises and leases the Land to the Company and the Company hereby rents and leases the Land from the Corporation upon the terms and conditions of this Lease Agreement. The Corporation hereby and shall continue to reserve unto itself (and to the City of Troy, National Grid and any other Corporation-permitted invitees, as applicable) unrestricted access and egress over and through the existing roadway through Parcel 2, as may be realigned or modified by the Corporation and/or City from time to time.

**Section 2.4. Remedies to be Pursued Against Contractors and Subcontractors and their Sureties.** In the event of a default by any contractor or any other person or subcontractor under any contract made by it in connection with the Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship, or performance guaranty, the Company at its expense, either separately or in conjunction with others, may pursue any and all remedies available to it and the Corporation, as appropriate, against the contractor,

subcontractor or manufacturer or supplier or other person so in default and against such surety for the performance of such contract. The Company, in its own name or in the name of the Corporation, may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, manufacturer, supplier or surety or other person which the Company deems reasonably necessary, and in such events the Corporation, at the Company's expense, hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Corporation (including but not limited to reasonable attorneys' fees) in any such action or proceeding.

**Section 2.5. Duration of Lease Term; Quiet Enjoyment.** (a) The Corporation shall deliver to the Company sole and exclusive possession of the Land (subject to the provisions of Sections 5.3 and 7.1 hereof) and the leasehold estate created hereby shall commence on the date hereof.

(b) The leasehold estate created hereby shall, without any further action of the parties hereto, terminate at 11:59 P.M. on December 5, 2016, or on such earlier date as may be permitted by Section 8.1 hereof.

(c) The period commencing on the date described in Section 2.5(a) herein through the date described in Section 2.5(b) herein shall be herein defined as the Lease Term. The Company is hereby granted One (1) Option (each an "Option") to extend the Lease Term for an additional period of Three (3) Years, with the maximum allowable Lease Term, as may be extended upon the Company's timely exercise of successive Options running through December 5, 2019.

For purposes of exercising any Option to extend the Lease Term, the Company shall provide written notice (an "Option Notice") to the Corporation no less than six (6) months prior to the end of the end of the Lease Term. No such exercise shall be valid or enforceable unless the Company is in full compliance with the terms hereof and no Event of Default hereunder is occurring or is incurred between the date of such Option Notice and the beginning of the extended Lease Term.

(d) The Corporation shall, subject to the provisions of Sections 5.3 and 7.1 hereof and in the absence of an uncured Event of Default hereunder, neither take nor suffer nor permit any action, other than pursuant to Articles VII or VIII of this Lease Agreement, to prevent the Company, during the term of this Lease Agreement, from having quiet and peaceable possession and enjoyment of the Facility and will, at the request of the Company and at the Company's cost, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Facility as hereinabove provided.

(e) The Company hereby irrevocably appoints and designates the Corporation as its attorney-in-fact for the purpose of executing and delivering and recording any necessary terminations of lease together with any documents required in connection therewith and to take such other and further actions in accordance with this Lease Agreement as shall be reasonably necessary to terminate this Lease Agreement. Notwithstanding any such expiration or termination of this Lease Agreement, the Company's obligations under Sections 3.3 and 5.2 hereof shall continue notwithstanding any such termination or expiration.

(f) Surrender. Upon the termination of this Lease Agreement, whether by forfeiture, lapse of time or otherwise, or upon the termination of the Company’s right to possession of the Land and Facility, the Company will at once surrender and deliver up the Land and Facility, together with all improvements and fixtures located thereon, including any affixed security improvements whether installed by the Company or its predecessors. The Corporation may remove its personal property and non-Fixture Equipment and any personal property or Non-Fixture Equipment remaining on the Facility after the date of termination shall become property of the Corporation. Except as otherwise expressly provided herein, the Facility shall be returned to the Corporation in a similar condition and repair as compared to their condition at the commencement of this Lease Agreement, reasonable wear and tear excepted.

(g) Any holding over by the Company beyond the Lease Term (as may be terminated hereunder) shall operate and be construed to be a tenancy from month to month only, at a prorated monthly rental equal to Five Thousand Dollars (\$5,000.00) per month, payable in advance, plus all sums otherwise due hereunder. Nothing contained in this Section shall be construed to give the Company the right to hold over after the expiration of this Lease Agreement, and the Corporation may exercise any and all remedies at law or in equity to recover possession of the Facility.

**Section 2.6. Rents and Other Consideration.** The rental obligations during the Lease Term are hereby reserved and the Company shall pay rent for the Facility as follows:

(a) Upon execution of this Lease Agreement, the sum of One Thousand Dollars (\$1,000.00) for the period commencing on the date hereof and ending on December 31, 2013, and on January 1 of each calendar year thereafter, payable in advance, the following amounts:

Lease Year	Rental
Remainder 2013	\$1,000.00
1 2014	\$3,000.00
2 2015	\$3,000.00
3 2016	\$3,000.00
4* 2017	\$3,000.00
5* 2018	\$3,000.00
6* 2019	\$3,000.00

\* - Lease Year and Rentals subject to timely and enforceable Option exercise by Company.

(b) In addition to the payments of rent pursuant to Section 2.6(a) hereof, throughout the term of this Lease Agreement, the Company shall pay to the Corporation as additional rent, within thirty (30) days of the receipt of demand therefor, an amount equal to the sum of the expenses of the Corporation and the members thereof incurred in connection with the Corporation's enforcement of any Event of Default incurred by the Company. In addition, and as Additional Rent hereunder, the Company pay to the Corporation amounts equal to all PILOT Payments (the "PILOT Payments") payment during the Term hereof and required and as set forth in that certain PILOT Agreement, dated as of August 1, 2011, and entered into by and between the Troy Industrial Development Authority and the Corporation (the "PILOT Agreement"). The PILOT Payments shall be paid to the Corporation by the Company on or before the dates contained within the PILOT Agreement.

(c) Performance of Parcel 1 Work. As a component of Additional Rent payable hereunder, the Company shall perform certain Parcel 1 Work as requested by the Corporation from time to time, including materials removal and processing, demolition work and abatement activities. The Parcel 1 work shall be performed by and at the exclusive cost of the Company at the direction of the Corporation and within such timeframes as agreed to by the parties hereto.

(d) Performance of Materials Processing. As a component of Additional Rent payable hereunder, the Company shall accept at the Facility all construction and demolition materials delivered by the Corporation and/or City of Troy that may be accepted and processed at the Facility (the "Materials Processing"). The Materials Processing shall not be restricted as to volume or tonnage and shall be undertaken at the exclusive expense of the Company, subject only to the actual costs of the Company to ship non-recyclable materials to a registered waste facility.

(e) Provision of Clean Fill. As a component of Additional Rent payable hereunder, the Company shall provide and deliver to the Corporation and/or City of Troy clean fill as requested from time to time to be delivered to locations within the City as directed by the Corporation and/or City. The foregoing shall not be restricted as to volume or tonnage and shall be undertaken at the exclusive expense of the Company, except for actual transportation costs, which shall be billed by the Company to the Corporation or City, as each may request..

(f) The Company agrees to make the above-mentioned payments, without any further notice, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public or private debts. In the event the Company shall fail to timely make any payment required in this Section 2.6, the Company shall pay a \$250.00 monthly penalty accruing on the first day following the date of non-payment and the first day of each calendar month following the date of non-payment.

**Section 2.7. Obligations of Company Hereunder Unconditional.** Other than as set forth herein, the obligations of the Company to make the payments required in Section 2.6 hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the Company and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Corporation. The Company agrees it will not (i) suspend,

discontinue or abate any payment required by Section 2.6 hereof (other than as permitted pursuant to Section 3.3 hereof) or (ii) fail to observe any of its other covenants or agreements in this Lease Agreement or (iii) except as provided in Section 8.1 hereof, terminate this Lease Agreement.

