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ERIE COUNTY COMPTROLLER

KEVIN R. HARDWICK

May 22, 2025

Honorable John J. Mills, Minority Leader
Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

Re: Request for Audit on PPE Stockpile Management

Dear Minority Leader Mills, and Legislators Todaro, Greene and Lorigo:

I received your letter dated May 2, 2025 requesting that my office "conduct a comprehensive audit of Erie County's PPE and DME stockpile." Thank you for taking the time to write to me.

You may recall, in February 2023, my office issued an analysis of inventory controls on medical and health supplies acquired using federal CARES Act and American Rescue Plan funding concerning the COVID-19 pandemic. A copy of that report is enclosed herein and you can also see it on our website.

From the Division of Budget and Management's repeated attestation and public reporting, we know that quarterly submissions were required to be filed by the administration with the federal government which detailed the accounting of these expenses. My office did not complete or submit those reports (which began before my term as Comptroller). To the best of my knowledge, there has been no finding of impropriety on Erie County's part.

As you also know, in 2022, we produced two separate reports on Buffalo Homecare, Inc. which identified improprieties and problems with federal funds. Ultimately, our work led to the cancellation of several contracts for vaccination and related services and a lawsuit that is still in court. Our analysis made two recommendations to the Department of Health regarding their inventory management: strengthen internal controls and complete the segregation of duties between employees/divisions. Both recommendations were adopted by the County administration. We are always looking for new ways to provide accounting or financial oversight, as we continue to collaborate with our governmental partners.

I understand the reason behind your request for additional information. Such data could indeed be interesting. Currently, however, my audit staff is busy working on other projects which I view as more important. If we could conduct another audit project in 2025, I will consider assigning such a task. In the meantime, your questions about the PPE inventory would be better suited for the Departments of Health and Homeland Security and Emergency Services.

I am, however, able to provide details regarding the lease and utility payments for the ongoing storage of PPE and related supplies. I have also enclosed that information. The total paid out in lease payments for Fiscal Year 2025 thus far is \$225,825.39. In terms of the cost effectiveness of the storage facility, your question could be more adequately answered by the Department of Public Works or the Department of Law as my office would have no way of gauging storage needs or the particulars of any negotiations.

I hope that this information is helpful to you.

Sincerely,

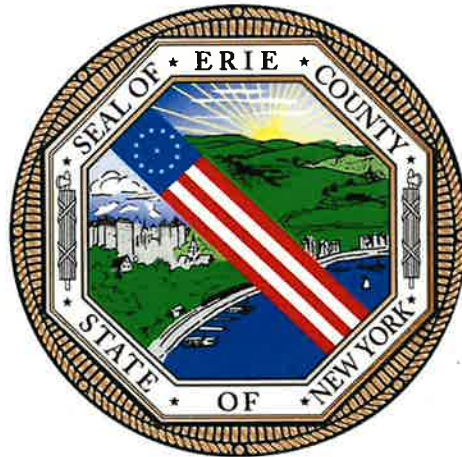
A handwritten signature in black ink, appearing to read "K. R. Hardwick".

Kevin R. Hardwick, Ph.D.
Erie County Comptroller

Enclosure: Analysis of Inventory Controls for Medical and Health Supply Expenditures Using CARES
 Act and American Rescue Plan Funding
 Lease and Utility Cost Information

February 2023

**Analysis of Inventory Controls for Medical and
Health Supply Expenditures Using CARES Act and
American Rescue Plan Funding**



**KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER**

**HON. KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**



February 3, 2023

Dr. Gale Burstein, MD, MPH, FAAP
Commissioner
Erie County Department of Health
110 Franklin Street, 3rd Floor
Buffalo, New York 14202

Dear Dr. Burstein:

The Erie County Comptroller's Office has completed an analysis of inventory controls for medical and health supply expenditures using CARES Act and American Rescue Plan funding. This analysis was prepared in response to INTRO. 17-1 2022, requesting an audit of medical and health supplies.

The objectives of this analysis were to:

- Identify the medical and health supplies purchased with CARES Act and American Rescue Plan ("ARP") funding, for the period March 1, 2020 through September 30, 2022.
- Determine whether appropriate internal controls were applied during the purchasing, payment, receipt, storage and distribution phases.
- Identify instances of non-compliance with applicable accounting policies.
- Provide possible corrective actions and recommendations for improvement.

The methodology employed to achieve these objectives included inquiries of Health Department personnel, inspection of purchasing, receiving, and payment documentation. In addition, expenditure data recorded in SAP was extracted for business area 127 (Health), funds 252 and 253, in general ledger account 505800 (Medical and Health Supplies). Related accounting policies were reviewed and documented.

An audit of medical and health supply expenditures was not performed at this time.

REPORTING REQUIREMENTS

A draft copy of this report was provided to the Department of Health and the Division of Budget and Management for their review. Their comments were considered in the preparation of this report. A copy of their response to this report is included in Appendix A.

SUMMARY

We noted two (2) instances of non-compliance with standard operating procedures:

1. Management override of internal controls.
2. Segregation of duties inadequate.

Details of the preceding findings are presented in the section entitled "RESULTS AND RECOMMENDATIONS".

RESULTS AND RECOMMENDATIONS

1. Management Override of Internal Controls

Management override refers to management not following control procedures expected to be followed by all employees in the organization.

Management-level employees worked together to override internal controls intended to prevent payments to vendors for goods or services that have not been received. This resulted in vendors being paid prior to the receipt of goods, and expenditures being recorded in the incorrect accounting period.

We recommend that all applicable accounting policies be adhered to and that a policy be created to define how prepayments should be made when an emergency is declared. In addition, a fiscal group should be created during emergency declarations to monitor all transactions independently. The group should include employees from multiple departments including the Division of Budget and Management and the Comptroller's Office, with a minimum of two (2) employees from each department.

2. Segregation of Duties Inadequate

Management-level employees recorded goods-receipt and invoice receipt transactions in SAP. These individuals have authorization responsibilities and therefore should not be recording these entries in SAP.

We recommend that the goods receipt and invoice receipt functions be performed by staff who normally perform those functions and do not have authorization responsibilities.

CONCLUSION

This analysis determined that the management override of internal controls allowed unauthorized prepayments to vendors and compromised SAP data.

The unprecedented nature of the COVID-19 pandemic required a timely response to procure medical and health supplies. We recommend that procedures be developed to address unique circumstances encountered when an emergency has been declared. At a minimum, the Comptroller's Office should create a procedure for prepayments, including additional compensating controls to mitigate the associated risk. In addition, purchasing procedures should

identify which department should be responsible for defining products and quantities to be purchased.

The need for a higher-level engagement for the proper evaluation of inventory was determined to be necessary once the management override was identified.

The Comptroller's Office will determine whether an audit with an expanded scope is appropriate and possible given the lack of segregation of duties and the management override of controls. The audit would include the Department of Health, the Division of Budget and Management, The Division of Purchase, and the Comptroller's Office-Division of Accounting.

Cc: Hon. Mark C. Poloncarz, Erie County Executive
Robert Keating, Director, Division of Budget and Management
Jeremy Toth, Erie County Attorney
Vallie Ferraraccio, Director of Purchase
Erie County Legislature

APPENDIX A



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

January 30, 2023

Hon. Kevin R. Hardwick, Ph.D.
Erie County Comptroller
Edward A. Rath County Office Bldg.
95 Franklin Street, Rm. 1100
Buffalo, NY 14202

RE: Response to Health Supply Inventory Analysis

Dear Comptroller Hardwick:

The Division of Budget and Management writes to respond to the draft analysis of Inventory Controls for Medical and Health Supply Expenditures Using CARES Act and American Rescue Plan Funding Dated January 18, 2023. Although this analysis was initially regarding health supply inventory maintained by the Erie County Department of Health, the results and recommendations focus more specifically on the general procurement and subsequent accounting processes surrounding the initial purchasing of health supplies during the Global Pandemic related to the Coronavirus ("COVID-19"), which was managed by the Divisions of Budget & Management, and Purchasing and Comptroller's Office.

A State of Emergency was initially declared by the Erie County Executive on March 15, 2020 with a subsequent emergency response resolution (COMM. 6E-22 (2020)) approved by the Erie County Legislature on March 19, 2020, the latter of which waived all formal purchasing policies and procedures that may hinder the County's immediate response to the COVID-19 public health emergency.

This Administration believes that all instances of non-compliance with standard operating procedures identified through your analysis were not only allowable under the afore-mentioned waiving of formal purchasing policies and procedures but also absolutely necessary for the procurement of medical and health supplies during the Global Pandemic. We firmly believe that had extreme measures not been taken to secure an adequate supply of personal protective equipment on behalf of the area hospital systems, many more lives would have been lost.

Moreover, both the Coronavirus Aid, Relief, and Economic Security ("CARES") Act and American Rescue Plan ("ARP") Act, which have provided Erie County with more than \$300 million in combined funding for a variety of activities including COVID-19 response, require significant compliance reporting and tracking of the use of funds to by the U.S. Department of the Treasury.

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APPENDIX A – Page 2

While Erie County and this Administration, in particular, has presided over a number of states of emergency, the unprecedented scope and duration of the COVID-19 Global Pandemic identified many shortcomings in existing County policies and procedures and made clear that new policies and procedures need to be developed to better appreciate the unique needs of such an emergency while still maintaining an adequate level of structure and confidence in internal controls.

As such, we fully agree with the Comptroller's conclusions and look forward to working with your Office's Accounting Division to develop new official policies and procedures, especially when it comes to prepayments. Additionally, efforts are already underway to create a more robust Finance Section for emergency response that includes identifying additional employees to be assigned in an effort to increase redundancies and further segregate duties.