### **ARTICLE III**

#### **MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE**

**Section 3.1. Maintenance and Modifications of Facility by Company.** (a) The Company agrees that during the term of this Lease Agreement it will (i) keep the Facility in as reasonably safe condition as its operations shall permit; (ii) make all necessary repairs and replacements to the Facility (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); (iii) operate the Facility in a sound and prudent manner; (iv) operate the Facility such that it continues to qualify as a registered facility and pursuant to the terms contained herein; and (v) indemnify and hold the Corporation harmless from any liability or expenses from the failure by the Company to comply with (i), (ii), (iii) or (iv) above.

(b) Upon at least Six (6) months written request to the Corporation, and subject to the Corporation's sole discretion, the Company, at its own expense, from time to time may make any structural addition, modifications or improvements to the Facility or any addition, modifications or improvements to the Facility or any part thereof which it may deem desirable for its business purposes and uses. All such structural additions, modifications or improvements so made by the Company shall become a part of the Facility. The Company shall comply with all applicable zoning, planning and land use laws and regulations with respect to any Corporation-approved structural addition, modifications or improvements to the Facility, including, but not limited to applicable local site plan regulations and/or State or Federal regulations.

**Section 3.2. Installation of Additional Equipment.** The Company, from time to time, may install additional machinery, equipment or other personal property in the Facility (which may be attached or affixed to the Facility), and such non-fixture machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility. The Company, from time to time, may remove or permit the removal of such machinery, equipment or other personal property.

**Section 3.3. Taxes, Assessments and Utility Charges.** (a) The Company agrees to pay, as the same may respectively become due, (i) all taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to Parcel 2, the Facility and any machinery, equipment or other property installed or brought by the Company therein or thereon, including, without limiting the generality of the foregoing, any taxes levied upon or with respect to the income or revenues of the Corporation from the Facility, (ii) all utility and other charges, including "service charges", incurred or imposed for the operation, maintenance, use, occupancy, upkeep and improvement of the Facility, (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements, and (iv) the PILOT Payments due and owing pursuant; *provided*, that, with respect to special assessments or other governmental charges that may lawfully be paid in

installments over a period of years, the Company shall be obligated under this Lease Agreement to pay only such installments as are required to be paid during the Lease Term.

**Section 3.4. Insurance Required.** At all times throughout the Lease Term, including, without limitation, during any period of rehabilitation and construction of the Facility, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company; or as an alternative to the foregoing the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well, provided a periodic appraisal is performed and provided to the Corporation.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Corporation or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 5.2 hereof) and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

**Section 3.5. Additional Provisions Respecting Insurance.** (a) All insurance required by Section 3.4(a) hereof shall name the Corporation as a named insured and all other insurance required by Section 3.4 shall name the Corporation as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Corporation as their respective interests may appear, and (ii) at least thirty (30) days' prior written notice of the cancellation thereof to the Company, the County and the Corporation.

(b) All such certificates of insurance of the insurers that such insurance is in force and effect, shall be deposited with the Corporation on or before the commencement of the

term of this Lease Agreement. Prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Corporation evidence that the policy has been renewed or replaced or is no longer required by this Lease Agreement.

(c) Within one hundred twenty (120) days after the end of each of its fiscal years, the Company shall file with the Corporation a certificate of the Company to the effect that the insurance it maintains with respect to the Project complies with the provisions of this Article III and that duplicate copies of all policies or certificates thereof have been filed with the Corporation and are in full force and effect.

**Section 3.6. Application of Net Proceeds of Insurance.** The net proceeds of the insurance carried pursuant to the provisions of Section 3.4 hereof shall be applied as follows:

(i) the net proceeds of the insurance required by Section 3.4(a) hereof shall be applied as provided in Section 4.1 hereof, and

(ii) the net proceeds of the insurance required by Section 3.4(b) and (c) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

**Section 3.7. Right of Corporation to Pay Taxes, Insurance Premiums and Other Charges.** If the Company fails (i) to pay any tax, assessment or other governmental charge required to be paid by Section 3.3 hereof or (ii) to maintain any insurance required to be maintained by Section 3.4 hereof, the Corporation may pay such tax, assessment or other governmental charge or the premium for such insurance. The Company shall reimburse the Corporation for any amount so paid together with interest thereon from the date of payment at twelve percent (12%) per annum.

#### **ARTICLE IV** **DAMAGE, DESTRUCTION AND CONDEMNATION**

**Section 4.1. Damage or Destruction.** (a) If the Facility shall be damaged or destroyed (in whole or in part) at any time during the term of this Lease Agreement:

(i) the Corporation shall have no obligation to replace, repair, rebuild or restore the Facility;

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement, except that the Company shall have certain rights to terminate this Lease Agreement in accordance with Section 8.1 hereof); and

(iii) except as otherwise provided in subsection (b) of this Section 4.1, and subject to the Company's rights to terminate this Lease Agreement pursuant to Section 8.1 hereof, the Company shall promptly replace, repair, rebuild or restore the Facility to substantially the same condition and value as an operating entity as existed prior to such damage or destruction, with such changes, alterations and modifications as may be desired by the Company and may use insurance proceeds for all such purposes.

All such replacements, repairs, rebuilding or restoration made pursuant to this Section 4.1, whether or not requiring the expenditure of the Company's own money, shall automatically become a part of the Facility as if the same were specifically described herein.

(b) The Company shall not be obligated to replace, repair, rebuild or restore the Facility, and the net proceeds of the insurance shall not be applied as provided in subsection (a) of this Section 4.1, if the Company shall exercise its option to terminate this Lease Agreement pursuant to Section 8.1 hereof.

(c) The Company may adjust all claims under any policies of insurance required by Section 3.4(a) hereof.

**Section 4.2. Condemnation.** (a) If at any time during the term of this Lease Agreement the whole or any part of title to, or the use of, the Facility shall be taken by condemnation, the Corporation shall have no obligation to restore or replace the Facility and there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement through the date of such taking. The Corporation shall have the exclusive right to any condemnation award, subject to the rights of the County under the Master Lease Agreement.

Except as otherwise provided in subsection (b) of this Section 4.2, the Company may:

(i) in the case of a partial taking by condemnation, and using Company funds and funds as may be provided by the Corporation from the proceeds of condemnation award, restore the Facility (excluding any land taken by condemnation) to substantially the same condition and value as an operating entity as existed prior to such condemnation, or

(ii) in the case of a partial taking by condemnation, and using Company funds and funds as may be provided by the Corporation from the proceeds of condemnation award, acquire, by construction or otherwise, facilities of substantially the same nature and value as an operating entity as the Facility subject to Corporation consent.

The Facility, as so restored, or the substitute facility, whether or not requiring the expenditure of the Company's own moneys, shall automatically become part of the Facility as if the same were specifically described herein.

(b) In the case of a total taking by condemnation, the Company shall not be obligated to restore the Facility or acquire a substitute facility, and the net proceeds of any condemnation award shall not be applied as provided in Section 4.2(a) above. In such an event, this Lease Agreement shall automatically terminate upon such taking.

(c) The Corporation and Company shall cooperate fully in the handling and conduct of any condemnation proceeding with respect to the Facility. In the event that any condemnation of the Premises or Facility (in whole or in part) is determined by the Company in its reasonable discretion to substantially interfere with prospective operation by the Company of the Premises and Facility as intended and permitted hereunder, the Company (i) shall not be obligated to restore the Facility or acquire a substitute facility, (ii) the net

proceeds of any condemnation award shall not be applied as provided in Section 4.2(a) above, and (iii) the Company shall terminate this Lease Agreement in accordance with Section 8.1 hereof.