Sincerely,



Robert W. Keating, Director
Erie County Division of Budget & Management

RWK/mc

CC: Hon. Mark C. Poloncarz, Erie County Executive
Dr. Gale Burstein, Commissioner of Health
Vallie Ferraraccio, Director of Purchasing

Lease Payments for 500 Commerce Drive

Document Number	Date	Amount
2001715717	2/2/2023	63,930.90
2001720590	2/23/2023	31,217.16
2001729334	3/30/2023	31,217.16
2001731123	4/6/2023	22,868.76
2001737619	5/4/2023	42,651.54
2001745780	6/8/2023	54,085.92
2001751273	6/29/2023	42,651.54
2001755686	7/20/2023	44,148.12
2001762434	8/17/2023	44,148.12
2001768932	9/14/2023	42,775.44
2001777324	10/19/2023	42,775.44
2001786914	11/30/2023	42,775.44
		505,245.54
2001801016	1/19/2024	42,775.44
2001804696	2/1/2024	42,775.44
2001811103	2/29/2024	42,775.44
2001818272	3/28/2024	42,775.44
2001824918	4/25/2024	42,775.44
2001830713	5/23/2024	42,775.44
2001839553	6/27/2024	42,775.44
2001853570	8/29/2024	25,544.88
2001855300	9/6/2024	68,565.18
2001860005	9/26/2024	47,055.03
2001868085	10/31/2024	47,055.03
2001874295	11/27/2024	47,055.03
		534,703.23

V# 168165
DocRef# 23-77-PW
TERM 1/27/2023 -
3/31/2027

STANDARD LEASE

THIS STANDARD LEASE dated as of January 27, 2023, between ZTS COMMERCE DRIVE, LLC, c/o Ark Wholesale, LLC, 1888 Niagara Falls Boulevard, Tonawanda, New York 14150 ("Landlord") and the COUNTY OF ERIE, 95 Franklin Street, Suite 1634, Department of Law, Buffalo, New York 14202 ("Tenant").

BACKGROUND

- A. Landlord owns that certain building containing approximately 125,800 square feet of floor space and locally known as 500 Commerce Drive, Amherst, New York (the "Building"), which is located on the land described on Schedule A attached hereto and made a part hereof (said land, Building and all other improvements now or hereafter located on said land are hereinafter collectively referred to as the "Property").
- B. Landlord currently leases approximately 57,250 square feet of floor space in the Building (the "Premises") to Ivoclar Vivadent, Inc. ("Current Tenant") pursuant to that certain Standard Lease as of February 3, 2017, as amended (the "Current Lease"). The Premises are cross-hatched and labeled "Premises" on the partial floor plan of the Building attached hereto as Schedule B attached hereto and made a part hereof.
- C. Tenant currently subleases the entire Premises from Current Tenant pursuant to that certain Sublease dated August 1, 2020. Landlord desires to lease the entire Premises directly to Tenant, and Tenant desires to lease the entire Premises directly from Landlord.

NOW, THEREFORE, in consideration of the foregoing premises, and the terms, covenants and conditions hereinafter set forth, Landlord and Tenant hereby agree as follows:

1.00 GRANT AND PREMISES

1.01 Lease of Premises. Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, subject to the terms, covenants and conditions of this Lease.

1.02 Common Area License. Landlord hereby licenses Tenant to use in common with Landlord, other tenants of the Building and their respective guests and invitees those interior and exterior areas of the Property designated by Landlord from time to time for use in common by tenants of the Building, including parking areas, sidewalks and driveways ("Common Area") for such purposes as Landlord shall prescribe from time to time. Notwithstanding the foregoing, Tenant shall use for parking, and shall cause its guests and invitees to use for parking, only those parking areas located at the Property designated from time to time by Landlord for parking by Tenant and its guests and invitees. Tenant shall not, and shall cause Tenant's guests and invitees

to not, block or otherwise obstruct the Common Area. Tenant shall not store or otherwise place its products, equipment or other personal property in the Common Area, except that Tenant may temporarily place the same in the Common Area to the extent reasonably necessary to move the same to or from the Premises. Nothing contained herein shall prohibit Landlord from increasing or decreasing the Common Area from time to time, from constructing improvements thereon or from removing improvements therefrom, provided, however, Landlord will not decrease the Tenant's Reserved Parking Area (as hereinafter defined) without Tenant's written approval.

1.03 Tenant's Reserved Parking Area. Notwithstanding the provisions of Subsection 1.02, Landlord hereby licenses Tenant to exclusively use for the Term (as hereinafter defined) those forty (40) parking spaces now located within the portion of the Property shown cross-hatched and labeled "Tenant's Reserved Parking Area" on Schedule 1.03 attached hereto and made a part hereof ("Tenant's Reserved Parking Area"). Tenant shall use said area only for the purpose of parking automobiles consisting of four doors or less owned or operated by Tenant, its employees, guests and invitees (collectively, the "Tenant Parties"). Tenant may, at its sole cost and expense, construct signs in the landscaped area contiguous to the Tenant's Reserved Parking Area indicating that such parking spaces are reserved for such use (or language of similar import), provided, however in no event shall Landlord be responsible for ensuring that said area is used only by Tenant Parties, it being the intent of the parties hereto that the foregoing license shall not, as between Landlord and Tenant, impose any obligation on Landlord to ensure said area is exclusively possessed or used by the Tenant Parties. Such signs and the substance of any message contained thereon shall be subject to Landlord's prior consent, which shall not be unreasonably withheld or delayed.

2.00 TERM; COMMENCEMENT DATE

2.01 Term; Commencement Date. The term of this Lease shall commence on the Commencement Date and continue through and including March 31, 2027 (the "Term"). The "Commencement Date", as used herein, shall mean the date, if any, upon which the Current Lease shall have terminated pursuant to the terms of a lease surrender agreement between Landlord and Current Tenant containing such terms and conditions as Landlord shall require (the "LSA"). Landlord shall notify Tenant of the Commencement Date prior to the occurrence thereof. Landlord shall use commercially reasonable efforts, at no expense to Landlord, to enter into the LSA with Current Tenant. If Landlord shall not have entered into the LSA for any reason or no reason within fifteen (15) days after the date hereof, then either party may terminate this Lease upon notice given to the other party hereto whereupon all Base Rent and the Security Deposit (each as hereinafter defined) collected by Landlord shall be promptly returned to Tenant. Tenant shall, upon request by Landlord made after the Commencement Date, execute and deliver to Landlord such stipulation as Landlord may reasonably require memorializing the Commencement Date.

3.00 BASE RENT

Commencing on the Commencement Date, Tenant shall pay to Landlord base monthly rent for the Premises for each month of the Term in the amounts set forth on Schedule 3.00 attached hereto and made a part hereof ("Base Rent"). Each monthly installment of Base Rent will be paid in advance on or before the first day of each calendar month of the Term without deduction or offset at Landlord's address set forth in (or designated pursuant to) Subsection 22.04; provided, however, (a) Tenant shall pre-pay to Landlord simultaneously with Tenant's execution and delivery of this Lease the monthly installment of Base Rent for the first full calendar month of the Term, and (b) if the Commencement Date shall not occur on the first day of a month, the foregoing monthly installments shall commence on the first day of the first full calendar month occurring after the Commencement Date (subject to the foregoing pre-payment for said first full calendar month), and Tenant shall pay to Landlord on the Commencement Date as rent for the remainder of the month in which the Commencement Date shall occur a sum equal to one monthly installment of Base Rent then payable prorated to reflect the number of days remaining in said month from and after the Commencement Date. All other sums required to be paid by Tenant under this Lease (except Base Rent) are hereinafter collectively referred to as "Additional Rent". The Base Rent and Additional Rent are hereinafter collectively referred to as "Rent".

4.00 OPERATING EXPENSES

(Tenant Share
is 45.71% - pg 4)

4.01 Definitions. As used in this Lease, the following terms shall mean the following:

(a) "Operating Expenses" shall mean any and all costs and expenses incurred by Landlord in connection with the ownership, operation, servicing, management and maintenance of the Property. Operating Expenses shall include, but shall not be limited to, all real property taxes, payments in lieu of real property taxes, water and sewer rents, assessments and other governmental charges or payments, ordinary and extraordinary, foreseen or unforeseen, ad valorem, specific or otherwise, which shall be levied, assessed or imposed by any governmental authority on the Property or any part thereof (and any tax levied, assessed or imposed in whole or in part in lieu of real property taxes); wages, salaries and compensation of employees; consulting, accounting, legal, janitorial, maintenance, guard and other services; management fees; insurance (including rent loss insurance); utilities; snow removal; maintenance, repairs and replacements to or of the Property or any part thereof; reasonable reserves for Operating Expenses; and any other cost, charge and expense which under generally accepted accounting principles would be regarded as a maintenance or operating expense. Notwithstanding the foregoing, Operating Expenses shall not include (1) depreciation on the Property; (2) costs of improvements made for other tenants of the Property; (3) finders' fees and real estate brokerage commissions; (4) mortgage principal and interest; (5) each utility service furnished to another tenant's premises at the Property (as opposed to Common Area) if Tenant is obligated hereunder to pay for the same service to the Premises directly to the supplier thereof; (6) each item of maintenance, repair and/or replacement furnished to another tenant's premises at the Property (as opposed to Common Area) to the extent this Lease explicitly provides, if at all, that such item would be at Tenant's sole cost and expense if such item were furnished to the Premises; (7)

expenses to be reimbursed by Landlord's insurance or manufacturer's warranty; (8) Executive compensation for Landlord employees above building manager; (9) legal fees in connection with leasing space or tenant disputes; (10) advertising and marketing expenses; (11) interest and penalties for late payment of real estate taxes; (12) property management fees in excess of competitive market rates; (13) Landlord's general overhead expenses not related specifically to the Building; (14) costs of remedying any latent structural defects; (15) costs of remediating any environmental contamination; (16) costs of bringing the Building into compliance with applicable laws; (17) the cost of reconstructing improvements following an uninsured or under-insured casualty and (18) except as set forth below, the cost of capital repairs (meaning any repairs, including replacements, which constitute depreciable capital expenditures or improvements for federal income tax purposes) (the foregoing items (1)-(18) are hereinafter collectively, the "Exclusions"). Capital repairs in any given calendar year may be included in Operating Expenses to the extent of: (i) costs not in excess of \$25,000 per project or \$50,000 in the aggregate for such calendar year; or (ii) if such full costs for such project and/or in the aggregate for such calendar year exceed the applicable figure(s) in clause (i) above, the amount of such costs which is allocable to such calendar year (or subsequent calendar years in the Term) when said costs are spread on a flat line basis over the respective useful life of such capital repairs, or, if applicable, the useful life of each of the repairs' major component parts, for federal income tax purposes, and the statement of Operating Expenses for each calendar year shall also set forth the appropriate allocable portion (including underlying cost figures and useful life calculations) of such capital repairs payable by Tenant for such calendar year.

(b) "Tenant's Share" shall mean 45.71%.

4.02 **Operating Expense Payments.** Landlord shall furnish to Tenant from time to time a statement of Operating Expenses. Tenant shall pay to Landlord, as Additional Rent, Tenant's Share of said Operating Expenses within twenty (20) days after Landlord shall have given the aforesaid statement to Tenant. Landlord shall furnish to Tenant upon request copies of bills and/or receipts for payment of Operating Expenses to third parties. Tenant's payments for Operating Expenses partially attributable to a period outside of the Term shall be appropriately adjusted to reflect said period.

Landlord may, at Landlord's option, estimate and bill Tenant's Share of Operating Expenses to be paid in a calendar year during such calendar year subject to an adjustment on or before the earlier of the April 1 next following such calendar year or the date upon which the Term shall expire or otherwise terminate. If Landlord shall exercise said option, Tenant shall pay with each payment of Base Rent such estimated Tenant's Share of Operating Expenses in equal monthly installments over such calendar year as additional rent.

Statements of Operating Expenses incurred by Landlord for a calendar year and statements of estimated Tenant's Share of Operating Expenses to be furnished by Landlord as provided herein shall consist of data signed by Landlord. Subject to any adjustment with respect to estimated Tenant's Share of Operating Expenses, and/or the data contained in bills and/or

receipts for payment of Operating Expenses to third parties furnished to Tenant, the statements thus furnished to Tenant shall constitute a final determination between Landlord and Tenant for Operating Expenses payable to Landlord for the calendar year represented thereby.

4.03 Audit Right. Landlord shall cause to be kept books and records showing expenses and Additional Rent calculations in accordance with an appropriate system of accounts and account practices consistently maintained. Tenant shall have the right to inspect Landlord's records concerning common area operating expenses and Landlord's calculation of Additional Rent. In the event of a question or concern relating to Additional Rent charges, Tenant shall first contact Landlord to discuss the question or concern. If Landlord is unable to satisfy Tenant's inquiry within thirty (30) days after Tenant notifies Landlord in writing with such question or concern Tenant shall have a right, at Tenant's sole cost and expense, to audit Landlord's books of account and records concerning the Additional Rent upon the following terms and conditions. Tenant shall notify Landlord in writing that it is exercising its right to audit within ninety (90) days following delivery of the annual expense notice from Landlord, indicating in such notice with reasonable specificity those cost components of the Additional Rent to be subject to audit. A copy of the results of the audit shall be delivered to Landlord within thirty (30) days after the completion of the audit. If Landlord and Tenant determine that the Additional Rent for the prior calendar year is less than reported, Landlord shall give Tenant a credit in the amount of the overpayment toward Tenant's next monthly payment of Additional Rent, or, in the event the Lease has expired or terminated and no Event of Default exists, Landlord shall pay Tenant the total amount of such overpayment within thirty (30) days. In the event that Tenant's audit of the Additional Rent for any calendar year reveals an overstatement in excess of five percent (5%) of Tenant's actual Additional Rent liability for any calendar year, Landlord will also reimburse Tenant for the documented and reasonable costs of Tenant's audit to the extent actually incurred by Tenant within such thirty (30) day period. If Landlord and Tenant determine that the Additional Rent for the calendar year is more than reported, Tenant shall pay Landlord the amount of any underpayment within thirty (30) days. If Landlord disputes the correctness of Tenant's audit findings, Landlord shall submit the dispute to a reputable firm of independent certified public accountants selected by Tenant and approved by Landlord. Such accountants shall review the dispute taking into account the terms of the Lease. The decision of such accountants shall be conclusive and binding upon the parties. If such accountant decides that there was an error, Landlord will make correcting payment if Tenant overpaid such amount, and Tenant shall pay Landlord if Tenant underpaid such amount within thirty (30) days after the decision is rendered and the results are provided to Landlord.4.04 Net Lease.

Notwithstanding anything in this Lease to the contrary, it is the intent of Landlord and Tenant that, except for the Exclusions, Landlord shall receive the Base Rent free from all taxes, charges, expenses and deductions of every description and, to the extent of Tenant's Share, Tenant shall pay all of these, which, except for this Lease, would have been chargeable against the Property and payable by Landlord.

5.00 UTILITIES

Landlord shall furnish electricity, natural gas and water to the Premises, provided that (a) the foregoing shall be provided to only those areas of the Premises presently configured or equipped to receive the same, and (b) Landlord shall have no liability for interruption in supply of the same beyond Landlord's reasonable control. Natural gas supplied to the Premises shall be separately metered to the Premises, Tenant shall cause all accounts for the same to be placed in the name of Tenant and pay all charges for the same directly to each supplier thereof. Until such time, if any, as Landlord shall have caused electricity to the Premises to be separately metered, in which case Tenant shall cause all accounts for the same to be in the name of Tenant and pay all charges for the same directly to each supplier thereof, Landlord shall cause electricity supplied to the Premises to be sub-metered, the account for the same shall remain in the name of Landlord and Tenant shall pay to Landlord all electricity charges measured by the same at the same rate charged to the Landlord with no mark-up. Until such time, if any, as Landlord shall have caused water to the Premises to be sub-metered to the Premises, Tenant shall pay for Tenant's Share of water and sewer usage as Operating Expenses pursuant to the provisions of Section 4.00 of this Lease. If Landlord shall cause water to be so sub-metered, the account for the same shall remain in Landlord and Tenant shall pay to Landlord all water and sewer charges measured by the same. Each payment to Landlord required to be made by Tenant under this Section 5.00 shall be made within twenty (20) days after Landlord shall have delivered its invoice for the same to Tenant. Tenant shall arrange for all other utility services Tenant may require to be furnished to the Premises, including internet and other communication services, and shall pay for the same directly to the respective suppliers thereof.

6.00 REPAIRS

6.01 Tenant's Obligations. Tenant shall, at its sole cost and expense, maintain and make all necessary repairs to, and replacements of, (a) the interior of the Premises, including all interior floor, ceiling and wall finishes and all interior and exterior windows and doors serving the Premises; (b) all mechanical systems and installations, equipment and systems providing sewage, water, electricity, gas, heat, light and/or air conditioning (collectively, "Systems") to the Premises to the extent the same are located within the Premises or serve only the Premises, including those three (3) certain heating and/or air conditioning units and appurtenant equipment serving only the Premises and presently located westerly of the Building; (c) all loading docks and appurtenant dock fixtures and equipment serving the Premises, including all loading dock levers, bumpers, seals, plates and doors serving the Premises; and (d) all signs placed at the Property by Tenant, including all installations and equipment providing light to the same. Tenant shall contract for, in its own name, and shall pay for a licensed and insured HVAC service contractor to inspect, adjust, clean and repair Systems providing heat, ventilation and/or air conditioning to only the Premises, which service shall include changing filters on at least a quarterly basis, if necessary. Tenant shall furnish evidence of such contract to Landlord. Tenant shall also keep the paved area(s) and sidewalk(s) located within three (3) feet of any man door or overhead door serving the Premises reasonably free of snow, ice, rubbish and debris.

6.02 Landlord's Obligations. Except for maintenance, repairs and replacement to be

performed by Tenant under Subsection 6.01, Landlord shall maintain and make all necessary repairs to, and replacements of, (i) the Common Area, including all light fixtures, landscaping, paved areas, curbs and sidewalks located thereon; (ii) all Systems serving the Premises; (iii) the roof, foundation, exterior walls and slab floor of the Building, and (iv) all utility lines and infrastructure (including but not limited to gas, electric, water, and sanitary sewer) up to the point of connection at ground level within the Premises. Landlord shall also keep the sidewalks, parking and other paved areas of the Property used for vehicular ingress and egress reasonably free of snow, ice rubbish, and debris. As a condition precedent to all of the obligations of Landlord to repair under this Subsection 6.02, Tenant shall notify Landlord of the need for such repairs, and Landlord shall use commercially reasonable efforts to effect such repairs within ten (10) days after Tenant shall have given such notice, or if the nature of said repairs is such that ten (10) days is not a reasonable amount of time which to make such repairs, Landlord shall make such repairs within a reasonable amount of time after Tenant shall have given such notice. All expenses incurred by Landlord under the provisions of this Subsection 6.02 shall be deemed to constitute Operating Expenses for purposes of Section 4.00 herein, except to the extent of the Exclusions set forth in Section 4.00. 6.03 Damage Caused by Tenant. Notwithstanding anything to the contrary contained herein, all damage or injury to the Property caused by or resulting from the acts or omissions of Tenant shall be repaired promptly by Tenant at its sole cost and expenses to the satisfaction of Landlord.

7.00 INSURANCE

7.01 Tenant's Insurance. At all times during the Term, Tenant will carry and maintain, at Tenant's sole cost and expense, the following insurance, in the amounts specified below or such other amounts as Landlord may from time to time reasonably request, with insurance companies and on forms satisfactory to Landlord:

(a) Fire insurance under an all-risk form of policy covering all of Tenant's equipment, trade fixtures, appliances, furniture, furnishings and personal property, from time to time in, on, or upon the Premises, in an amount not less than the full replacement cost without deduction for depreciation from time to time during the Term. All policy proceeds from such insurance will be used for the repair or replacement of the property damaged or destroyed.

(b) General commercial liability insurance against claims for bodily injury, death or property damage occurring upon, in or about the Property with a single occurrence limit of not less than \$2,000,000 and an aggregate limit of not less than \$3,000,000.

(c) Workmen's compensation insurance insuring against and satisfying Tenant's obligations and liabilities, if any, under the workmen's compensation laws of the state in which the Premises are located.

(d) Rental value insurance in standard policy form in the amount of the Rent payable by Tenant under this Lease (such insurance shall provide benefits for not less than one

(1) year following any casualty).

7.02 Forms of Policies. All policies of insurance which Tenant is obligated to maintain according to this Lease (other than any policy of workmen's compensation insurance) will name Landlord and such other persons or entities as Landlord specifies from time to time as additional insureds and such persons or entities as Landlord shall specify from time to time as loss payee(s). Original or copies of original policies (together with copies of the endorsements naming Landlord and any others specified by Landlord as additional insureds) and evidence of the payment of all premiums for such policies will be delivered to Landlord on the Commencement Date and from time to time at least thirty (30) days prior to the expiration of the term of each such policy. All public liability and property damage liability policies maintained by Tenant will contain a provision that Landlord and any other insureds will be entitled to recover under such policies for any loss sustained by Landlord and the other additional insureds, its agents and employees as a result of the acts or omissions of Tenant. All such policies maintained by Tenant will provide that they may not be terminated or amended except after thirty (30) days' prior written notice to Landlord and such other persons and entities as Landlord shall designate from time to time. All policies maintained by Tenant will be written as primary policies, not contributing with, and not supplemental to, the coverage that Landlord may carry.