**Section 4.3. Condemnation of Company-Owned Property.** The Company shall be entitled to the proceeds of any condemnation award or portion thereof made for damage to or taking of any non-fixture personal property which, at the time of such damage or taking, is not part of the Facility.

## **ARTICLE V** **SPECIAL COVENANTS**

**Section 5.1. No Warranty of Condition or Suitability by the Corporation.** THE CORPORATION MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE FACILITY OR THAT IT IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS.

**Section 5.2. Hold Harmless Provisions.** The Company hereby releases the Corporation from, agrees that the Corporation shall not be liable for, and agrees to indemnify, defend and hold the Corporation and its executive director, officers, members, directors, agents (other than the Company) and employees, and their respective successors, assigns or personal representatives, 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 any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Facility or (ii) liability arising from or expense incurred by the Corporation's leasing of the Facility, including, without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Corporation, or any of its respective members, directors, officers, agents (other than the Company) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability; *except, however*, that, such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the indemnified party to the extent that such an indemnity would be prohibited by law.

**Section 5.3. Right to Inspect the Facility.** The Corporation and its duly authorized agents shall have the right at all reasonable times and upon reasonable notice to inspect the Facility.

**Section 5.4. Agreement to Provide Information.** The Company agrees, whenever requested by the Corporation, to provide and certify or cause to be provided and certified, without delay, such information concerning the Company, the Company's employment history and statistics related thereto, the Facility and other topics necessary to enable the Corporation to make any report required by law or governmental regulation or as otherwise reasonably requested by the Corporation.

**Section 5.5. Books of Record and Account; Financial Statements.** The Company at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all business and affairs of the Company relating to the Facility.

**Section 5.6. Compliance With Orders, Ordinances, Etc.** (a) The Company agrees that it will, throughout the term of this Lease Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) of this Section 5.6, the Company may in good faith contest the validity of the applicability of any requirement of the nature referred to in such subsection (a). In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom. The Company shall give notice of the foregoing to the Corporation and failure to timely do so shall be a breach of this Lease Agreement.

**Section 5.7. Discharge of Liens and Encumbrances.** (a) The Company shall not permit or create or suffer to be permitted or created any lien upon the Facility or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Facility or any part thereof except any liens existing on the date hereof. This provision shall not prohibit the Approved Liens as they are defined in Section 6.1(a) hereof.

(b) Notwithstanding the provisions of subsection (a) of this Section 5.7, the Company may in good faith contest any such lien. In such event, the Company, with prior written notice to the Corporation, may permit the items so contested to remain undischarged and unsatisfied for a period of no longer than thirty (30) days, during such period the Company may appeal therefrom, unless the Corporation shall notify the Company to promptly secure payment of all such unpaid items by filing the requisite bond, in form and substance satisfactory to the Corporation, thereby causing said lien to be removed.

## ARTICLE VI

### **CORPORATION TERMINATION RIGHTS; ASSIGNMENTS AND SUBLEASING; NO MORTGAGE OR PLEDGE OF INTERESTS**

**Section 6.1. Corporation Termination Rights; Termination Payments.** (a) Upon written notice of no less than six (6) months, the Corporation may terminate this lease Agreement for any reason. In such an event, the Corporation shall pay to the Company the following lease termination amounts as compensation for the leasehold improvement expenditures incurred by the Company during the Lease Term (the "Termination Payment")

Lease Year	Termination Payment
Remainder 2013	N/A
1* 2014	\$100,000.00
2 2015	\$50,000.00
3 2016	\$25,000.00
4* 2017	\$0.00
5* 2018	\$0.00
6* 2019	\$0.00

\* - the payment by Corporation of any Termination Payment shall be subject to the Company's provision of documentation evidencing expenditures in furtherance of the construction of the Facility in amounts exceeding \$100,000.00.

This Lease Agreement is subject and subordinate to any and all existing and prospective mortgages executed by the Corporation and securing Parcel 2 and/or the Land. The Company shall do nothing under the terms of this Lease Agreement which shall cause a violation or Event of Default under any Corporation credit facilities or mortgages. Under no circumstances may the Company, nor shall the Corporation be required to mortgage any interest in the Facility, nor shall the Corporation grant a security interest in or assign its rights to receive the rentals described in Section 2.6 hereof or its rights to be indemnified under Sections 1.2(d), 1.2(g), 2.1, 3.1(a) and 5.2 hereof or (i) the right of the Corporation on its own behalf to receive all opinions of counsel, reports, financial information, certificates, insurance policies or binders or certificates, or other notices or communications required to be delivered to the Corporation hereunder or otherwise reasonably requested by the Corporation; (ii) the right of the Corporation to grant or withhold any consents or approvals required of the Corporation hereunder; (iii) the right of the Corporation in its own behalf to enforce the obligation of the Company to complete the Project and to confirm the qualification of the Project as a "project" under the Act; (iv) the right of the Corporation to amend with the Company this Lease Agreement, and the right of the Corporation to exercise its rights and remedies hereunder or under the Environmental Compliance Agreement; (v) the right of the Corporation on its own behalf to declare an Event of Default under Section 7.1 hereof; and (vi) the right of the Corporation as to any of the foregoing, exercisable with respect to any sublessees or subtenants (collectively, the "Unassigned Rights"). Upon request of the Corporation, Company will, in writing, subordinate its rights hereunder to the lien of any mortgage or deed of trust to any bank, insurance company or other lending institution, now or hereafter in force against the Facility, and to all advances made or hereafter to be made upon the security thereof. In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by the Corporation covering the Facility, the Company shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Corporation under this Lease Agreement.

**Section 6.2. Removal of Equipment.** (a) The Corporation shall not be under any obligation to remove, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary item of Equipment. In any instance where the Company determines that any item of Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such item of Equipment from the Facility and may sell, trade-in, exchange or otherwise dispose of the same, as a whole or in part.

**Section 6.3. Assignment and Subleasing.** (a) This Lease Agreement may not be assigned nor may the Land or Facility be subleased in whole or in part without the written consent of the Corporation, including any assignment or sublease to a Related Person of the Company (as that term is defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the Internal Revenue Code of 1986, as amended, hereinafter “Related Person”). Any assignment of this Lease Agreement and any sublease of the Land or Facility shall require the prior written consent of the Corporation upon application 45 days prior to a regularly scheduled meeting of the Corporation. A transfer in excess of 50% of the equity voting interests of the Company, including a transfer to a Related Person of the Company, shall be deemed an assignment and require the prior written consent of the Corporation.

Any assignment or sublease, if and once approved by the Corporation, shall be on the following conditions, as of the time of such assignment:

- (i) no assignment shall relieve the Company from primary liability for any of its obligations hereunder;
- (ii) the assignee shall assume the obligations of the Company hereunder to the extent of the interest assigned;
- (iii) the Company shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Corporation a true and complete copy of such assignment and the instrument of assumption; and
- (iv) the Facility shall continue to constitute a “registered facility” as such term is defined herein.

If the Corporation shall so request, as of the purported effective date of any assignment or sublease pursuant to subsection (a) above, the Company at its cost shall furnish the Corporation with an opinion, in form and substance satisfactory to the Corporation as to items (i), (ii) and (iv) above.

(b) Any such assignment or sublease is subject to the review and approval by the Corporation and its counsel (at no cost to the Corporation; any such cost to be paid by the Company, including attorneys’ fees), and shall contain such terms and conditions as reasonably required by the Corporation and its counsel.

**ARTICLE VII**  
**DEFAULT**

**Section 7.1. Events of Default Defined.** (a) Each of the following shall be an “Event of Default” under this Lease Agreement:

(1) If the Company fails to pay the amounts required to be paid pursuant to Section 2.6 of this Lease Agreement and such failure shall have continued for a period of ten (10) days after the Corporation gives written notice of such failure to the Company; or

(2) If there is any purposeful, willful and knowing breach by the Company of any of its other agreements or covenants set forth in this Lease Agreement; or

(3) If there is any failure by the Company to observe or perform any other covenant, condition or agreement required by this Lease Agreement to be observed or performed and such failure shall have continued for a period of thirty (30) days after the Corporation gives written notice to the Company specifying that failure and stating that it be remedied, or in the case of any such default which can be cured with due diligence but not within such thirty (30) day period, the Company’s failure to proceed promptly to cure such default and thereafter prosecute the curing of such default with due diligence; or

(4) If any representation or warranty of the Company contained in this Lease Agreement is incorrect in any material respect; or

(5) Failure by the Company to operate the Facility as a “registered facility” for a period exceeding 120 days; or

(6) If the Corporation fails to observe or perform any covenant, condition or agreement required by this Lease Agreement or fails to cure any Event of Default under the Master Lease Agreement and such failure or Event of Default under the Master Lease Agreement shall have continued for a period of thirty (30) days after the Company gives written notice to the Corporation specifying that failure and stating that it be remedied, or in the case of any such default which can be cured with due diligence but not within such thirty (30) day period, the Corporation’s failure to proceed promptly to cure such default and thereafter prosecute the curing of such default with due diligence.

(b) Notwithstanding the provisions of 7.1(a) above, if by reason of force majeure either party hereto shall be unable in whole or in part to carry out its obligations under this Lease Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Lease Agreement of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The suspension of such obligations for such period pursuant to this subsection (b) shall not be deemed an Event of Default under this Section 7.1. Notwithstanding anything to the contrary in this subsection (b), an event of force majeure shall not excuse, delay or in any way diminish the obligations of the Company to make the payments required

by Sections 2.6 and 3.3 hereof, to obtain and continue in full force and effect the insurance required by Section 3.4 hereof, to provide the indemnity required by Section 5.2 hereof and to comply with the terms of Sections 5.2, 5.3, 5.6, 5.7, and 7.1(a)(1) hereof. The term “force majeure” as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions, or officials, any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lock-outs and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

**Section 7.2. Remedies on Default.** Whenever any Event of Default shall have occurred and be continuing, the non-defaulting party may take, to the extent permitted by law, any one or more of the following remedial steps:

(1) Upon an Event of Default by the Company, the Corporation may declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (i) all unpaid installments of rent payable pursuant to Section 2.6(a) hereof and (ii) all other payments due under this Lease Agreement.

(2) Take any other action as it shall deem necessary to cure any such Event of Default, provided that the taking of any such action shall not be deemed to constitute a waiver of such Event of Default.

(3) Take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder, and to enforce the obligations, agreements or covenants of the Company under this Lease Agreement.

(4) Terminate this Lease Agreement.

**Section 7.3. Remedies Cumulative.** No remedy herein is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**Section 7.4. Agreement to Pay Attorneys' Fees and Expenses.** In the event that either party should default under any of the provisions of this Lease Agreement and the non-defaulting party should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the non-defaulting party herein contained, the defaulting party shall, on demand therefor, pay to the non-defaulting party, the reasonable fees of such attorneys and such other expenses so incurred. Any such payments demanded of the Company shall be deemed additional rent in accordance with Section 2.6(b) hereof.

**Section 7.5. No Additional Waiver Implied by One Waiver.** In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## **ARTICLE VIII**

### **EARLY TERMINATION OF AGREEMENT; OBLIGATIONS OF COMPANY**

#### **Section 8.1. Early Termination of Agreement.**

(a) Subject to the surrender requirements as set forth within Section 2.5 hereof, the Company shall have the option at any time to terminate this Lease Agreement upon filing with the Corporation a certificate signed by an authorized representative of the Company stating the Company's intention to do so pursuant to this Section 8.1. The Company's option rights for early termination of this Lease Agreement may include, but not be limited to: (i) the occurrence of an uncured Event of Default by the Corporation hereunder, (ii) an occurrence of damage or destruction to the Premises or more than one half of the Facility whereby the Facility cannot be restored by the Company within 120 days after such damage or construction, or (iii) the occurrence of a condemnation proceeding consistent with Section 4.2(b) hereof.

(b) The Corporation shall have the option at any time to terminate this Lease Agreement and to demand immediate payment in full of the rental reserved and unpaid as described in Section 2.6 hereof upon (i) written notice to the Company of the occurrence of an Event of Default hereunder, or (ii) written notice pursuant to Section 6.1 hereof.

(c) Any termination of this Lease Agreement, whether undertaken by Corporation or Company, and whether occurring at the end of the Lease Term or through early termination in accordance with (a) and (b), above, shall require, and the Company covenants and agrees to remove all stockpiles of materials from the Facility on or before the date of termination. Any materials remaining at the Facility after the date of termination shall become property of the Corporation and, at the election of the Corporation, may be removed and disposed of at the cost of the Company.

**ARTICLE IX**  
**MISCELLANEOUS**

**Section 9.1. Notices.** All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, addressed as follows:

To the Corporation: Troy Local Development Corporation  
433 River Street, 5<sup>th</sup> Floor  
Troy, New York 12180  
Attn: Executive Director

With Copy To: Harris Beach PLLC  
677 Broadway, Suite 1101  
Albany, New York 12207  
Attn: Justin S. Miller, Esq.

To the Company: Hudson River Natural Product Recycling, LLC  
551 Main Avenue  
Wynantskill, New York 12198  
Attn: J.R. Casale

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this section.

**Section 9.2. Binding Effect.** This Lease Agreement shall inure to the benefit of and shall be binding upon the Corporation, the Company and their respective successors and assigns.

**Section 9.3. Severability.** In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 9.4. Amendments, Changes and Modifications.** This Lease Agreement may not be amended, changed, modified, altered or terminated without the concurring written consent of the parties hereto.

**Section 9.5. Execution of Counterparts.** This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**Section 9.6. Applicable Law.** This Lease Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

**Section 9.7. Recording and Filing.** This Lease Agreement (or a memorandum thereof) shall be recorded or filed, as the case may be, in the Office of the Clerk of Schuyler County, New York, or in such other office as may at the time be provided by law as the proper place for the recordation or filing thereof.

**Section 9.8. Survival of Obligations.** This Lease Agreement shall survive the performance of the obligations of the Company to make payments required by Section 2.6 and all indemnities shall survive any termination or expiration of this Lease Agreement.

**Section 9.9. Section Headings Not Controlling.** The headings of the several sections in this Lease Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this Lease Agreement.

**Section 9.10. No Broker.** Corporation and Company represent and warrant to the other that neither the Corporation nor the Company has dealt with any broker or finder entitled to any commission, fee, or other compensation by reason of the execution of this Lease Agreement, and each party agrees to indemnify and hold the other harmless from any charge, liability or expense (including attorneys' fees) the other may suffer, sustain, or incur with respect to any claim for a commission, fee or other compensation by a broker or finder claiming by, through or under the other party.

**Section 9.11. No Recourse; Special Obligation.** (a) The obligations and agreements of the Corporation contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Corporation, and not of any member, officer, agent (other than the Company) or employee of the Corporation in his/her individual capacity, and the members, officers, agents (other than the Company) and employees of the Corporation 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 Corporation contained hereby shall not constitute or give rise to an obligation of the State of New York or Schuyler County, New York and neither the State of New York nor Schuyler County, 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 Corporation, but rather shall constitute limited obligations of the Corporation, payable solely from the revenues of the Corporation derived and to be derived from the sale or other disposition of the Facility (except for revenues derived by the Corporation with respect to the Unassigned Rights).