7.03 Waiver of Subrogation. Tenant hereby waives any and all rights to recover against Landlord for any loss or damage to Tenant arising from any cause covered by any insurance required to be carried by Tenant pursuant to this Section 7.00 or any other insurance actually carried by such party. Tenant will cause its insurer(s) to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Property or the contents of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord such a waiver of claims and to obtain such waiver of subrogation rights endorsements.

7.04. Self-Insurance. Notwithstanding the foregoing provisions of Section 7.00, the parties hereto acknowledge that Tenant is a self-insured New York State Municipal Corporation. Tenant has a program of risk management self-insurance for automobile, general liability, medical malpractice and worker's compensation coverage. The Erie County Legislature annually appropriates funds for this program of loss prevention and employee's safety and health training with regard to participation in authorized activities. For so long as Tenant shall maintain its self-insurance program, the foregoing provisions of this Section 7.00 shall have no force or effect. In the event Tenant ceases to maintain its self-insurance program, it shall immediately notify Landlord thereof and shall immediately obtain and maintain in full force and effect insurance policies in accordance with the requirements of Section 7.00.

8.00 USE

The Premises will be used solely for the purpose of executive, administrative and general office use; storage and distribution of Personal Protective Equipment (PPE); cleaning and sanitizing medical supplies in support of the Tenant's COVID-19 response; general warehouse

space and for no other purpose. Tenant will not do or permit to be done in or about the Property, nor bring to, keep or permit to be brought or kept in the Property, anything which is prohibited by, or will in any way conflict with, any law, statute, ordinance or governmental rule or regulation which is now in force or which may be enacted or promulgated after the Commencement Date; use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose; cause, maintain or permit any nuisance in, on, or about the Property; or commit or allow to be committed any waste in, on, or about the Property.

9.00 REQUIREMENTS OF LAW; FIRE INSURANCE RISKS

9.01 General. Tenant, at Tenant's expense, will comply with all applicable governmental laws, orders and regulations, and with any direction of any public officer or officers, according to law, which will impose any violation, order or duty upon Landlord or Tenant with respect to the Premises, or their use or occupancy.

9.02 Certain Insurance Risks. Tenant will not do or permit to be done any act or thing upon the Property which would subject Landlord to any liability or responsibility for injury to any person or property by reason of any business or operation being carried on upon the Premises; provided, however, this Subsection 9.02 will not prevent Tenant's use of the Premises for the purposes stated in Section 8.00.

10.00 ASSIGNMENT AND SUBLETTING

10.01 Transfers. Tenant expressly covenants that Tenant will not assign, mortgage or encumber this Lease, nor sublease, or permit the Premises or any part of the Premises to be used or occupied by others (each a "Transfer"), without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. The sale of fifty percent (50%) or more of the stock of Tenant, if Tenant is a corporation, shall constitute a Transfer of this Lease for purposes of this Section. No Transfer will be deemed (a) a waiver of the provisions of this Section 10.00, or (b) a release of Tenant from the performance by Tenant of covenants on the part of Tenant contained in this Lease. The consent by Landlord to a Transfer will not be construed to relieve Tenant from obtaining Landlord's prior written consent in writing to any further Transfer. No permitted subtenant will assign or encumber its sublease or further sublease all or any portion of its subleased space, or otherwise permit the subleased space or any part of its subleased space to be used or occupied by others.

10.02 Landlord's Right to Terminate. If Tenant intends to effect a Transfer, Tenant shall give prior notice to Landlord of such intent at least thirty (30) days prior to what would be the effective date thereof, specify the identity of the person(s) or entity to whom or to which the Transfer is intended to be made (each a "Transferee") and provide such financial, business or other information relating to the proposed Transferee and its principals as Landlord requires, together with copies of sufficient documents to evidence the particulars of the proposed

Transfer. Landlord shall, within thirty (30) days after having received such notice and all requested information, notify Tenant either that: (a) it consents or does not consent to the Transfer in accordance with the provisions and qualifications of this Section 10.00, or (b) it elects to cancel this Lease as to the whole or part, as the case may be, of the Premises affected by the proposed Transfer, in preference to giving such consent. If Landlord fails to timely give any notice, Landlord shall be deemed to have refused to consent to the Transfer. If Landlord elects to cancel this Lease, it shall stipulate in its notice the termination date of this Lease, which date shall be no less than thirty (30) days following the giving of such notice of termination, in which case Tenant shall notify Landlord within fifteen (15) days thereafter of Tenant's intention either to refrain from such Transfer or to accept the cancellation of this Lease or the portion thereof in respect of which Landlord has exercised its rights. If Tenant fails to timely deliver such notice or notifies Landlord that it accepts Landlord's termination, this Lease will as to the whole or affected part of the Premises, as the case may be, be terminated on the date of termination stipulated by Landlord in its notice of termination. If Tenant timely advises Landlord it intends to refrain from such Transfer, then Landlord's election to terminate this Lease shall become void *ab initio*.

10.03 Excess Rent. If the rent payable pursuant to a Transfer shall exceed the Rent payable under this Lease calculated on a per square foot basis, Tenant shall pay the amount of such excess to Landlord. If, pursuant to a Transfer, Tenant shall receive from the Transferee, either directly or indirectly, any consideration other than rent for such Transfer, either in the form of cash, goods or services, Tenant shall, upon receipt thereof, pay to Landlord an amount equivalent to such consideration. Tenant and the Transferee shall execute any agreement required by Landlord to further memorialize the foregoing provisions.

10.04 Transfer Void. Any Transfer in violation of this Section 10.00 shall be void. If a Transfer shall occur, Landlord may collect rent from the Transferee, and apply the net amount collected to Rent. No Transfer or collection shall be deemed: (a) a waiver by Landlord of the provisions of this Section 10.00, (b) the acceptance by Landlord of the Transferee as tenant; or (c) a release of Tenant from the further performance by Tenant of covenants on the part of Tenant contained in this Lease. The consent by Landlord to a Transfer shall not be construed to relieve Tenant from obtaining Landlord's prior written consent in writing to any further Transfer for which Landlord's consent is required hereunder.

11.00 ALTERATIONS

Tenant shall not make or suffer to be made any alterations, additions or improvements to or of the Premises or any part thereof, or attach any fixtures to the Premises, without obtaining Landlord's prior written consent thereto. All such alterations, additions, improvements and fixtures made to or of the Premises by Tenant, whether temporary or permanent (collectively, "Tenant Alterations"), other than Trade Fixtures (as hereinafter defined), shall immediately upon their placement in the Premises become Landlord's property without compensation to Tenant. Except as otherwise permitted by Landlord in writing, no Tenant Alterations shall be removed

from the Premises by Tenant during the Term except that Tenant may in the ordinary course of its business remove its Trade Fixtures provided that no Event of Default shall be in effect at the time of such removal and further provided that Tenant shall repair all damage to the Premises arising from such removal. "Trade Fixtures", as used herein, means equipment and furnishings installed by Tenant and affixed to the Premises, which are removable from the Premises without material damage thereto and which are particular to the conduct of Tenant's business at the Premises as opposed to the general use of the Premises.

12.00 MECHANICS' LIENS

Tenant will timely pay or cause to be paid all costs and charges for work done by Tenant or caused to be done by Tenant in or to the Premises, and for all materials furnished for or in connection with such work. If any mechanics' or other lien or order for the payment of money shall be filed against the Property or any part thereof by reason of, or arising out of, any labor or materials furnished or alleged to have been furnished or to be furnished to or for Tenant at the Premises, or for or any reason of any change, alteration or addition, or the cost or expense thereof, or any contract relating thereto, Tenant shall cause the same to be cancelled and discharge of record, by bond or otherwise as allowed by law, at the expense of Tenant within thirty (30) days after the same shall have been filed. Tenant will indemnify Landlord against, and hold Landlord and the Property clear and harmless of and from, all mechanics' liens and claims of liens, and all other liabilities, liens, claims and demands on account of such work by or on behalf of Tenant.

13.00 END OF TERM

Upon the expiration or sooner termination of the Term, Tenant may remove its Trade Fixtures from the Premises provided that no Event of Default shall be in effect at the time of such removal, and shall quit and surrender the Premises to Landlord broom-clean, in good order and repair, ordinary wear and tear excepted. Notwithstanding the foregoing, upon the expiration or sooner termination of the Term, Tenant shall, in any event, remove from the Premises all of its personal property and such Tenant Alterations (including Trade Fixtures) and exterior signs as Landlord shall require to be removed. Tenant shall at its sole expense repair all damage to the Premises arising from the removal of Tenant Alterations (including Trade Fixtures) under this Section 13.00. If Tenant shall not remove its Trade Fixtures or personal property upon the expiration or earlier termination of the Term, said Trade Fixtures or personal property (as applicable) shall, at the option of Landlord, become the property of Landlord and may be removed from the Premises and sold or disposed of by Landlord in such manner as it deems advisable without any accounting to Tenant and at Tenant's sole cost and expense. Tenant's obligations under this Section 13.00 shall survive the expiration or earlier termination of this Lease.

14.00 EMINENT DOMAIN

14.01 Total Taking. If all of the Premises are taken by exercise of the power of eminent domain (or conveyed by Landlord in lieu of such exercise), or such part thereof as shall substantially interfere with Tenant's use and enjoyment thereof, this Lease will terminate on a date ("Termination Date") which is the earlier of the date upon which the condemning authority takes possession of the Premises or the date on which title to the Premises is vested in the condemning authority.

14.02 Partial Taking. Subject to the provisions of Subsection 14.01, in the event of a partial taking of the Building, Property or Common Areas by exercise of the power of eminent domain (or conveyance in lieu of such exercise), then without regard as to whether any portion of the Premises was so taken, (i) Landlord may elect to terminate this Lease upon notice to Tenant given by no later than the Termination Date if Landlord shall reasonably determine such taking is of a material nature such as to make it uneconomical to continue use of the unappropriated portion of the Property; and (ii) Tenant may terminate this Lease upon notice to Landlord given by no later than the Termination Date if Tenant shall reasonably determine such taking is a material detriment to Tenant's use of the Premises. If upon any taking of the nature described in this Subsection 14.02 this Lease continues in effect, then Landlord will promptly proceed to restore the area so taken to substantially their same condition prior to such partial taking, and Rent shall be abated proportionately from and after the Termination Date on the basis of the rental value of the Premises after such taking and the rental value of the Premises before such taking.

14.03 Award. In the event of any taking of the nature described in this Section 14.00, the entire award shall be paid to Landlord and Tenant will have no right or claim to any part of such award, provided that Tenant shall have a right to receive a separate award for the value of its leasehold interest and personal property taken.