(c) No order or decree of specific performance with respect to any of the obligations of the Corporation hereunder shall be sought or enforced against the Corporation

unless (i) the party seeking such order or decree shall first have requested the Corporation 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 Corporation 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, (ii) if the Corporation refuses to comply with such request and the Corporation'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 place, in an account with the Corporation, an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iii) if the Corporation refuses to comply with such request and the Corporation's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall agree to indemnify and hold harmless the Corporation and its members, officers, agents (other than the Company) and employees against all liability expected to be incurred as a result of compliance with such request.

**Section 9.12. No Joint Venture Created.** The Corporation and the Company mutually agree that by entering into this Lease Agreement the parties hereto are not entering into a joint venture.

*(Remainder of page intentionally left blank)*

**[Signature Page to Lease Agreement]**

IN WITNESS WHEREOF, the Corporation and the Company have caused this Lease Agreement to be executed in their respective names, all as of the date first above written.

**TROY LOCAL DEVELOPMENT CORPORATION**

By: \_\_\_\_\_  
William Dunne, Executive Director

**HUDSON RIVER NATURAL PRODUCT RECYCLING, LLC**

By: \_\_\_\_\_  
J.R. Casale

ACKNOWLEDGED AND AGREED:

**CASALE CONSTRUCTION SERVICES, INC.**

By: \_\_\_\_\_  
J..R. Casale

[Acknowledgment Page to Lease Agreement]

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

On the \_\_\_ day of \_\_\_\_\_ in the year 2013, before me, the undersigned, personally appeared **WILLIAM DUNNE**, 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 signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On the \_\_\_ day of \_\_\_\_\_ in the year 2013, before me, the undersigned, personally appeared J.R. CASALE, 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 signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument..

\_\_\_\_\_  
Notary Public

**PERFORMANCE GUARANTY**

For good and valuable consideration, **CASALE CONSTRUCTION SERVICES, INC.**, a New York business corporation having offices at 551 Main Avenue, Wynantskill, New York 12198 (the "Guarantor"), hereby irrevocably, absolutely and unconditionally guarantees to the Corporation and its assigns the full and prompt payment of all indebtedness, liabilities and obligations of the Company hereunder including, without limitation, the payment of the principal amount of the respective obligations and all interest, fees, costs and expenses. The within guarantees are independent of and in addition to any other guaranty, endorsement, collateral, remedy, statutory right or other agreement held by the Troy Local Development Corporation or its assigns and are a guaranty of payment and performance, not of collection.

Dated: As of \_\_\_\_\_, 2013

**CASALE CONSTRUCTION SERVICES, INC.**,

By: \_\_\_\_\_  
J.R. Casale

State of New York     )  
County of \_\_\_\_\_ )     ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2013, before me, the undersigned, personally appeared **J.R. CASALE**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**DESCRIPTION OF THE LAND**

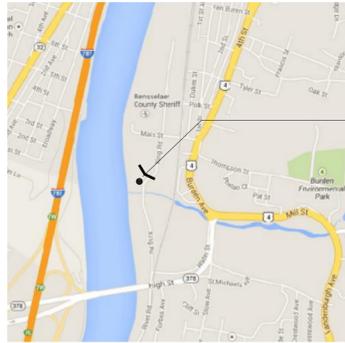
The Land is described as being an approximately 3.75 acre portion of TMID No. 111.67-1-3, which was acquired by Troy Local Development Corporation acquired as part of "Parcel 1" described within a certain Trustee's Deed, dated October 6, 2006 and recorded in the Rensselaer County Clerk's Office at Book 3752 of Deeds at Page 265, such Land being situated entirely North of the Wynantskill Creek and being a portion of the same parcel of real estate described as "Parcel No. 1" within that certain Deed, dated as of August 21, 1973 from Republic Steel Corporation to King Service, Inc., such Deed being recorded in the Office of the Rensselaer County Clerk at Book 1253 of Deeds at Page 531, such Land being bounded and more particularly described as follows:

Beginning at a point on the Hudson River Easterly United States Pierhead and Bulkhead Line at the Southwest Corner of TMID No. 111.67-1-3, thence:

- 1 - N 07 Degrees 35 Minutes W along said Pierhead and Bulkhead Line a distance of 396.48 feet to a point; thence
- 2 - S 84 Degrees 46 Minutes E a distance of 550.72 feet to a point; thence
- 3 - S 05 Degrees 14 Minutes W a distance of 74.99 feet to a point; thence
- 4 - N 87 Degrees 05 Minutes W a distance of 38.80 feet to a point; thence
- 5 - S 04 Degrees 44 Minutes W a distance of 87.25 feet to a point; thence
- 6 - S 00 Degrees 11 Minutes W a distance of 134.58 feet to a point; thence
- 7 - S 85 Degrees 52 Minutes W a distance of 421.16 feet to a point, thence
- 8 - S 55 Dgrees 52 Minutes W a distance of 27.76 feet to the point and place of beginning.

**EXHIBIT B**

APPROVED SITE PLAN RENDERING



LOCATION MAP



PROJECT LOCATION



PROPOSED SITE PLAN  
HUDSON RIVER NATURAL PRODUCT RECYCLING

SCALE: 1" = 40'-0"

- NOTES:
- SITE PLAN INFORMATION IS TAKEN FROM THE CITY OF TROY, NEW YORK TAX MAP NUMBER 111.67-1-3 (4.34 ACRES). THIS SITE PLAN HAS BEEN SHOWN FOR REFERENCE PURPOSES ONLY. EXACT LOCATION AND ACCURACY OF INFORMATION SHOWN IS THE RESPONSIBILITY OF OTHERS.
  - BOUNDARY DESCRIPTION / PROPERTY LINE / MEETS & BOUNDS PROVIDED TO THE ARCHITECT FROM TROY LOCAL DEVELOPMENT CORPORATION - COPY OF DEED DATED AUGUST 21, 1973. EXACT LOCATION AND ACCURACY OF INFORMATION SHOWN IS THE RESPONSIBILITY OF OTHERS.

CONSULTANT:

PROPOSED SITE PLAN  
FOR  
HUDSON RIVER NATURAL  
PRODUCT RECYCLING  
KING ROAD  
TROY, NEW YORK

SCALE: AS NOTED

DATE: NOVEMBER 15, 2013

PROJECT # 13-17

SHEET TITLE  
PROPOSED SITE PLAN

REVISIONS:

SHEET No.

S1

LAMMON ARCHITECTS, LLP  
ARCHITECTURE and PLANNING  
12 EXCELSIOR AVENUE TROY, NEW YORK 12180  
UNAUTHORIZED ALTERATIONS OR ADDITIONS TO A PLAN OR SPECIFICATION DOCUMENT BEARING THE SEAL OF A LICENSED ARCHITECT IS A VIOLATION OF THE NEW YORK STATE EDUCATION LAW.

**AUTHORIZING RESOLUTION**

*(LEASE AGREEMENT WITH HUDSON RIVER NATURAL PRODUCT RECYCLING, LLC)*

A regular meeting of the Troy Local Development Corporation was convened on December 5, 2013 at 6:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. \_\_\_\_\_

**RESOLUTION OF THE TROY LOCAL DEVELOPMENT CORPORATION  
AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE  
AGREEMENT WITH HUDSON RIVER NATURAL PRODUCT  
RECYCLING, LLC.**

WHEREAS, pursuant to Sections 402 and 1411 of the Not-For-Profit Corporation Law (“N-PCL” or the “Law”) of the State of New York, the Corporation was established as a domestic, not-for-profit corporation on November 29, 1988, and thereafter reincorporated as a domestic, not-for-profit local development corporation pursuant to N-PCL Section 1411(h) pursuant to a certain Certificate of Reincorporation filed on April 5, 2010, all for certain charitable and public purposes, among other things, including relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding the City of Troy, New York (the “City”) by attracting new industry to the City or by encouraging the development of, or retention of, an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, in furtherance of the Corporation’s purposes and powers, the Corporation previously acquired what is commonly known and referred to as the “Former King Fuels Site” (hereinafter, the “Site”) pursuant to a certain Trustee’s Deed, dated October 6, 2006 and recorded in the Rensselaer County Clerk’s Office at Book 3752 of Deeds at Page 265 (the “Deed”) relating to the Site, such Deed conveying, among other interests, two (2) contiguous parcels of real estate comprising a total of approximately 20.55 acres of land, such parcels being more particularly identified as TMID No’s 111.75-1-1./1 (“Parcel 1”, being 16.16 acres, more or less) and 111.67-1-3 (“Parcel 2”, being 4.41 acres, more or less); and

WHEREAS, Parcel 1 is subject to the terms of (1) a certain Order on Consent Index No. A4-0473-0000 between Niagara Mohawk Power Corporation, d/b/a National Grid (“National Grid”) and the New York State Department of Environmental Conservation (“NYSDEC”) effective November 17, 2003, superseding and replacing Order on Consent Index No. D0-0001-9210 between NYSDEC and the Company, effective December 7, 1992; (2) NYSDEC Record of Decision (“ROD”), NIMO Troy – Water Street MGP Site, Operable Unit No. 1, Area 2 – Former Plant Site, Site Number 4-42-029, July 2003; and (3) The Decision and Order of Supreme Court Justice James B. Canfield dated June 1, 2005, in Application of NYSDEC v. The King Service,

Inc., d/b/a King Fuels, Richard Slote and Daniel Slote (Renss. Co. Index No. 214569) (collectively, the above documents are referred to herein as the “Order”); and

WHEREAS, the Corporation and National Grid previously entered into a certain Reimbursement Agreement with License, dated as of January 25, 2012 (the “Reimbursement Agreement”) for purposes of providing National Grid with access rights to Parcel 1 for purposes of undertaking required remediation of the Site pursuant to and in accordance with the Order and NYSDEC-approved selected remedies (collectively herein, the “Remediation”); and

WHEREAS, the Corporation is undertaking certain redevelopment activities for the Site to allow for the utilization of the Site as a multi-tenanted commercial and industrial park as soon as practical following the completion of phases of the Remediation (collectively, the “Project”); and

WHEREAS, in furtherance of the Remediation and Project, the Corporation desires to undertake certain materials removal and demolition activities on Parcel 1 (the “Parcel 1 Work”); and

WHEREAS, the Corporation desires to lease portions of Parcel 2 to the Company pursuant to a certain Lease Agreement (the “Lease Agreement”, in substantially the form attached hereto as **Exhibit A**) for the exclusive purposes of constructing and operating a registered materials recycling facility (the “Facility”, as defined within the Lease agreement); and

WHEREAS, as a condition of the leasehold rights granted herein, the Company shall undertake certain elements of the Parcel 1 Work on behalf of the Corporation (as more particularly outlined within the Lease Agreement) and accept, process and remove certain materials delivered to the Facility by the Corporation and/or the City (the “Materials Processing”, as more particularly set forth within the Lease Agreement); and

WHEREAS, the Planning Commission of the City of Troy (the “Planning Commission”) previously reviewed the proposed Facility to be located on portions of Parcel 2 pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, “SEQRA”) and related Environmental Assessment Form (“EAF”), and issued a negative declaration, dated November 14, 2013 (the “Negative Declaration”).

NOW, THEREFORE, BE IT RESOLVED BY THE DIRECTORS OF THE TROY LOCAL DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. The leasing of portions of Parcel 2 and the undertaking of the construction of the Facility upon and within the Property (collectively, the “Project”) involve an “Unlisted Action” as said term is defined pursuant to SEQRA. Based upon a review of the Lease Agreement, the EAF and the Negative Declaration issued by the Planning Commission, along with other information submitted to the Corporation, the Corporation hereby:

(i) consents to and affirms the status of Planning Commission as Lead Agency for review of the Facility, within the meaning of, and for all purposes of complying with SEQRA;

(ii) ratifies the proceedings undertaken by the Planning Commission as Lead Agency under SEQRA with respect to the construction and equipping of the Facility pursuant to SEQRA; and

(iii) finds that based upon the review by the Corporation of the EAF, Negative Declaration and related documents, along and other representations to be made by the Company within the Lease Agreement, the Corporation hereby finds that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a “significant effect on the environment” (as such quoted term is defined under SEQRA); and (iii) no “environmental impact statement” (as such quoted term is defined under SEQRA) need be prepared for this action. This determination constitutes a “negative declaration” (as such quoted terms are defined under SEQRA) for purposes of SEQRA.

Section 2. The Corporation hereby authorizes the execution and delivery of the Lease Agreement in furtherance of the Project. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Corporation are hereby authorized, on behalf of the Corporation, to execute and deliver a Lease Agreement, along with related documents (collectively, the “Lease Documents”), in such form as prepared and approved by counsel to the Corporation and as approved by the Chairman, Vice Chairman and/or the Chief Executive Officer.

Section 3. The Secretary or Assistant Secretary of the Corporation are hereby authorized, where appropriate, to affix the seal of the Corporation to the Lease Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or Chief Executive Officer of the Corporation shall approve, and the execution thereof by the Chairman, Vice Chairman and/or Chief Executive Officer of the Corporation to constitute conclusive evidence of such approval.

Section 4. The officers, employees and agents of the Corporation are hereby authorized and directed for and in the name and on behalf of the Corporation to do all acts and things required and to execute and deliver all such checks, certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Corporation with all of the terms, covenants and provisions of the documents executed for and on behalf of the Corporation.

Section 5. These Resolutions 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:

	<i>Yea</i>	<i>Nea</i>	<i>Absent</i>	<i>Abstain</i>
Wallace Altes	[ ]	[ ]	[ ]	[ ]
William Dunne	[ ]	[ ]	[ ]	[ ]
Hon. Kenneth Zalewski	[ ]	[ ]	[ ]	[ ]
Andrew Ross	[ ]	[ ]	[ ]	[ ]
Peter Ryan	[ ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

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

I, the undersigned Secretary of the Troy Local Development Corporation, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Troy Local Development Corporation (the " Corporation "), including the resolution contained therein, held on October 11, 2013 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Corporation and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Corporation had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Corporation 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Corporation this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Secretary

[SEAL]

**AUTHORIZING RESOLUTION**  
*(AMENDMENT TO REIMBURSEMENT AGREEMENT AND ISSUANCE OF AGENT  
AGREEMENT TO NATIONAL GRID FOR KING FUELS REMEDIATION)*

A regular meeting of the Troy Local Development Corporation was convened on December 5, 2013 at 6:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. \_\_\_\_\_

**RESOLUTION OF THE TROY LOCAL DEVELOPMENT CORPORATION  
AUTHORIZING THE EXECUTION AND DELIVERY OF AN  
AMENDMENT TO REIMBURSEMENT AGREEMENT AND AGENT  
AGREEMENT, ALONG WITH RELATED**