15.00 DAMAGE AND DESTRUCTION

15.01 General. If the Building is damaged by fire or other insured casualty, Landlord will give Tenant notice of the time needed to repair such damage, as determined by Landlord in its sole discretion, and the election (if any) which Landlord has made according to this Section 15.00. Such notice will be given before the thirtieth (30th) day ("Notice Date") after the fire or other insured casualty.

15.02 Partial Destruction. If the Building is damaged by fire or other insured casualty to an extent which may be repaired within ninety (90) days after the commencement of repair, as determined by Landlord, Landlord will repair the damage within ninety (90) days after the Notice Date. In that event this Lease will continue in full force and effect except that Rent will be abated on a pro rata basis from the date of the fire or other insured casualty until the date of the completion of such repairs (the "Repair Period") based on the rentable square footage of the Premises, if any, of whose use Tenant is deprived during the Repair Period.

15.03 Total Destruction. If the Building is damaged by fire or other insured casualty to an extent which may not be repaired within ninety (90) days after the commencement of repair, then (i) Landlord may cancel this Lease as of the date of such damage by notice given to Tenant on or before the Notice Date, or, if Landlord shall not so cancel this Lease, (ii) Tenant may cancel this Lease as of the date of such damage by notice given to Landlord within ten (10) days after Landlord's delivery of a notice that the repairs cannot be made within such ninety (90) day period; provided, however, Tenant shall have no right to so cancel this Lease if the Premises, as determined by Landlord and as set forth in Landlord's notice, may be repaired within said ninety (90) day period. If neither Landlord nor Tenant so elects to cancel this Lease, Landlord will repair the Building and Rent will be abated on a pro rata basis during the Repair Period based on the rentable square footage of the Premises, if any, of whose use Tenant is deprived during the Repair Period.

15.04 Insurance Proceeds. Notwithstanding the foregoing, if the Building or any part thereof is damaged by any uninsured casualty, or if the amount of insurance proceeds available to Landlord to apply to such repairs are determined by Landlord to be insufficient to effect such repairs, Landlord will have the option to repair such damage or cancel this Lease as of the date of such casualty by notice to Tenant given on or before the Notice Date. If any such damage by fire or other casualty is the result of the willful conduct or negligence or failure to act of Tenant, or of Tenant's agents, contractors, employees or invitees, there will be no abatement of Rent as otherwise provided for in this Section 15.00.

16.00 SUBORDINATION AND ATTORNMENT

16.01 General. This Lease, and Tenant's rights under this Lease, are subject and subordinate to any ground or underlying lease, first mortgage, indenture, deed of trust or other lien encumbrance, together with any renewal, extension, modification, consolidation and replacement of such lien encumbrance, now or hereafter affecting, or placed, charged or enforced against the Property or any part thereof, or any interest of Landlord in them, or Landlord's interest in this Lease and the leasehold estate created by this Lease (except to the extent any such instrument will expressly provide that this Lease is superior to such instrument). This provision will be self-operative and no further instrument of subordination will be required in order to effect said provision. Nevertheless, Tenant will execute, acknowledge and deliver to Landlord, at any time and from time to time, upon demand by Landlord, such documents as may be requested by Landlord, any ground or underlying lessor, or any mortgagee, to confirm or effect such subordination. If Tenant fails or refuses to execute, acknowledge and deliver any such document within twenty (20) days after written demand, Landlord, and Landlord's successors and assigns, will be entitled to execute, acknowledge and deliver any and all such documents for and on behalf of Tenant as attorney-in-fact for Tenant. Tenant by this Subsection 16.01 constitutes and irrevocably appoints Landlord, and Landlord's successors and assigns, as Tenant's attorney-in-fact to execute, acknowledge and deliver any and all documents described in this Subsection 16.01 for and on behalf of Tenant, as provided in this Subsection 16.01.

16.02 Attornment. Tenant agrees that in the event that any holder of any ground or underlying lease, mortgage, deed of trust or other encumbrance encumbering all or any part of the Property succeeds to Landlord's interest in the Premises, Tenant will pay to such holder all Rent subsequently payable under this Lease. Further, Tenant agrees that in the event of the enforcement by the trustee or the beneficiary under or holder or owner of any such mortgage, deed of trust, or land or ground lease of the remedies provided for by law or by such mortgage, deed of trust, or land or ground lease, Tenant will, upon request of any person or party succeeding to the interest of Landlord as a result of such enforcement, automatically become the tenant of, and attorn to, such successor in interest without change in the terms or provisions of this Lease. Such successor in interest will not be bound by (a) any payment of Rent for more than one month in advance except prepayments in the nature of security for the performance by Tenant of Tenant's obligations under this Lease, or (b) any amendment or modification of this Lease made without the written consent of such trustee, beneficiary, holder or owner or such successor in interest. Upon request by such successor in interest, and without cost to Landlord or such successor in interest, Tenant will execute, acknowledge and deliver an instrument or instruments confirming the foregoing attornment. If Tenant fails or refuses to execute, acknowledge and deliver any such document within twenty (20) days after written demand, such successor in interest will be entitled to execute, acknowledge and deliver any and all such documents for and on behalf of Tenant as attorney-in-fact for Tenant. Tenant by this Subsection 16.02 constitutes and irrevocably appoints such successor in interest as Tenant's attorney-in-fact to execute, acknowledge and deliver any and all documents described in this Subsection 16.02 for and on behalf of Tenant, as provided in this Subsection 16.02.

17.00 RESERVATION AND ACCESS BY LANDLORD

Landlord reserves the right to enter the Premises at all reasonable times and upon no less than forty-eight (48) hours prior telephonic notice (and in emergencies at all times without prior notice) to (a) inspect the same, (b) exhibit the same to prospective purchasers, lenders or tenants, (c) supply any service to be provided by Landlord to Tenant according to this Lease, (d) install, maintain, repair or replace pipes, ducts, cables conduits, vents, wires and equipment in the walls of, or over or under, the Premises whether serving the Premises or any other part of the Property and (e) gain access to rooms or other space within the Building housing electrical, plumbing, heating, air conditioning or other mechanical equipment serving all or part of the Property; provided, however, all work executed by Landlord under this Section 17.00 will be executed by Landlord in an expeditious manner and will not unreasonably interfere with the conduct of Tenant's business at the Premises.

18.00 INDEMNIFICATION, WAIVER AND RELEASE

18.01 Tenant's Indemnity. Tenant will neither hold nor attempt to hold Landlord or Landlord's employees or agents liable for, and Tenant will indemnify and hold harmless Landlord and Landlord's employees and agents from and against, any and all suits, proceedings, demands, claims, causes of action, fines,

penalties, damages (including consequential damages), liabilities, judgments and expenses (including, without limitation, attorneys' fees and disbursements) incurred in connection with, or arising from,:

(a) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming under Tenant.

(b) any activity, work or thing, done, permitted or suffered by Tenant in or about the Property or any part thereof.

(c) any act, omission or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, invitees or visitors of Tenant.

(d) any breach, violation or nonperformance by Tenant or any person claiming under Tenant, or the employees, agents, contractors, invitees or visitors of Tenant, of any term, covenant or provision of this Lease or any law, ordinance or governmental requirement of any kind.

(e) any injury or damage to the person, property or business of Tenant or Tenant's employees, agents, contractors, invitees, visitors or any other person entering upon the Property under the express or implied invitation of Tenant; except for any injury or damage to persons or property on the Property which arises from the negligence or deliberate act of Landlord or Landlord's employees.

If any action or proceeding is brought against Landlord or Landlord's employees by reason of any such claim for which Tenant has indemnified Landlord, Tenant, upon notice from Landlord, will defend the same at Tenant's expense with counsel reasonably satisfactory to Landlord.

18.02 Landlord's Indemnity. Landlord shall defend, indemnify and hold Tenant harmless from and against all losses, costs, damages, liabilities, claims, or any other expenses (including reasonable legal fees) incurred by Tenant by reason of or arising out of Landlord's negligence, act or omission, or breach of any representation, warranty, agreement or covenant under this Lease. This indemnity provision shall survive termination or expiration of this Lease.

18.03 Landlord Environmental Indemnity. To the best of Landlord's knowledge, Landlord and the Property are now and at all times prior to the Commencement Date have been in compliance in all material respects with all applicable environmental laws. Landlord represents and warrants that Landlord has not received any written notifications from any federal, state, or municipal authorities of any environmental conditions on, in or affecting the Building or the Property which violate any federal, state or local law or standards set forth thereunder. Environmental conditions shall include, but not be limited to, any regulated, hazardous or toxic wastes, substances or emissions, including, without limitation asbestos and

petroleum products and byproducts. Landlord shall indemnify and hold Tenant harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Tenant for, with respect to, or as a result of, the presence on or under, or the escape, seepage, leakage, spillage, emission, discharge or release from the Premises or the Property of any hazardous or toxic materials or substances placed upon the Premises or Property prior to the Commencement Date or, after the Commencement Date, to the extent caused by Landlord or any agent, employee, invitee of Landlord. The terms of this provision shall survive termination or expiration of this Lease.

19.00 QUIET ENJOYMENT

Landlord covenants and agrees with Tenant that so long as Tenant pays the Rent and observes and performs all the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises subject, nevertheless, to the terms and conditions of this Lease, and Tenant's possession will not be disturbed by anyone claiming by, through or under Landlord.

20.00 DEFAULT; REMEDIES

20.01 Events of Default. The following events are referred to collectively as "Events of Default," or individually as an "Event of Default":

- (a) Tenant fails to pay the Rent when due.
- (b) Tenant violates the provisions of Section 10.00 of this Lease.
- (c) Tenant fails to perform its obligations under Section 12.00 of this Lease.
- (d) Tenant fails to perform any other obligation which this Lease requires Tenant to perform, and such failure continues for a period of thirty (30) days after notice from Landlord to Tenant; or if thirty (30) days shall be an unreasonably short amount of time in which to cure such failure, Tenant fails to commence and proceed diligently to cure such failure within a reasonable time period.
- (e) Tenant fails to take physical possession of the Premises on the Commencement Date
- (f) Tenant vacates or abandons the Premises.
- (g) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any

attachment at the instance of any creditor or claimant against Tenant, and the attachment is not discharged or disposed of within fifteen (15) days after its levy.

(h) Tenant or any guarantor of the performance of Tenant's obligations under this Lease (each a "Guarantor") files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or admits the material allegations of any such petition by answer or otherwise, or is dissolved or makes an assignment for the benefit of creditors.

(i) Involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of Tenant are instituted against Tenant or a Guarantor, or a receiver or trustee is appointed for all or substantially all of the property of Tenant or a Guarantor, and such proceeding is not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

20.02 Landlord's Remedies. If any one or more Events of Default set forth in Subsection 20.01 shall occur then Landlord may, at Landlord's election:

(a) Omitted.

(b) without further demand or notice, reenter and take possession of the Premises or any part of the Premises, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, using such force for such purposes as may be necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Rent or as a result of any preceding breach of covenants or conditions.

(c) terminate this Lease by giving Tenant notice of such termination, whereupon this Lease shall terminate on the earliest date permitted by law or on any later date specified in such notice in which case Tenant's right to possession of the Premises will cease and this Lease will be terminated as if the expiration of the Term fixed in such notice were the end of the Term, except for Tenant's liability for damages, which shall survive such termination.

(d) without further demand or notice, cure any Event of Default and charge and collect from Tenant the cost of effecting such cure, including, without limitation, attorneys' fees, disbursements and interest on the amount so advanced at the highest annual rate permitted by law provided that Landlord will have no obligation to cure any such Event of Default of Tenant.

Should Landlord elect to reenter as provided in clause (b), or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided by law, Landlord may, from time to time, without terminating this Lease, re-let the Premises or any part of the Premises in Landlord's or Tenant's name, but for the account of Tenant, for such term or terms

(which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such conditions and upon such other terms (which may include concessions of free rent and alteration and repair of the Premises) as Landlord, in Landlord's sole discretion, may determine, and Landlord may collect and receive the rent. Landlord will in no way be responsible or liable for any failure to re-let the Premises or any part of the Premises, or for any failure to collect any rent due upon such re-letting. No such reentry or taking possession of the Premises by Landlord will be construed as an election on Landlord's part to terminate this Lease unless a notice of such intention is given to Tenant. No such reentry or repossession of the Premises shall relieve Tenant of its liability and obligations under this Lease, all of which shall survive such reentry or repossession. Landlord reserves the right following any such reentry or re-letting to exercise Landlord's right to terminate this Lease by giving Tenant such notice, in which event this Lease will terminate as specified in such notice.

20.03 Damages Upon Reentry Without Termination. If Landlord does not elect to terminate this Lease as permitted in clause (c) of Subsection 20.02, but elects to take possession as provided in clause (b) of Subsection 20.02, Tenant will pay to Landlord: (a) Rent and other sums as provided in this Lease, which would be payable under this Lease if such repossession had not occurred, less (b) the net proceeds, if any, of any re-letting of the Premises after deducting all Landlord's reasonable expenses in connection with such re-letting, including, without limitation, all repossession costs, brokerage commissions, attorneys' fees, expenses of employees, alteration and repair costs and expenses of preparation for such re-letting. If, in connection with any re-letting, the new lease term extends beyond the existing Term, or the premises covered by such new lease include other premises not part of the Premises, a fair apportionment of the rent received from such re-letting and the expenses incurred in connection with such re-letting as provided in this Section will be made in determining the net proceeds from such re-letting, and any rent concessions will be equally apportioned over the term of the new lease. Tenant will pay such rent and other sums to Landlord monthly on the day on which the Rent would have been payable under this Lease if possession had not been retaken, and Landlord will be entitled to receive such Rent from Tenant on each such day.

20.04 Damages Upon Termination. Upon the termination of this Lease pursuant to clause (c) of Subsection 20.02, summary proceedings or otherwise by reason of an Event of Default, the Rent reserved herein up to the effective date of said termination ("Termination Date") shall become immediately due and payable, Tenant shall pay the same and Landlord shall be entitled to the following as damages for which Tenant's liability shall survive such termination:

- (a) As and when incurred by Landlord, and without further notice or demand,
 - (i) all expenses, including attorneys fees and court costs incurred by Landlord in recovering possession of the Premises or otherwise in enforcing Landlord's rights hereunder; (ii) all reasonable costs and expenses for the care of the Premises while vacant; and (iii) all expenses incurred by Landlord in connection with the re-letting of the Premises or any part thereof,

including broker's commissions, advertising expenses, attorneys fees, and the cost of altering, repairing, renovating, dividing or remodeling the Premises.

(b) Any deficiency between the Rent reserved in this Lease from and after the Termination Date for each month of the period which would otherwise have constituted the balance of the Term and the net amount, if any, of the rents collected on account of the lease or leases of the Premises for each month of the same period, which amounts, without further notice or demand, shall be due and payable by Tenant to Landlord on the several days on which said Rent would have become due and payable had this Lease not been terminated. If, in connection with any re-letting, the new lease term shall extend beyond the existing Term, or the premises covered by such new lease shall include other premises not part of the Premises, a fair apportionment of the rent received from such re-letting and the expenses incurred in connection with such re-letting as provided in this Section will be made in determining the net proceeds from such re-letting, and any rent concessions will be equally apportioned over the term of the new lease. The net rent collected by Landlord on re-letting shall be computed by deducting from the gross rents collected, the expenses, costs and charges referenced in the foregoing clause (a). Without previous notice or demand, separate actions may be instituted by Landlord against Tenant from time to time to recover any damages which, at the commencement of any such action, shall then or theretofore have become due and payable to Landlord under any provision hereof without waiting until the end of the Term, and neither the institution of suits, or proceedings, nor the entry of a judgment therein shall bar Landlord from bringing a subsequent suit or proceeding for damages of any kind theretofore or thereafter suffered.

(c) Landlord, at its option, which shall be exercised upon notice to Tenant given in the proscribed manner for notices given under this Lease, may collect immediately from Tenant, and Tenant shall pay as liquidated damages, in lieu of the sums due under the provisions of the foregoing clause (b) after the date upon which said notice was given, the amount by which (i) the unpaid Rent for the period which otherwise would have constituted the unexpired portion of the Term (conclusively presuming the Additional Rent for each year thereof to be the same as was payable for the year immediately preceding such the termination, re-entry or obtaining of possession, or if such immediately preceding year shall include a period commencing prior to the Commencement Date, based on the budget prepared by Landlord for the year in which the Event of Default occurs) exceeds (ii) the then fair and reasonable rental value of the Premises, including the Additional Rent for the same period. If, before presentation of proof of liquidated damages, Landlord relets the Premises or any portion of the Premises for any period pursuant to a bona fide lease with an unrelated third party, the net rents payable in connection with the reletting shall be considered to be the fair and reasonable rental value for the Premises or the portion of the Premises relet during the term of the reletting. If Landlord relets the Premises, or any portion of the Premises, together with other space in the Building, the rents collected under the reletting and the expenses of the reletting shall be equitably apportioned for the purposes of this Section 20.04(c).

20.05 Cumulative Remedies. Any suit or suits for the recovery of the amounts and damages set forth in Subsections 20.03 and 20.04 may be brought by Landlord, from time to time, at Landlord's election, and nothing in this Lease will be deemed to require Landlord to await the date upon which this Lease or the Term would have expired had there occurred no Event of Default. Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise. All costs incurred by Landlord in collecting any amounts and damages owing by Tenant pursuant to the provisions of this Lease or to enforce any provision of this Lease, including reasonable attorneys' fees from the date any such matter is turned over to an attorney, whether or not one or more actions are commenced by Landlord, will also be recoverable by Landlord from Tenant.

20.06 Waiver of Redemption. Tenant hereby expressly waives any and all rights of redemption which may be granted by or under any present or future laws in the event of termination of this Lease or Tenant's dispossession of the Premises by reason of an Event of Default.

20.07 Tenant Cure of Landlord Defaults. If Landlord is in default under this Lease, and fails to cure such default within thirty (30) days after notified of same, Tenant may without further demand or notice, cure such default and charge and collect from Landlord the cost of effecting such cure, including, without limitation, reasonable attorneys' fees, disbursements and interest on the amount so advanced at the highest annual rate permitted by law provided that Tenant will have no obligation to cure any such default of Landlord.

21.00 SECURITY DEPOSIT

Tenant shall simultaneously with Tenant's execution and delivery of this Lease deposit with Landlord the sum of \$32,713.74 ("Security Deposit") as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease, including, but not limited to, payment of Rent. Landlord may, at Landlord's option use, apply or retain the whole or any part of the Security Deposit so deposited to the extent required for the payment of any Rent as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency in the re-letting of the Premises, whether such damages or deficiency accrued before or after summary proceedings or other reentry by Landlord. If Landlord shall so use all or any part of the Security Deposit, Tenant shall, within five (5) days following Landlord's notice, deposit with Landlord an amount sufficient to restore the full amount of the Security Deposit. If Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, the Security

Deposit shall be returned to Tenant thirty (30) days after the termination of this Lease (provided such termination is not the result of a default by Tenant) and after payment of all sums due to Landlord. In the event of a sale of the Premises, Landlord shall have the right to transfer the Security Deposit to the vendee, and Landlord shall thereupon be released by Tenant from all liability for the return of such Security Deposit. Tenant agrees to look solely to said vendee for the return of such Security Deposit, and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the Security Deposit to a new landlord.

22.00 MISCELLANEOUS

22.01 No Waiver. The waiver by Landlord of any agreement, condition or provision contained in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition or provision contained in this Lease, nor will any custom or practice which may evolve between the parties in the administration of the terms of this Lease be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms of this Lease. The subsequent acceptance of Rent by Landlord will not be deemed to be a waiver of any preceding breach by Tenant of any agreement, condition or provision of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account of the stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this Lease provided.

22.02 Estoppel Certificates. At any time and from time to time but within ten (10) days after written request by Landlord, Tenant will execute, acknowledge and deliver to Landlord, a certificate certifying (a) that this Lease is unmodified and in full force and effect or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification, (b) the date, if any, to which rent and other sums payable under this Lease have been paid, (c) that Landlord is not in default of any of Landlord's obligations under this Lease except defaults specified in the certificate, and (d) such other matters as may be reasonably requested by Landlord. Any such certificate may be relied upon by any prospective purchaser or existing or prospective mortgagee or beneficiary under any mortgage of the Premises.

22.03 Holding Over. Tenant will have no right to remain in possession of all or any part of the Premises after the expiration of the Term. If Tenant remains in possession of all or any part of the Premises after the expiration of the Term, with the express or implied consent of Landlord, (a) such tenancy will be deemed to be a periodic tenancy from month-to-month only; (b) such tenancy will not constitute a renewal or extension of this Lease for any further term; and (c) such tenancy may be terminated by Landlord upon the earlier of (i) thirty (30) days prior

written notice or (ii) the earliest date permitted by law. In such event, Rent will be increased to an amount equal to one hundred fifty percent (150%) of the Rent payable during the last month of the Term. Such month-to-month tenancy will be subject to every other term, condition, and covenant contained in this Lease.

22.04 Notices. Any notice, request, demand, consent, approval or other communication required or permitted under this Lease must be in writing and will be deemed to have been given when personally delivered or deposited in any depository regularly maintained by the United States Postal Service, certified mail, return receipt requested, or in any depository regularly maintained by a nationally recognized overnight carrier (such as Federal Express), each with postage and/or delivery charges prepaid, and addressed to the party for whom it is intended as follows:

If to Landlord: ZTS Commerce Drive, LLC
 c/o Ark Wholesale, LLC
 1888 Niagara Falls Boulevard
 Tonawanda, NY 14150
 Attn.: Allan B. Steinberg

If to Tenant: Commissioner of Public Works
 95 Franklin Street
 14th Floor
 Buffalo, New York 14202

With copies to: County of Erie
 Commissioner of Health
 95 Franklin Street
 Buffalo, New York 14202

and

County Attorney's Office
95 Franklin Street
16th Floor
Buffalo, New York 14202

Either party may add additional addresses or change such party's address for purposes of receipt of any such communication by giving ten (10) days prior written notice of such change to the other party in the manner prescribed in this Subsection 22.04.

22.05 Late Payments; Allocation of Payments. Any payment of Rent that is not received by Landlord within five (5) days after it is due will be subject to a late charge equal to

two percent (2%) of the unpaid amount. Landlord may at its option apply any sums received from Tenant against any amounts due and payable by Tenant under this Lease in such manner as Landlord sees fit and regardless of the express purpose for which the tender was made and notwithstanding any endorsement placed on the check by which payment is made.

22.06 Limitation on Recourse. Tenant specifically agrees to look solely to Landlord's interest in the Premises for the recovery of all judgments from Landlord. Landlord (and Landlord's shareholders, venturers and partners, if any, and their shareholders, venturers and partners, if any, and all of their officers, directors and employees, if any) will not be personally liable for any such judgments.

22.07 Brokers. Landlord and Tenant respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against all claims for brokerage commissions and finder's fees arising from or attributable to the acts or omissions of the indemnifying party or any party or entity acting or purportedly acting on behalf of the indemnifying party.

22.08 Tenant's Requested Consents; Approvals. Tenant shall reimburse to Landlord upon demand all expenses incurred by Landlord, including reasonable attorneys fees and disbursements, arising from any request made by Tenant for Landlord's consent or approval with respect to any matter for which Tenant has requested such consent or approval. By way of illustration and not limitation, Tenant shall reimburse to Landlord upon demand all reasonable attorneys fees and disbursements incurred by Landlord in connection with reviews of proposed assignments, estoppel certificates and other writings delivered to Landlord in connection with requests by Landlord to consent to or approve the same. Tenant acknowledges that the foregoing shall not be construed so as to impose any obligation to so consent or approve any of the foregoing.

22.09 Signs. All signs that Tenant may desire to affix to the Property shall be subject to Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed.

22.10 Transfer by Landlord. In the event of a transfer of fee simple title to the Premises, Landlord shall be deemed released and relieved of all liability and obligations accruing under this Lease from and after the date of such transfer.

22.11 Rules and Regulations. Tenant and Tenant's employees, agents, licensees and visitors will at all times observe faithfully, and comply strictly with, such reasonable rules and regulations as Landlord may from time to time adopt for the use, safety, cleanliness and care of the Property.

22.12 Water Damage. Landlord shall have no responsibility for any loss sustained by Tenant as the result of damage to Tenant's equipment, supplies or other property caused by flood

waters, bursting pipes or any other water damage unless Landlord's acts or omissions or the acts or omissions of Landlord's agents, employees or representatives are the direct cause of such water damage.

22.13 Omitted.

22.14 Certain Equipment and Substances. Tenant shall not, without the prior written consent of Landlord, use within, or otherwise allow to be brought into, the Premises gasoline or diesel-powered fork lifts or other machinery or equipment powered by gasoline, diesel or other fuel, or otherwise permit gasoline, diesel or other fuel to be stored or otherwise brought into the Premises.

22.15 Tenant Alterations; Real Estate Taxes. Tenant shall reimburse to Landlord all real estate taxes chargeable to the Property and arising from or attributable to Tenant Alterations or Tenant's Trade Fixtures. Tenant shall pay each such reimbursement within ten (10) days after Landlord shall have delivered to Tenant Landlord's invoice for the same.

22.16 Force Majeure. If either Landlord or Tenant shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of Act of God, strikes, lockouts, labor troubles, inability to procure materials (including energy), power, casualty, inclement weather, restrictive governmental laws, orders or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Subsection shall not operate to excuse Tenant from prompt payment of Rent or any other payments required by the terms of this Lease.

22.17 Successors, etc. This Lease shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

22.18 ACKNOWLEDGMENT BY TENANT. EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE, TENANT ACKNOWLEDGES AND AGREES THAT LANDLORD IS NOT MAKING, AND NEITHER LANDLORD NOR ANY OF ITS REPRESENTATIVES HAS MADE AT ANY TIME, ANY REPRESENTATION OR WARRANTY OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES, ANY OTHER PART OF THE PROPERTY OR TENANT'S RIGHT TO USE THE SAME, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATION OR WARRANTY AS TO HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TENANT ACKNOWLEDGES AND AGREES THAT UPON THE COMMENCEMENT DATE LANDLORD SHALL LEASE THE PREMISES TO TENANT, AND TENANT SHALL ACCEPT THE PREMISES FROM LANDLORD, "AS-IS, WHERE-IS, WITH ALL FAULTS", EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS LEASE.

22.19 Written Amendment Required. No amendment, alteration, modification of, or addition to, this Lease will be valid or binding unless expressed in writing and signed by Landlord and Tenant.

22.20 Entire Agreement. This Lease, including the Schedules, if any, attached hereto, contains the entire agreement between Landlord and Tenant and may be amended only by subsequent written agreement.

22.21 Governing Law. This Lease will be governed by and construed pursuant to the laws of the State of New York.

23.00 LANDLORD'S REPRESENTATIONS AND WARRANTIES

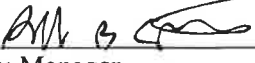
Landlord covenants, represents and warrants that:

- (A) To the best of Landlord's knowledge, the Premises complies in all material respects with all applicable laws, rules, statutes, codes, rules, regulations, and the like, including, without limitation, the Americans with Disabilities Act of 1990, as amended.
- (B) Landlord owns fee simple title to the Property.
- (C) Landlord has the full right, power and authority to lease the Premises to Tenant as provided in this Lease without any need for obtaining any consents or approvals from any party, including, without limitation, any mortgagee's or other entities.
- (D) This Lease and all documents to be executed pursuant hereto by Landlord are binding upon and enforceable against Landlord in accordance with their respective terms.
- (E) The transaction contemplated hereby will not result in a breach of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, or other agreement to which Landlord or the Property is subject or by which Landlord or the Property is bound.

[Signature Pages Follow]

LANDLORD:

ZTS COMMERCE DRIVE

By: 
Title: Manager

[Signature Page]

TENANT:

THE COUNTY OF ERIE

By: 

Name: Mark C. Poloncarz / ~~Maria White~~ Lisa M. Chimera

Title: County Executive / Deputy County Executive

APPROVED AS TO CONTENT

By: 

Name: William Geary

Title: Commissioner

Department of Public Works

APPROVED AS TO FORM

By: 

Name: Kristen M. Walder

Title: ~~Assistant~~ County Attorney

Document No.: 23-77-PW

Date: 11/20/23

[Signature Page]

Schedule A

Legal Description

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Amherst, County of Erie and State of New York, being part of Lot No. 82, Township 12, Range 7 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point on the northerly line of Commerce Drive (100 feet wide), 400 feet easterly from its intersection with the easterly line of John Glenn Drive (80 feet wide), said point being the southeast corner of lands conveyed to Barry M. Weinstein by deed recorded in the Erie County Clerk's Office in Liber 8643 of Deeds at page 311; running

THENCE northerly at right angles along the easterly line of Weinstein and the easterly line of lands conveyed to Town of Amherst Industrial Development Agency by deed recorded in said Clerk's Office in Liber 8853 of Deeds at page 546, a distance of 762.75 feet to a point, said point being the northeast corner of last mentioned deed; running

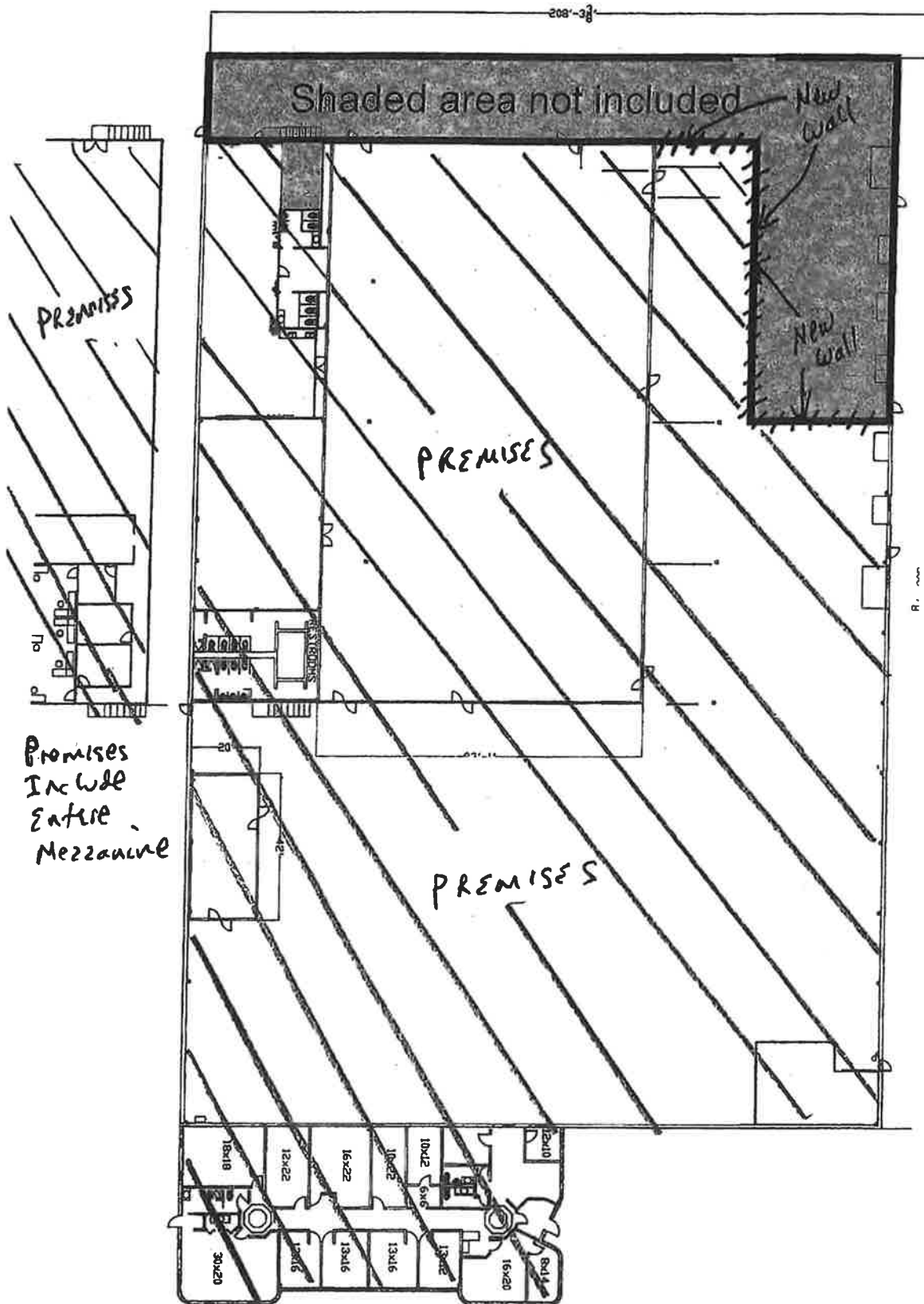
THENCE easterly at right angles, a distance of 375.33 feet to a point, said point being the northwest corner of lands conveyed to Town of Amherst Industrial Development Agency by deed recorded in said Clerk's Office in Liber 8994 of Deeds at page 404; running

THENCE southerly at right angles along the westerly line of the last mentioned deed and along the westerly line of lands conveyed to Town of Amherst Industrial Development Agency by deed recorded in said Clerk's Office in Liber 8880 of Deeds at page 125, a distance of 819.62 feet to a point on the northerly line of Commerce Drive, said point being the southwest corner of last mentioned deed; running

THENCE northwesterly at an interior angle of 81° 23' 01" along the northerly line of Commerce Drive, a distance of 379.62 feet to the point or place of beginning.

Schedule B

[Premises Drawing Follows]



Schedule 1.03

[Drawing Showing Tenant's Reserved Parking Area Follows]



Schedule 3.00

Base Rent

<u>Period</u>	<u>Monthly Amount</u>
Commencement Date – 7/31/23	\$31,217.16
8/1/23 - 7/31/24	\$32,713.74
8/1/24 - 7/31/25	\$34,282.59
8/1/25 – 7/31/26	\$35,927.23
8/1/26 – 3/31/27	\$37,555.40

Muck, Kathleen

From: Walder, Kristen
Sent: Tuesday, January 31, 2023 2:51 PM
To: Pulsifer, Jacqueline; Muck, Kathleen; Gigante, Linda
Cc: Geary, William; Gill, Gregory; Ottaviano, Alan
Subject: RE: Lease between ZTS Commerce Drive, LLC and County of Erie (500 Commerce Drive, Amherst)
Attachments: 500.County.Lease.Signed.pdf (Attachment).pdf

Hi Kathy & Linda,

As you may be aware, the County has been in the process of executing a new lease directly with the Landlord for 500 Commerce Parkway. We will no longer be the sub-tenant to Ivoclar. I know this is extremely short notice, but we just received the notice letter from the Landlord's attorney yesterday asking that the new lease go into effect as of February 1st. Is there any chance of cutting the check for the LL (ZTS Commerce) instead of having it go to Ivoclar?

Attached is a copy of the new lease.

Thanks for your help!! Let me know if I can do anything.
Kristen

--
Kristen M. Walder | Deputy County Attorney Erie County | Department of Law
95 Franklin St., 1634 | Buffalo, NY 14202
P:+1(716)858-2222 | F:+1(716)858-2281
Kristen.Walder@erie.gov |

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.erie.gov%2F&data=05%7C01%7CKathleen.Muck%40erie.gov%7C351c28c1f1d945d6cc0e08db03c47800%7Cba76c84884764c11bf095ee1f55ca222%7C0%7C0%7C638107914775972519%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=tLfjEw9%2BtDxEuV0syYHTbkkyw6iVy72eFDuZXg73Z2M%3D&reserved=0>

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-----Original Message-----

From: Pulsifer, Jacqueline
Sent: Tuesday, January 31, 2023 2:17 PM
To: Walder, Kristen <Kristen.Walder@erie.gov>
Cc: Geary, William <William.Geary@erie.gov>; Gill, Gregory <Gregory.Gill@erie.gov>; Ottaviano, Alan <Alan.Ottaviano@erie.gov>
Subject: RE: Lease between ZTS Commerce Drive, LLC and County of Erie (500 Commerce Drive, Amherst)

Kathy Muck has been creating the CE's and Linda Gigante has been processing the GR's.

Kathy just created CE 4000021622 yesterday for 278,958.38, but it's with Ivoclar.

--
Jacqueline Pulsifer | Senior Systems Accountant Erie County | Dept of Public Works

95 Franklin St., Room 1407 | Buffalo, NY 14202

P: +1(716)858-4723 | F: +1(716)858-8228

Jacqueline.Pulsifer@erie.gov |

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.erie.gov%2F&data=05%7C01%7CKathleen.Muck%40erie.gov%7C351c28c1f1d945d6cc0e08db03c47800%7Cba76c84884764c11bf095ee1f55ca222%7C0%7C0%7C638107914775972519%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=tLfjEw9%2BtDxEuV0syYHTbkkyw6iVy72eFDuZXg73Z2M%3D&reserved=0>

-----Original Message-----

From: Walder, Kristen

Sent: Tuesday, January 31, 2023 2:13 PM

To: Pulsifer, Jacqueline <Jacqueline.Pulsifer@erie.gov>

Cc: Geary, William <William.Geary@erie.gov>; Gill, Gregory <Gregory.Gill@erie.gov>

Subject: RE: Lease between ZTS Commerce Drive, LLC and County of Erie (500 Commerce Drive, Amherst)

Any idea who in the Health Department we should send this to?

--
Kristen M. Walder | Deputy County Attorney Erie County | Department of Law

95 Franklin St., 1634 | Buffalo, NY 14202

P: +1(716)858-2222 | F: +1(716)858-2281

Kristen.Walder@erie.gov |

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.erie.gov%2F&data=05%7C01%7CKathleen.Muck%40erie.gov%7C351c28c1f1d945d6cc0e08db03c47800%7Cba76c84884764c11bf095ee1f55ca222%7C0%7C0%7C638107914775972519%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=tLfjEw9%2BtDxEuV0syYHTbkkyw6iVy72eFDuZXg73Z2M%3D&reserved=0>

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-----Original Message-----

From: Pulsifer, Jacqueline

Sent: Tuesday, January 31, 2023 2:12 PM

To: Walder, Kristen <Kristen.Walder@erie.gov>

Cc: Geary, William <William.Geary@erie.gov>; Gill, Gregory <Gregory.Gill@erie.gov>

Subject: RE: Lease between ZTS Commerce Drive, LLC and County of Erie (500 Commerce Drive, Amherst)

Hi Kristen,

In the past, the lease has been paid for by the Health Dept. Let me know if you need any details.

Thank you,
Jackie

Jacqueline Pulsifer | Senior Systems Accountant Erie County | Dept of Public Works

95 Franklin St., Room 1407 | Buffalo, NY 14202

P:+1(716)858-4723 | F:+1(716)858-8228

Jacqueline.Pulsifer@erie.gov |

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.erie.gov%2F&data=05%7C01%7CKathleen.Muck%40erie.gov%7C351c28c1f1d945d6cc0e08db03c47800%7Cba76c84884764c11bf095ee1f55ca222%7C0%7C0%7C638107914775972519%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=tLfjEw9%2BtDxEuV0syYHTbkkyw6iVy72eFDuZXg73Z2M%3D&reserved=0>

-----Original Message-----

From: Walder, Kristen

Sent: Tuesday, January 31, 2023 2:10 PM

To: Pulsifer, Jacqueline <Jacqueline.Pulsifer@erie.gov>

Cc: Geary, William <William.Geary@erie.gov>; Gill, Gregory <Gregory.Gill@erie.gov>

Subject: FW: Lease between ZTS Commerce Drive, LLC and County of Erie (500 Commerce Drive, Amherst)

Hi Jackie,

Do you know who usually pays the invoice for the 500 Commerce lease??

It was previously being paid to Ivoclar, but now the County is entering into a lease directly with the Landlord.

The Landlord's attorney sent this email yesterday stating that rent is due tomorrow!! Not sure how we can make that happen, but any help would be very much appreciated.

Thanks,
Kristen

Kristen M. Walder | Deputy County Attorney Erie County | Department of Law

95 Franklin St., 1634 | Buffalo, NY 14202

P:+1(716)858-2222 | F:+1(716)858-2281

Kristen.Walder@erie.gov |

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-----Original Message-----

From: Martin Clifford <mclifford@cliff-law.com>

Sent: Monday, January 30, 2023 5:24 PM

To: Walder, Kristen <Kristen.Walder@erie.gov>

Cc: Allan Steinberg <allan8182@gmail.com>; Geary, William <William.Geary@erie.gov>

Subject: RE: Lease between ZTS Commerce Drive, LLC and County of Erie (500 Commerce Drive, Amherst)

Kristen, attached are notice regarding the Commencement Date (February 1, 2023) that was mailed today and Stipulation of Term memorializing the Commencement Date. Please have the Stipulation signed and return the same to me electronically. Please note the first installment of Base Rent and the Security Deposit are each due February 1, 2023. Thank you.

Martin J. Clifford
Attorney at Law
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MENA Certificate

Vendor

Preview

Name

ZTS COMMERCE DRIVE LLC

Search Terms

Search term 1/2

Street Address

Street/House number 1888 NIAGARA FALLS BLVD

Postal Code/City 14150 TONAWANDA

Country US USA Region NY New York

Communication

Language English

Telephone 716-694-9383 Extension

Mobile Phone

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