WHEREAS, pursuant to Sections 402 and 1411 of the Not-For-Profit Corporation Law (“N-PCL” or the “Law”) of the State of New York, the Corporation was established as a domestic, not-for-profit corporation on November 29, 1988, and thereafter reincorporated as a domestic, not-for-profit local development corporation pursuant to N-PCL Section 1411(h) pursuant to a certain Certificate of Reincorporation filed on April 5, 2010, all for certain charitable and public purposes, among other things, including relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding the City of Troy, New York (the “City”) by attracting new industry to the City or by encouraging the development of, or retention of, an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Corporation and National Grid (hereinafter, the “Company”) previously entered into a certain Reimbursement Agreement with License, dated as of January 27, 2012 (the “Agreement”) wherein the Corporation granted the Company with a revocable license to undertake remediation of a certain Corporation-owned Site (as defined within the Agreement) pursuant to and in accordance with the Order and NYSDEC-approved selected remedies (as outlined within the Agreement and collectively, the “Remediation”, as defined within the Agreement); and

WHEREAS, pursuant to a certain First Amendment to Reimbursement Agreement with License (the “Amendment”) the Corporation and Company desire to amend the Agreement to allow for (i) the provision by the Corporation to the Company of an exemption from sales and use taxes in connection with undertaking the Remediation; (ii) clarification and correction of the Corporation-owned real estate included within the License rights granted to the Company within the Agreement; and

WHEREAS, in furtherance of the Amendment, the parties desire to enter into an Agent Agreement (the “Agent Agreement”) for the purpose of memorializing the appointment by the Corporation of the Company as agent to undertake Phase I of the Remediation.

NOW, THEREFORE, BE IT RESOLVED BY THE DIRECTORS OF THE TROY LOCAL DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. The Corporation hereby authorizes the execution and delivery of the Amendment and Agent Agreement in furtherance of the Remediation. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Corporation are hereby authorized, on behalf of the Corporation, to execute and deliver a Amendment and Agent Agreement, along with related documents (collectively, the “Documents”), in such form as prepared and approved by counsel to the Corporation and as approved by the Chairman, Vice Chairman and/or the Chief Executive Officer.

Section 2. The Secretary or Assistant Secretary of the Corporation are hereby authorized, where appropriate, to affix the seal of the Corporation to the Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or Chief Executive Officer of the Corporation shall approve, and the execution thereof by the Chairman, Vice Chairman and/or Chief Executive Officer of the Corporation to constitute conclusive evidence of such approval.

Section 3. The officers, employees and agents of the Corporation are hereby authorized and directed for and in the name and on behalf of the Corporation to do all acts and things required and to execute and deliver all such checks, certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Corporation with all of the terms, covenants and provisions of the documents executed for and on behalf of the Corporation.

Section 4. These Resolutions 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:

	<i>Yea</i>	<i>Nea</i>	<i>Absent</i>	<i>Abstain</i>
Wallace Altes	[ ]	[ ]	[ ]	[ ]
William Dunne	[ ]	[ ]	[ ]	[ ]
Hon. Kenneth Zalewski	[ ]	[ ]	[ ]	[ ]
Andrew Ross	[ ]	[ ]	[ ]	[ ]
Peter Ryan	[ ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

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

I, the undersigned Secretary of the Troy Local Development Corporation, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Troy Local Development Corporation (the " Corporation "), including the resolution contained therein, held on December 5, 2013 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Corporation and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Corporation had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Corporation 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Corporation this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Secretary

[SEAL]

## AGENT AGREEMENT

THIS AGREEMENT, made as of the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2013, by and between the **TROY LOCAL DEVELOPMENT CORPORATION**, a public benefit corporation of the State of New York, having its offices at 433 River Street, Troy, New York 12180 (the “Corporation”) and **NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID**, a domestic business corporation, having an address of 300 Erie Boulevard West, Syracuse, New York 13202 (the “Company”).

### WITNESSETH:

WHEREAS, the Corporation was established as a domestic, not-for-profit corporation on November 29, 1988, and thereafter reincorporated as a domestic, not-for-profit local development corporation pursuant to N-PCL Section 1411(h) pursuant to a certain Certificate of Reincorporation filed on April 5, 2010; and

WHEREAS, in furtherance of the Corporation’s purposes and powers, the Corporation previously acquired what is commonly known and referred to as the “Former King Fuels Site” (hereinafter, the “Site”) pursuant to a certain Bankruptcy Court Order signed September 19, 2006 by the Honorable Robert E. Littlefield, Jr., United States Bankruptcy Judge, entitled United States Bankruptcy Court, Northern District of New York, In Re The King Service, Inc., d/b/a King Fuels, Debtor, Chapter 7, Case No. 04-14661, Order Granting Chapter 7 Trustee’s Motion and Approving Sale of Certain Assets Free and Clear of Liens Pursuant to U.S.C. Sec. 363 (the “Bankruptcy Order”); and

WHEREAS, pursuant to the Bankruptcy Order, the Corporation accepted a certain Trustee’s Deed, dated October 6, 2006 and recorded in the Rensselaer County Clerk’s Office at Book 3752 of Deeds at Page 265 (the “Deed”) relating to the Site, such Deed conveying two (2) parcels of real estate comprising a total of approximately 20.55 acres of land, such parcels being more particularly identified as TMID No’s 111.75-1-1./1 (“Parcel 1”, 16.16 acres, more or less) and 111.67-1-3./2 (“Parcel 2”, 4.41 acres, more or less), with each of Parcel 1 and Parcel 2, comprising the Site; and

WHEREAS, the Site is subject to the terms of (1) a certain Order on Consent Index No. A4-0473-0000 between the Company and the New York State Department of Environmental Conservation (“NYSDEC”) effective November 17, 2003, superseding and replacing Order on Consent Index No. D0-0001-9210 between NYSDEC and the Company, effective December 7, 1992; (2) NYSDEC Record of Decision (“ROD”), NIMO Troy – Water Street MGP Site, Operable Unit No. 1, Area 2 – Former Plant Site, Site Number 4-42-029, July 2003; and (3) The Decision and Order of Supreme Court Justice James B. Canfield dated June 1, 2005, in Application of NYSDEC v. The King Service, Inc., d/b/a King Fuels, Richard Slote and Daniel Slote (Renss. Co. Index No. 214569) (collectively, the above documents are referred to herein as the “Order”); and

WHEREAS, the Corporation and Company entered into a certain Reimbursement Agreement with License, dated as of January 27, 2012 (the “Agreement”) wherein the

Corporation granted the Company a revocable license to undertake remediation of the Site pursuant to and in accordance with the Order and NYSDEC-approved selected remedies (as outlined within the Agreement and collectively, the "Remediation", as defined within the Agreement); and

WHEREAS, the Corporation and the Company have amended the Agreement, pursuant to the First Amendment to Reimbursement Agreement with License, dated as of \_\_\_\_\_, 2013 (the "Amendment"), such Amendment having been entered into by the Corporation and Company to allow for (i) the provision by the Corporation to the Company of an exemption from sales and use taxes in connection with undertaking the Remediation; (ii) clarification and correction of the Corporation-owned real estate included within the License rights granted to the Company within the Agreement.

WHEREAS, in furtherance of the Amendment, the parties desire to enter into this Agreement for the purpose of memorializing the appointment by the Corporation of the Company as agent to undertake Phase I of the Remediation.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Corporation to acts related solely to **Phase I of the Remediation** (as defined in the Agreement), to include the excavation and replacement of soils at depths of 8-10 feet located in Southern areas of the Site. The right of the Company to act as agent of the Corporation shall expire on **December 31, 2014**, unless extended by the Corporation in its sole discretion. The parties hereto acknowledge and agree that the Corporation is entering into this Agreement in furtherance of its charitable, not-for-profit purposes and powers. To wit, the Corporation is assisting with the Remediation for the purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest. This Agent Agreement is intended to memorialize the relationship between the Corporation and the Company in connection with the sales tax exemptions realized in connection with the Remediation of the Site.

2. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Corporation to proceed with the Project:

(a) The Company is a corporation duly organized and existing under the laws of the State of New York (the "State"), has the authority to enter into this Agreement and has duly authorized the execution and delivery of this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

(d) The Company's undertaking of the Remediation shall comply with the ROD and the Agreement in all respects.

3. Hold Harmless Provision. The Company hereby ratifies and confirms the hold harmless provisions contained within the Agreement and agrees that the Corporation shall not be liable for, and agrees to indemnify, defend and hold harmless the Corporation and its directors, officers, members, employees, agents (except the Company), representatives, successors and assigns from and against any and all liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Site or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Site or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Corporation's appointment of the Company as agent to undertake the Remediation, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Corporation, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Corporation or any other person or entity to be indemnified.

4. Insurance Required. The Company shall comply with all insurance provisions contained within the Agreement.

5. Agent Status and Acquisition of Goods. The Company acknowledges that the Corporation has granted the Company a limited agent appointment status to acquire tangible personal property that shall become an integral component of the Site, within the meaning of Section 1115(a) of the New York Tax Law. All deliveries of goods to be incorporated into the Site in connection with the Remediation will be made to the Site. All items of tangible personal property purchased pursuant to this Agent Agreement shall become an integral component of the Site, within the meaning of Section 1115(a) of the New York Tax Law.

6. This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

7. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Corporation: Troy Local Development Corporation  
433 River Street  
Troy, New York 12180  
Attn: William Dunne, Executive Director

With a copy to: Harris Beach PLLC  
677 Broadway, Suite 1101  
Albany, New York 12207  
Attn: Justin Miller, Esq.

To the Company: Niagara Mohawk Power Corporation d/b/a National Grid  
300 Erie Boulevard West  
Syracuse, New York 13202  
Attn: Brian Sterns

With a copy to:

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the Federal or state courts located in Rensselaer County, New York.

10. Commensurate with the execution of this Agent Agreement, the Company shall pay to the Corporation to amount \$ \_\_\_\_\_ as an administrative fee in consideration of the agent status memorialized herein.

*[The Balance of this Page Intentionally Left Blank]*

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

TROY LOCAL DEVELOPMENT CORPORATION

By: \_\_\_\_\_

Name: William Dunne

Title: Executive Director

NIAGARA MOHAWK POWER CORPORATION, D/B/A  
NATIONAL GRID

By: \_\_\_\_\_

Name:

Title:

FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT WITH LICENSE  
FORMER KING FUELS SITE, SOUTH TROY, NEW YORK

THIS FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT WITH LICENSE (this “First Amendment”), dated as of the \_\_\_ day of \_\_\_\_\_, 2013, entered into by and between TROY LOCAL DEVELOPMENT CORPORATION, a domestic, not-for-profit local development corporation having an address of City Hall, 433 River Street, Troy, New York 12180 (the “Corporation”) and Niagara Mohawk Power Corporation, d/b/a National Grid, a domestic business corporation having an address of 300 Erie Boulevard West, Syracuse, New York 13202 (the “Company”).

WITNESSETH:

WHEREAS, the Corporation and Company entered into a certain Reimbursement Agreement with License, dated as of January 27, 2012 (the “Agreement”) wherein the Corporation granted the Company with a revocable license to undertake remediation of a certain Corporation-owned Site (as defined within the Agreement) pursuant to and in accordance with the Order and NYSDEC-approved selected remedies (as outlined within the Agreement and collectively, the “Remediation”, as defined within the Agreement); and

WHEREAS, the Corporation and Company desire to amend the Agreement to allow for (i) the provision by the Corporation to the Company of an exemption from sales and use taxes in connection with undertaking the Remediation; (ii) clarification and correction of the Corporation-owned real estate included within the License rights granted to the Company within the Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby formally covenant, agree and bind themselves as follows:

Section 1. **Corporation Provision of Sales and Use Tax Exemptions for Remediation.** Section 5.1(c) of the Agreement is hereby amended in entirety to read as follows:

(c) The Company and Corporation hereby acknowledge that the Company may request the Corporation’s assistance with the Remediation through the appointment by the Corporation of the company as agent to undertake the Remediation as agent of the Corporation for purposes of providing sales and use tax exemptions for materials to be incorporated into the Site in furtherance of the Remediation. Any such assistance shall be governed by one or more Agent Agreements to be entered into by the Corporation and the Company, along with related Sales Tax Exemption Letters and forms.

Section 2. **Company License Rights – Included Realty.** Notwithstanding any other provision in the Agreement to the contrary, the License rights of the Company granted pursuant to the Agreement shall be limited to that certain approximately 16.16 acre parcel of real estate identified as TMID No. 111.75-1-1.1/1 acquired as part of “Parcel 1” described within the

Trustee's Deed attached as Exhibit A within the Agreement (hereinafter, the "Licensed Parcel"), such Licensed Parcel being situated entirely South of the Wynantskill Creek and being the same parcel of real estate described as "Parcel No. 1" within that certain Deed, dated as of April 3, 1968 from Republic Steel Corporation to King Service, Inc., such Deed being recorded in the Office of the Rensselaer County Clerk at Book 1194 of Deeds at Page 936 (the "1968 Republic Steel Deed"). All references to the term "Site" within the Agreement shall include only the Licensed Parcel and shall include access and egress rights over lands of the Corporation necessary to enter the Licensed Parcel to undertake the Remediation. Such access and egress rights shall be limited to Corporation designated roadways through Parcel 2, as defined below and within the Agreement, as may be modified and/or redesignated from time to time. The Company acknowledges that the Corporation may lease all or portions of Parcel 2 to one or more third parties during the Remediation Term and agrees that the Company's limited access and egress rights relating to Parcel 2 shall be undertaken by the Company in compliance with the non-disturbance provisions contained within Section 3.5 of the Agreement.

For purposes of this Amendment and the Agreement, Parcel 2 is more particularly described as that certain approximately 4.4 acre parcel of real estate identified as TMID No. 111.67-1-3 acquired as part of "Parcel 1" described within the Trustee's Deed attached as Exhibit A within the Agreement, such parcel being situated entirely North of the Wynantskill Creek and being the same parcel of real estate described as "Parcel No. 1" within that certain Deed, dated as of August 21, 1973 from Republic Steel Corporation to King Service, Inc., such Deed being recorded in the Office of the Rensselaer County Clerk at Book 1253 of Deeds at Page 531 (the "1973 Republic Steel Deed"). All references to the term "Site" within the Agreement shall not include the foregoing parcel of realty.

For further reference purposes, and for purposes of this Amendment and the Agreement, the Site and Licensed Parcel shall not include that certain approximately 1.54 acre parcel of real estate identified as TMID No. 111.59-2-3 acquired as "Parcel 2" described within the Trustee's Deed attached as Exhibit A within the Agreement, such parcel of real estate being situated on Main Street, Troy, New York and being the same parcel of real estate described as "Parcel No. 2" within the 1968 Republic Steel Deed.

Section 3. **Limited Amendment to Agreement.** Other than those provisions of the Agreement deleted, amended or added herein, all other provisions of the Agreement shall remain in full force and effect.

Section 4. **Execution of Counterparts.** This Amendment may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Corporation and the Company have caused this Amendment to be executed in their respective names, all as of the date first above written.

TROY LOCAL DEVELOPMENT CORPORATION

By: \_\_\_\_\_

Name: William Dunne

Title: Executive Director

NIAGARA MOHAWK POWER CORPORATION, D/B/A  
NATIONAL GRID

By: \_\_\_\_\_

Name:

Title: