

CLOSING ITEM NO.: A-10

COUNTY OF OTSEGO INDUSTRIAL DEVELOPMENT AGENCY

AND

KLUGO ONEONTA, LLC

PAYMENT IN LIEU OF TAX AGREEMENT

DATED AS OF FEBRUARY 1, 2013

RELATING TO THE PREMISES LOCATED AT 155-165 MAIN
STREET/1 DIETZ STREET IN THE CITY OF ONEONTA, OTSEGO
COUNTY, NEW YORK.

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PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT dated as of February 1, 2013 (the "Payment in Lieu of Tax Agreement") by and between COUNTY OF OTSEGO INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 242 Main Street, Oneonta, New York (the "Agency"), and KLUGO ONEONTA, LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 11849 East Corning Road, Suite 106, Corning, New York (the "Company");

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 252 of the Laws of 1973 of the State (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to include the following: (A) (1) the acquisition of an interest in an approximately 1 acre parcel of land located at 155-165 Main Street/1 Dietz Street in the City of Oneonta, Otsego County, New York (the "Land"), together with two (2) buildings located thereon (the "Facility"), (2) the renovation of the Facility, and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment"), all of the foregoing to constitute mixed use development to provide residential and commercial offerings (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the

Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on July 12, 2012 (the "Public Hearing Resolution"), the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the "Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on a bulletin board located at 242 Main Street, in the City of Oneonta, Otsego County, New York, (C) caused notice of the Public Hearing to be published in The Daily Star, a newspaper of general circulation available to the residents of the City and Town of Oneonta, Otsego County, New York, (D) conducted the Public Hearing on December 4, 2012 at 9:00 o'clock, a.m., local time at the Town of Oneonta Town Hall, Assembly Room, located at 242 Main Street, in the City of Oneonta, Otsego County, New York, and (E) prepared a report of the Public Hearing (the "Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43 B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the "Regulations", and collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on October 4, 2012 (the "SEQR Resolution"), the Agency determined that the Project constitutes a "Type II Action" (as such quoted term is defined under SEQRA), and therefore that no further action with respect to the Project was required under SEQRA; and

WHEREAS, by further resolution adopted by the members of the Agency on October 4, 2012 (the "Approving Resolution"), the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of February 1, 2013 (the "Lease Agreement") between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"). Pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Company for a lease term ending on the earlier to occur of (1) December 31, 2028 or (2) the date on which the Lease Agreement is terminated pursuant to the optional termination provisions thereof. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, in connection with the Project, the Company has requested that the Agency deviate from its uniform tax exemption policy (the "Deviation Request") with respect to the terms of the proposed payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility, and by resolution adopted by the members of the Agency on December 6, 2012, the members of the Agency adopted a resolution (the "Deviation Approval Resolution") approving the terms of a payment in lieu of tax agreement that includes the terms of the Deviation Request; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company will execute and deliver to the Agency (1) a certain lease to agency dated as of February 1, 2013 (the "Lease to Agency") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises") for a lease term ending on December 31, 2028; (2) a certain license agreement dated as of February 1,

2013 (the "License to Agency") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (a) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (b), in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a bill of sale dated as of February 1, 2013 (the "Bill of Sale to Agency"), which conveys to the Agency all right, title and interest of the Company in the Equipment, (B) the Company and the Agency will execute and deliver a payment in lieu of tax agreement dated as of February 1, 2013 (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, (C) the Agency will file with the assessor and mail to the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the "Real Property Tax Exemption Form") relating to the Project Facility and the Payment in Lieu of Tax Agreement, (D) the Agency will execute and deliver to the Company a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (E) the Agency will file with the New York State Department of Taxation and Finance the form entitled "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report"); and

WHEREAS, in order to finance a portion of the costs of the Project, the Company will obtain a loan in the principal sum of up to \$6,500,000 (the "Loan") from Manufacturers and Traders Trust Company (the "Lender"), which Loan will be secured by (1) a mortgage dated as of February 8, 2013 (the "Mortgage") from the Agency and the Company to the Lender, (2) a security agreement dated as of February 8, 2013 (the "Security Agreement"), and (3) an assignment of rents and leases dated as of February 8, 2013 (the "Assignment of Rents") from the Agency and the Company to the Lender; and

WHEREAS, under the present provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York (the "Real Property Tax Law"), the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or supervision or control; and

WHEREAS, pursuant to the provisions of Section 6.6 of the Lease Agreement, the Company has agreed to make payments in lieu of taxes with respect to the Project Facility in an amount equivalent to normal taxes, provided that, so long as this Payment in Lieu of Tax Agreement shall be in effect, the Company shall during the term of this Payment in Lieu of Tax Agreement make payments in lieu of taxes in the amounts and in the manner provided in this Payment in Lieu of Tax Agreement, and during such period the provisions of Section 6.6 of the Lease Agreement shall not control the amounts due as payment in lieu of taxes with respect to that portion of the Project Facility which is covered by this Payment in Lieu of Tax Agreement; and

WHEREAS, all things necessary to constitute this Payment in Lieu of Tax Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Payment in Lieu of Tax Agreement have in all respects been duly authorized by the Agency and the Company;

NOW, THEREFORE, in consideration of the matters above recited, the parties hereto formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I

REPRESENTATIONS AND WARRANTIES

SECTION 1.01. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into the transactions contemplated by this Payment in Lieu of Tax Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement hereunder.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

SECTION 1.02. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANY. The Company does hereby represent, warrant and covenant as follows:

(A) Power. The Company is a limited liability company duly organized and validly existing under the laws of the State of New York, is duly authorized to do business in the State of New York and has the power under the laws of the State to enter into this Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement, and by proper action of its Members has been duly authorized to execute, deliver and perform this Payment in Lieu of Tax Agreement.

(B) Authorization. The Company is authorized and has the power under its Articles of Organization, Operating Agreement and the laws of the State to enter into this Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement. By proper action of its Members, the Company has duly authorized the execution, delivery and performance of this Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Company is not prohibited from entering into this Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed

under and pursuant to this Payment in Lieu of Tax Agreement by (and the execution, delivery and performance of this Payment in Lieu of Tax Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Payment in Lieu of Tax Agreement will not conflict with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its Articles of Organization or Operating Agreement or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Payment in Lieu of Tax Agreement nor the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing, and this Payment in Lieu of Tax Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Payment in Lieu of Tax Agreement by the Company or as a condition to the validity of this Payment in Lieu of Tax Agreement.

ARTICLE II

COVENANTS AND AGREEMENTS

SECTION 2.01. TAX-EXEMPT STATUS OF THE PROJECT FACILITY. (A) Assessment of the Project Facility. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of the Project Facility by the Agency and the filing by the Agency of a New York State Board of Real Property Services Form RP-412-a (a "Real Property Tax Exemption Form") with respect to the Project Facility, and for so long thereafter as the Agency shall own the Project Facility, the Project Facility shall be assessed by the various taxing entities having jurisdiction over the Project Facility, including, without limitation, any county, city, school district, town, village or other political unit or units wherein the Project Facility is located (such taxing entities being sometimes collectively hereinafter referred to as the "Taxing Entities", and each of such Taxing Entities being sometimes individually hereinafter referred to as a "Taxing Entity") as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to the acquisition by the Agency of the leasehold interest to the Project Facility created by the Underlying Lease and the filing of the Real Property Tax Exemption Forms. The Company shall, promptly following acquisition by the Agency of the leasehold interest to the Project Facility created by the Underlying Lease, take such action as may be necessary to ensure that the Project Facility shall be assessed as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to such acquisition by the Agency, including ensuring that a Real Property Tax Exemption Form shall be filed with the appropriate officer or officers of each respective Taxing Entity responsible for assessing properties on behalf of each such Taxing Entity (each such officer being hereinafter referred to as an "Assessor"). For so long thereafter as the Agency shall own such leasehold interest in the Project Facility, the Company shall take such further action as may be necessary to maintain such exempt assessment with respect to each Taxing Entity. The parties hereto understand that the Project Facility shall not be entitled to such tax-exempt status on the tax rolls of any Taxing Entity until the first tax year of such Taxing Entity following the tax status date of such Taxing Entity occurring subsequent to the date upon which the Agency becomes the owner of record of such leasehold interest in the Project Facility and the Real Property Tax Exemption Forms are filed with the Assessors. Pursuant to the provisions of the Lease Agreement, the Company will be required to pay all taxes and assessments lawfully levied and/or assessed against the Project Facility, including taxes and assessments levied for the current tax year and all subsequent tax years until the Project Facility shall be entitled to exempt status on the tax rolls of the respective Taxing Entities. The Agency will cooperate with the Company to obtain and preserve the tax-exempt status of the Project Facility.

(B) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Lease Agreement, the Company will be required to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project Facility.

SECTION 2.02. PAYMENTS IN LIEU OF TAXES. (A) Agreement to Make Payments. The Company agrees that it shall make annual payments in lieu of property taxes in the amounts hereinafter provided to the respective Taxing Entities entitled to receive same pursuant to the provisions hereof. The Company also agrees to give the Assessors a copy of this Payment in Lieu of Tax Agreement. The payments due hereunder shall be paid by the Company to the respective appropriate officer or officers of the respective Taxing Entities charged with receiving payments of taxes for such Taxing Entities (such officers being collectively hereinafter referred to as the "Receivers of Taxes") for distribution by the Receivers of Taxes to the appropriate Taxing Entities entitled to receive same pursuant to the provisions hereof.

(B) Valuation of the Project Facility. The value of the Project Facility for purposes of determining payments in lieu of taxes due hereunder (hereinafter referred to as the "Assessed Value") shall be fixed in accordance with the following table and shall be fixed for the entire term of this Payment in Lieu of Tax Agreement:

<u>Property Address – Tax Parcel Identification Number</u>	<u>Assessed Value of Project Facility</u>
155 – 165 Main Street, Oneonta, New York 13820 Tax Parcel Identification Number - _____	\$700,000
1 Dietz Street, Oneonta, New York 13820 Tax Parcel Identification Number - _____	\$300,000

(C) Amount of Payments in Lieu of Taxes. The payments in lieu of taxes to be paid by the Company to the Receivers of Taxes annually on behalf of each Taxing Entity pursuant to the terms of this Payment in Lieu of Tax Agreement shall be computed separately for each Taxing Entity as follows:

(1) Determine the amount of general taxes and general assessments (hereinafter referred to as the "Normal Tax") which would be payable to each Taxing Entity if the Project Facility was owned by the Company and not the Agency by multiplying (a) the Assessed Value of the Project Facility (as set forth in Subsection (B) of this Section 2.03) by (b) the tax rate or rates of such Taxing Entity that would be applicable to the Project Facility if the Project Facility was owned by the Company and not the Agency.

(2) In each tax year during the term of this Payment in Lieu of Tax Agreement, commencing on the first tax year following the date on which the Project Facility shall be assessed as exempt on the assessment roll of any Taxing Entity, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax pursuant to this Payment in Lieu of Tax Agreement with respect to the Project Facility shall be an amount equal to the Normal Tax due each Taxing Entity with respect to the Project Facility for such tax year amount equal to the applicable percentage of the Normal Tax due each Taxing Entity with respect to the Project Facility for such tax year, as shown in the following table:

<u>Tax Year Commencing in Calendar Year</u>	<u>County, City, Town, Percentage of Normal Tax Due</u>	<u>School Percentage of Normal Tax Due</u>
2013	N/A	10%
2014	10%	10%
2015	10%	20%
2016	20%	30%
2017	30%	40%
2018	40%	50%
2019	50%	60%
2020	60%	70%
2021	70%	80%
2022	80%	90%
2023	90%	100%

2024	100%	100%
2025	100%	100%
2026	100%	100%
2027	100%	100%
2028 and thereafter	100%	100%

(D) Additional Amounts in Lieu of Taxes. Commencing on the first tax year following the date on which any structural addition shall be made to the Project Facility or any portion thereof or any additional building or other structure shall be constructed on the Land (such structural additions and additional buildings and other structures being hereinafter referred to as "Additional Facilities") the Company agrees to make additional annual payments in lieu of property taxes with respect to such Additional Facilities (such additional payments being hereinafter collectively referred to as "Additional Payments") to the Receivers of Taxes with respect to such Additional Facilities, such Additional Payments to be computed separately for each Taxing Entity as follows:

(1) Determine the amount of general taxes and general assessments (hereinafter referred to as the "Additional Normal Tax") which would be payable to each Taxing Entity with respect to such Additional Facilities if such Additional Facilities were owned by the Company and not the Agency as follows: (a) multiply the Additional Assessed Value (as hereinafter defined) of such Additional Facilities determined pursuant to subsection (E) of this Section 2.02 by (b) the tax rate or rates of such Taxing Entity that would be applicable to such Additional Facilities if such Additional Facilities were owned by the Company and not the Agency, and (c) reduce the amount so determined by the amounts of any tax exemptions that would be afforded to the Company by such Taxing Entity if such Additional Facilities were owned by the Company and not the Agency.

(2) In each fiscal tax year during the term of this Payment in Lieu of Tax Agreement (commencing in the fiscal tax year when such Additional Facilities would first appear on the assessment roll of any Taxing Entity) if such Additional Facilities were owned by the Company and not the Agency, the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax with respect to such Additional Facilities pursuant to this Payment in Lieu of Tax Agreement shall be an amount equal to one hundred percent (100%) of the Normal Tax due each Taxing Entity with respect to such Additional Facilities for such fiscal tax year (unless the Agency and the Company shall enter into a separate written agreement regarding payments in lieu of property taxes with respect to such Additional Facilities, in which case the provisions of such separate written agreement shall control).

(E) Valuation of Additional Facilities. (1) The value of Additional Facilities for purposes of determining payments in lieu of taxes due under Section 2.02(D) hereof shall be determined by the Assessors of each respective Taxing Entity. The parties hereto agree that the Assessors shall (a) appraise the Additional Facilities in the same manner as other similar properties in the general area of the Project Facility, and (b) place a value for assessment purposes (hereinafter referred to as the "Additional Assessed Value") upon the Additional Facilities, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The Company shall be entitled to written notice of the initial establishment of such Additional Assessed Value and of any change in such Additional Assessed Value.

(2) If the Company is dissatisfied with the amount of the Additional Assessed Value of the Additional Facilities as initially established or as changed, and if the Company shall have given written notice of such dissatisfaction to the appropriate Assessor and the Agency within thirty (30) days of receipt by the Company of written notice of the initial establishment of such

Additional Assessed Value, or of a change in such Additional Assessed Value, then the Company shall be entitled to protest before, and to be heard by, the appropriate Assessor and the Agency. If the Agency, the Company and any Assessor shall fail to reach agreement as to the proper Additional Assessed Value of the Additional Facilities for purposes of determining payments in lieu of taxes due under this Payment in Lieu of Tax Agreement, then such Assessor, the Company and the Agency shall each select one arbitrator in accordance with the rules of the American Arbitration Association, each of whom shall be a qualified real estate appraiser, experienced in valuation for the purposes of tax assessment in the general area of the Project Facility, which arbitrators shall, at the sole cost and expense of the Company, determine whether the Additional Assessed Value of the Additional Facilities has been properly established by the Assessor. It is understood that the arbitrators are empowered to confirm the Additional Assessed Value or to determine a higher or lower Additional Assessed Value. Any payments in lieu of taxes due upon such Additional Facilities pursuant to Section 2.02(D) hereof may not be withheld by the Company pending determination of the Additional Assessed Value by the arbitrators.

(F) Statements. Pursuant to Section 858(15) of the Act, the Agency agrees to give each Taxing Entity a copy of this Payment in Lieu of Tax Agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy hereof be given to the appropriate officer or officers of the respective Taxing Entities responsible for preparing the tax rolls for said Tax Entities (each, a "Tax Billing Officer") and a request that said Tax Billing Officers submit to the Company and to the appropriate Receiver of Taxes periodic statements specifying the amount and due date or dates of the payments due each Taxing Entity hereunder, such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such Taxing Entities.

(G) Time of Payments. The Company agrees to pay the amounts due hereunder to the Receivers of Taxes for the benefit of each particular Taxing Entity in any fiscal tax year to the appropriate Receiver of Taxes within the period that such Taxing Entity allows payment of taxes levied in such fiscal tax year without penalty. The Company shall be entitled to receive receipts for such payments.

(H) Method of Payment. All payments by the Company hereunder shall be paid to the Receivers of Taxes in lawful money of the United States of America. The Receivers of Taxes shall in turn distribute the amounts so paid to the various Taxing Entities entitled to same.

SECTION 2.03 CREDIT FOR TAXES PAID. (A) Amount of Credit. The parties hereto acknowledge and agree that the obligation of the Company to make the payments provided in Section 2.02 of this Payment in Lieu of Tax Agreement shall be in addition to any and all other taxes and governmental charges of any kind whatsoever which the Company may be required to pay under the Lease Agreement. It is understood and agreed, however, that, should the Company pay in any fiscal tax year to any Taxing Entity any amounts in the nature of general property taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Project Facility or the interest therein of the Company or the occupancy thereof by the Company (but not including, by way of example, (1) sales and use taxes, and (2) special assessments, special ad valorem levies or governmental charges in the nature of utility charges, including but not limited to water, solid waste, sewage treatment or sewer or other rents, rates or charges), then the Company's obligation to make payments in lieu of property taxes attributed to such fiscal tax year to such Taxing Entity hereunder shall be reduced by the amounts which the Company shall have so paid to such Taxing Entity in such fiscal tax year, but there shall be no cumulative or retroactive credit as to any payment in lieu of property taxes due to any other Taxing Entity or as to any payment in lieu of property taxes due to such Taxing Entity in any other fiscal tax year.

(B) Method of Claiming Credits. If the Company desires to claim a credit against any particular payment in lieu of tax due hereunder, the Company shall give the governing body of the affected Taxing Entity and the Agency prior written notice of its intention to claim any credit pursuant to the provision of this Section 2.03, said notice to be given by the Company at least thirty (30) days prior to the date on which such payment in lieu of tax is due pursuant to the provisions of Section 2.02(G) hereof. In the event that the governing body of the appropriate Taxing Entity desires to contest the Company's right to claim such credit, then said governing body, the Agency and the Company shall each select an arbitrator in accordance with the rules of the American Arbitration Association, each of whom shall meet the qualifications set forth in Section 2.02(B) hereof, which arbitrators shall, at the sole cost and expense of the Company, determine whether the Company is entitled to claim any credit pursuant to the provisions of this Section 2.03 and, if so, the amount of the credit to which the Company is entitled. It is understood that the arbitrators are empowered to confirm the amount of the credit claimed by the Company or to determine a lower or higher credit. When the Company shall have given notice, as provided herein, that it claims a credit, the amount of any payment in lieu of property taxes due hereunder against which the credit may be claimed may be withheld (to the extent of the credit claimed by the Company, but only to the extent that such credit may be claimed against said payment in lieu of taxes pursuant to the provisions of this Section 2.03) until the decision of the arbitrators is rendered. After the decision of the arbitrators is rendered, the payment in lieu of taxes due with respect to any reduction or disallowance by the arbitrators in the amount of the credit claimed by the Company shall, to the extent withheld as aforesaid, be immediately due and payable and shall be paid by the Company within thirty (30) days of said decision.

SECTION 2.04. LATE PAYMENTS. (A) First Month. Pursuant to Section 874(5) of the Act, if the Company shall fail to make any payment required by this Payment in Lieu of Tax Agreement when due, the Company shall pay the same, together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Company shall fail to make any payment required by this Payment in Lieu of Tax Agreement when due and such delinquency shall continue beyond the first month, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the affected Taxing Entity until such payment in default shall have been made in full, and the Company shall pay the same to the affected Taxing Entity together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

ARTICLE III
LIMITED OBLIGATION

SECTION 3.01. NO RECOURSE; LIMITED OBLIGATION OF THE AGENCY. (A) No Recourse. All obligations, covenants, and agreements of the Agency contained in this Payment in Lieu of Tax Agreement shall be deemed to be the obligations, covenants, and agreements of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement contained in this Payment in Lieu of Tax Agreement, or otherwise based upon or in respect of this Payment in Lieu of Tax Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent (other than the Company), servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Payment in Lieu of Tax Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Payment in Lieu of Tax Agreement, it being expressly understood that this Payment in Lieu of Tax Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent (other than the Company), servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Payment in Lieu of Tax Agreement under or by reason of the obligations, covenants or agreements contained in this Payment in Lieu of Tax Agreement or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent (other than the Company), servant or employee under or by reason of the obligations, covenants or agreements contained in this Payment in Lieu of Tax Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Payment in Lieu of Tax Agreement by the Agency.

(B) Limited Obligation. The obligations, covenants and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or Otsego County, New York, and neither the State of New York nor Otsego County, New York shall be liable thereon, and further such obligations, covenants and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Lease Agreement).

(C) Further Limitation. Notwithstanding any provision of this Payment in Lieu of Tax Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Company, and (2) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity and an agreement from the Company to defend and hold harmless the Agency satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. EVENTS OF DEFAULT. Any one or more of the following events shall constitute an event of default under this Payment in Lieu of Tax Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Payment in Lieu of Tax Agreement, any one or more of the following events:

(A) Failure of the Company to pay when due any amount due and payable by the Company pursuant to this Payment in Lieu of Tax Agreement and continuance of said failure for a period of fifteen (15) days after written notice to the Company stating that such payment is due and payable;

(B) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed hereunder (other than as referred to in paragraph (A) above) and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure and requesting that it be remedied; provided that if such default cannot reasonably be cured within such thirty (30) day period and if the Company shall have commenced action to cure the breach of covenant, condition or agreement within said thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as the Company shall require in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of ninety (90) days in the aggregate from the date of default; or

(C) Any warranty, representation or other statement by or on behalf of the Company contained in this Payment in Lieu of Tax Agreement shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Payment in Lieu of Tax Agreement and (1) shall be materially adverse to the Agency at the time when the notice referred to below shall have been given to the Company and (2) if curable, shall not have been cured within thirty (30) days after written notice of such incorrectness shall have been given to a responsible officer of the Company, provided that if such incorrectness cannot reasonably be cured within said thirty-day period and the Company shall have commenced action to cure the incorrectness within said thirty-day period and, thereafter, diligently and expeditiously proceeds to cure the same, such thirty-day period shall be extended for so long as the Company shall require, in the exercise of due diligence, to cure such default.

SECTION 4.02. REMEDIES ON DEFAULT. (A) General. Whenever any Event of Default shall have occurred with respect to this Payment in Lieu of Tax Agreement, the Agency (or if such Event of Default concerns a payment required to be made hereunder to any Taxing Entity, then with respect to such Event of Default such Taxing Entity) may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Payment in Lieu of Tax Agreement.

(B) Cross-Default. In addition, an Event of Default hereunder shall constitute an event of default under Article X of the Lease Agreement. Upon the occurrence of an Event of Default hereunder resulting from a failure of the Company to make any payment required hereunder, the Agency shall have, as a remedy therefor under the Lease Agreement, among other remedies, the right to terminate the Lease Agreement and convey the Project Facility to the Company, thus subjecting the Project Facility to immediate full taxation pursuant to Section 520 of the Real Property Tax Law of the State.

(C) Separate Suits. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises.

(D) Venue. The Company irrevocably agrees that any suit, action or other legal proceeding arising out of this Payment in Lieu of Tax Agreement may be brought in the courts of record of the State, consents to the jurisdiction of each such court in any such suit, action or proceeding, and waives any objection which it may have to the laying of the venue of any such suit, action or proceeding in any of such courts.

SECTION 4.03. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. Pursuant to Section 874(6) of the Act, if the Company should default in performing any of its obligations, covenants or agreements under this Payment in Lieu of Tax Agreement and the Agency or any Taxing Entity should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency or such Taxing Entity, as the case may be, not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

SECTION 4.04. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency or any Taxing Entity is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Payment in Lieu of Tax Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency or any Taxing Entity to exercise any remedy reserved to it in this Payment in Lieu of Tax Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Payment in Lieu of Tax Agreement.

(D) No Waiver. In the event any provision contained in this Payment in Lieu of Tax Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Payment in Lieu of Tax Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM. (A) General. This Payment in Lieu of Tax Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the approval of this Payment in Lieu of Tax Agreement by resolution of the Agency and the execution and delivery of this Payment in Lieu of Tax Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Payment in Lieu of Tax Agreement shall continue to remain in effect until the earlier to occur of (1) December 31, 2028 or (2) the date on which the Project Facility is reconveyed by the Agency to the Company pursuant to Article VII of the Lease Agreement.

(B) Extended Term. In the event that (1) the Project Facility shall be reconveyed to the Company, (2) on the date on which the Company obtains the Agency's interest in the Project Facility, the Project Facility shall be assessed as exempt upon the assessment roll of any one or more of the Taxing Entities, and (3) the fact of obtaining title to the Agency's interest in the Project Facility shall not immediately obligate the Company to make pro-rata tax payments pursuant to legislation similar to Chapter 635 of the 1978 Laws of the State (codified as subsection 3 of Section 302 of the Real Property Tax Law and Section 520 of the Real Property Tax Law), this Payment in Lieu of Tax Agreement shall remain in full force and effect and the Company shall be obligated to make payments to the Receiver of Taxes in amounts equal to those amounts which would be due from the Company to the respective Taxing Entities if the Project Facility were owned by the Company and not the Agency until the first tax year in which the Company shall appear on the tax rolls of the various Taxing Entities having jurisdiction over the Project Facility as the legal owner of record of the Project Facility.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Payment in Lieu of Tax Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.04. AMENDMENTS. This Payment in Lieu of Tax Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.05. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered in person or by courier to the applicable address stated below, (2) when received by telecopy or (3) three business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, property addressed), or (4) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Notices Given by Taxing Entities. Notwithstanding the foregoing, notices of assessment or reassessment of the Project Facility and other notices given by a Taxing Entity under Article II hereof shall be sufficiently given and shall be deemed given when given by the Taxing Entity in the same manner in which similar notices are given to owners of taxable properties by such Taxing Entity.

(C) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

SECTION 5.6. NOTICES. (A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by an affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

Klugo Oneonta, LLC
11849 E. Corning Road, Suite 106
Corning, New York 11849
Attention: Charles E. Klugo

WITH A COPY TO:

Keyser, Maloney & Winner LLP
150 Lake Street, 2nd Floor
Elmira, New York 14901
Attention: Richard Keyser, Esq.

IF TO THE AGENCY:

County of Otsego Industrial Development Agency
242 Main Street
Oneonta, New York 13820
Attention: Chairman

WITH A COPY TO:

Kurt D. Schulte, Esq.
12 Club Avenue
Oneonta, New York 13820

AND

Hodgson Russ LLP
677 Broadway, Suite 301
Albany, New York
Attention: A. Joseph Scott, III, Esq.

(D) Copies. A copy of any notice given hereunder by the Company which affects in any way a Taxing Entity shall also be given to the chief executive officer of such Taxing Entity.

(E) Change of Address. The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.07. BINDING EFFECT. This Payment in Lieu of Tax Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Payment in Lieu of Tax Agreement are intended to be for the benefit of the Agency and the respective Taxing Entities.

SECTION 5.08. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Payment in Lieu of Tax Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Payment in Lieu of Tax Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

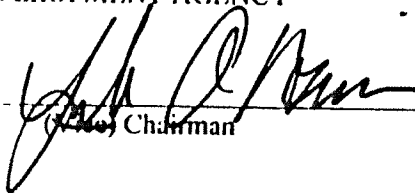
SECTION 5.09. COUNTERPARTS. This Payment in Lieu of Tax Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.10. APPLICABLE LAW. This Payment in Lieu of Tax Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Agency and the Company have caused this Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

COUNTY OF OTSEGO INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____



(Name) Chairman

KLUGO ONEONTA, LLC

BY: _____

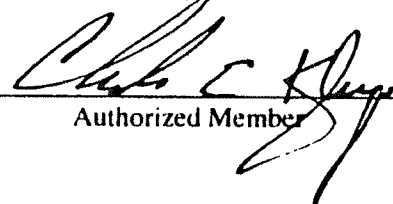
Authorized Member

IN WITNESS WHEREOF, the Agency and the Company have caused this Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

COUNTY OF OTSEGO INDUSTRIAL
DEVELOPMENT AGENCY

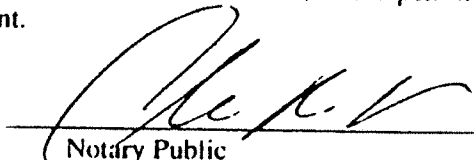
BY: _____
(Vice) Chairman

KLUGO ONEONTA, LLC

BY:  _____
Authorized Member

STATE OF NEW YORK)
)ss:
COUNTY OF OTSEGO)

On the 22 day of December, in the year 2012, before me, the undersigned, personally appeared Joseph A. Bernier, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

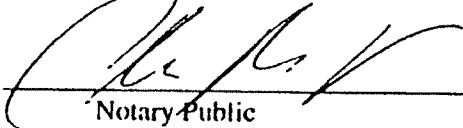


Notary Public

CHRISTOPHER M. MARTELL
Notary Public, State of New York
No. 02MA6162486
Qualified in Saratoga County
Commission Expires March 12, 2015

STATE OF NEW YORK)
)ss:
COUNTY OF BROOME)

On the 8th day of February, in the year 2013, before me, the undersigned, personally appeared CHARLES KLUGO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

CHRISTOPHER M. MARTELL
Notary Public, State of New York
No. 02MA6162486
Qualified in Saratoga County
Commission Expires March 12, 2016

EXHIBIT A

DESCRIPTION OF THE LEASED LAND

A leasehold interest created by a certain lease to agency dated as of February 1, 2013 (the "Lease to Agency") between Klugo Oneonta, LLC (the "Company"), as landlord, and County of Otsego Industrial Development Agency (the "Agency"), as tenant, in an approximately 1 acre parcel of land (the "Leased Land") located at 155-165 Main Street/1 Dietz Street in the City of Oneonta, Otsego County, New York, said Leased Land being more particularly described below), together with any improvements now or hereafter located on the Leased Land (the Leased Land and all such improvements being sometimes collectively referred to as the "Leased Premises"):

ALL THAT CERTAIN TRACT, PIECE OR PARCEL OF LAND situate, lying and being in the County of Otsego, Otsego County, New York, bounded and described as follows:

- SEE ATTACHED -

Schedule "A" (pp 8 of 11)

First party herein also conveys to second party the use for the purpose of erecting a party wall of a strip of land six (6) inches in width along the southwesterly side, and adjoining the lands above described and extending along the entire southwesterly side thereof, and party of the first part herein reserves the use for erecting party wall of a strip of land six (6) inches in width of the southwesterly side of lands above described making a strip of land one (1) foot in width, one half (1/2) on lands of first party and one half (1/2) on land of second party upon which a party wall may be erected, according to party wall agreement to be entered into between the parties hereto, their heirs, grantees and assigns.

Said premises being more recently described as follows:

All that tract or parcel of land, situate in the City of Oneonta, County of Otsego and State of New York described as follows:

Beginning at a 5/8" steel rod in a drill hole set in the northwest bounds of Main Street. Said steel rod is in the most southerly corner of the herein described parcel and is in the most easterly corner of lands now or formerly of the Estate of John O. Stevens, Re: L656 P953. Said 5/8" steel rod is further referenced as being 85.64 feet on a bearing of N59°31'58"E as measured along the northwest bounds of Main Street from where a chrome spike was set in the northeast bounds of Chestnut Street. Thence, northwesterly along the northeast bounds of said Stevens Estate's land and along a common party wall on a bearing of N28°54'05"W, a distance of 105.84 feet to a point. Thence, continuing along said common party wall on a bearing of N30°28'02"W, a distance of 32.50 feet to a point within said wall being a corner of said Stevens Estate's land and lands herein described. Thence, southwesterly along the northwesterly bounds of said Stevens Estate's land, partly within a common party wall, on a bearing of S61°40'18"W, a distance of 39.50 feet to where a 5/8" steel rod capped "Rasmussen Surveyors" was set for a corner of the herein described parcel, being a corner of said Stevens Estate's land. Said capped rod is in an easterly bounds of an alleyway (right of way), being the lands of said Stevens Estate. Thence, northerly along the east side of said alleyway (right of way), being the bounds of said Stevens Estate's land, on a bearing of N28°10'43"W, a distance of 61.01 feet to a point being a corner of said Stevens Estate's land and a corner of lands now or formerly of Central National Bank, Canajohane Re: L874 P278 and Filed Map 4380, Otsego County Clerk's Office. Thence, northerly along the east bounds of said Bank's land, being the east bounds of aforesaid alleyway (right of way) on a bearing of N28°15'06"W, a distance of 58.15 feet to where a "PK" nail was set for the most westerly corner of the herein described parcel in the southeast bounds of Wall Street. Thence, northeasterly along the southeast bounds of Wall Street the following courses and distances: 1) N61°47'55"E, a distance of 72.00 feet to a point. 2) N59°32'55"E, a distance of 79.08 feet to where a 5/8" steel rod in a drill hole was set for the most northerly corner of the herein described parcel. Said 5/8" steel rod is in the most westerly corner of lands now or formerly of Otsego County Development Corporation Re: L1127 P547. Thence, southeasterly along the southwest bounds of said Otsego County Development Corporation Re: L1127 P547

Purchaser/Borrower: Kluge Oneonta, LLC
Property Address: 155-161 Main St, 16-18 Wall St, 1 Dietz St & 163-165 Main St
Tax Map No: Scardon 300.31, Block 1, Parcels 7, 8, 9 & 12

City: Oneonta
County: Otsego

Schedule "A" (pg 9 of 14)

on a bearing of S30°32'27"E, a distance of 143.22 feet to where a 5/8" steel rod capped "Rasmussen Surveyors" was set for a corner of the herein described parcel in the northwesterly bounds of lands now or formerly of Wilber and Clark's Enterprises, Inc. Re: L711 P1102. Thence, southwesterly along the northwesterly bounds of said Wilber and Clark's Enterprises, Inc.'s land Re: L711 P1102 on a bearing of S59°45'12"W, a distance of 25.23 feet to where a

5/8" steel rod capped as above was set for a corner of the herein described parcel, being the most westerly corner of said Wilber and Clark's land Re: L711 P1102. Thence, southeasterly along the southwest bounds of said Wilber and Clark's land and along the extents of a common party wall and beyond said wall on a bearing of S30°12'53"E, a distance of 112.85 feet to where a 5/8" steel rod in a drill hole was set for an east-southeast corner of the herein described parcel in the northwest bounds of Main Street. Thence, southwesterly along the northwest bounds of Main Street on a bearing of S59°31'58"W, a distance of 93.51 feet to the point and place of beginning containing 31501.55 square feet (0.7232 acre) of land. Bearings referred to are Record North per Filed Map 2383, City of Oneonta Engineer's Office.

Also conveying a right of way over a brick alleyway (formerly Windsor Avenue) to Dietz Street. Said right of way being ten feet in width, Re: L230 P591.

Also conveying the right to use, in common with others having the right to use the same, a right of way ten feet in width lying directly northeasterly of the former Windsor Hotel building, and extending from Wall Street southeasterly to a right of way thirteen feet in width extending from the above mentioned right of way westerly to Chestnut Street, Re: L1110 P506.

Also conveying the right to use, in common with others, said right of way extending to Chestnut Street, Re: L1110 P506.

All the above is shown on survey map numbered 34-637, dated June 7, 2012, prepared by Rasmussen Land Surveyors, 8 Highland Street, Oneonta, N.Y.

Purchaser/Borrower: Kluge Oneonta, LLC
Property Address: 155-161 Main St, 18-18 Wall St, 1 Dietz St & 163-165 Main St
Tax Map No: Section 106J1, Block 1, Parcels 7, 8, 9 & 13

City: Oneonta
County: Otsego

Schedule "A" (pg 13 of 14)

said premises being more recently described as follows:

All that tract or parcel of land, situate in the City of Oncosta, County of Otsego and State of New York described as follows:

Beginning at a 5/8" steel rod set in the southeasterly bounds of Wall Street. Said 5/8" steel rod is the most northerly corner of the herein described parcel and is the most westerly corner of lands now or formerly of Richard Polgar Re: L674 P1036. Thence, southeasterly along the southwesterly bounds of said Polgar's land on a bearing of S31°05'41"E, a distance of 74.39 feet to a point being the most southerly corner of said Polgar's land. Thence, northeasterly along the southeast bounds of said Polgar's land on a bearing of N59°19'22"E, a distance of 9.89 feet to a point being a corner of the herein described parcel in the most westerly corner of lands now or formerly of Bonnie S. Potter and Judith F. Baker Re: L674 P1036. Thence, southeasterly along the southwesterly bounds of said Potter and Baker's land on a bearing of S30°19'02"E, a distance 25.58 feet to a point being a corner of the herein described parcel; being the most southerly corner of the aforesaid Potter and Baker's land. Thence, northeasterly along the southeasterly bounds of Potter and Baker's land on a bearing of N63°47'36"E, a distance of 43.77 feet to where a 5/8" steel rod was set for the east-northeast corner of the herein described parcel in the westerly bounds of Dietz Street. Said rod is further referenced as being a corner of aforesaid Potter and Baker's land. Thence, southerly along the westerly bounds of Dietz Street on a bearing of S11°27'58"W, a distance of 7.49 feet to a point being an angle in said Dietz Street. Thence, southeasterly along the southwesterly bounds of Dietz Street on a bearing of S30°28'02"E, a distance of 28.17 feet to where a 5/8" steel rod was set for the most easterly corner of the herein described parcel. Said rod is in the northwesterly bounds of a brick alleyway (Windsor Avenue) and is in the most northerly corner of lands now or formerly of Abul Masud and Maria Masud Re: L1090 P27. Thence, southwesterly along the northwesterly bounds of said Abul Masud and Maria Masud's land Re: L1090 P27 and lands now or formerly of Wilber and Clark Enterprises, Inc. Re: L786 P1155 on a bearing of S59°41'08"W, a distance of 73.45 feet to where a 5/8" steel rod was set for the most westerly corner of said Wilber and Clark's land Re: L786 P1155. Thence, southeasterly along the southwesterly bounds of said Wilber and Clark's land Re: L786 P1155 on a bearing of S29°02'32"E, a distance of 6.58 feet to where a 5/8" steel rod was set for a corner of the herein described parcel. Said rod is in the westerly bounds of lands of aforesaid Wilber and Clark Enterprises, Inc. Re: L786 P1155 and is the most northerly corner of lands now or formerly of Wilber and Clark Enterprises, Inc. Re: L711 P1102. Thence, southwesterly along the northwesterly bounds of said Wilber and Clark's land Re: L711 P1102 on a bearing of S59°45'12"W, a distance of 24.90 feet to where a 5/8" steel rod was set for the most southerly corner of the herein described parcel. Said point is in the northwesterly bounds of

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lands now or formerly of Wilber and Clark Enterprises, Inc. Re: L711 P1102 and is the most easterly corner of lands now or formerly of the Otsego County Development Corporation Re: L1110 P506. Thence, northwesterly along the northeasterly bounds of said Otsego County Development Corporation's land on a bearing of N30°32'27"W, a distance of 143.22 feet to where a 5.8" steel rod was set for the most westerly corner of the herein described parcel in the southeasterly bounds of Wall Street. Thence, northeasterly along the southeasterly bounds of Wall Street on a bearing of N59°32'55"E, a distance of 49.41 feet to the point and place of beginning containing 8990.93 square feet of land. Bearings referred to are Record North per Filed Map 2383, City of Onconta Engineer's Office.

Also conveying a right or way for ingress and egress at all times either on foot or with teams or vehicles or otherwise over and along a strip of land about ten feet in width known as Windsor Avenue and running and extending along the southerly bounds of the above described parcel, said right of way to be used by parties of the second part in common with others.

All the above is shown on survey map numbered 34-637, dated June 7, 2012, prepared by Rasmussen Land Surveyors, 8 Highland Street, Oneonta, N.Y.

For Conveyance only: The policy to be issued under this report will insure title to such buildings and improvements erected on the premises, which by law constitute real property. Together with all the right, title and interest of the party of the first part, of, in and to the land lying in front of adjoining said premises.

Purchaser/Borrower: Kluge Oneonta, LLC
Property Address: 155-161 Main St, 18-18 Wall St, 1 Dietz St & 163-165 Main St
Tax Map No: Section 300.11, Block 1, Parcels 7, 8, 9 & 12

City: Oneonta
County: Otsego

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Said premises is also described as follows:

All that tract or parcel of land, situate in the City of Oneonta, County of Otsego and State of New York described as follows:

Beginning at a 5/8" steel rod in a drill hole set in the northwest bounds of Main Street. Said steel rod is in the most southerly corner of the herein described parcel and is in the most easterly corner of lands now or formerly of the Estate of John O. Stevens, Re: L656 P953. Said 5/8" steel rod is further referenced as being 85.64 feet on a bearing of N59°31'58"E as measured along the northwest bounds of Main Street from where a chrome spike was set in the northeast bounds of Chestnut Street. Thence, northwesterly along the northeast bounds of said Stevens Estate's land and along a common party wall on a bearing of N28°54'05"W, a distance of 105.84 feet to a point. Thence, continuing along said common party wall on a bearing of N30°28'02"W, a distance of 32.50 feet to a point within said wall being a corner of said Stevens Estate's land and lands herein described. Thence, southwesterly along the northwesterly bounds of said Stevens Estate's land, partly within a common party wall, on a bearing of S61°40'18"W, a distance of 39.50 feet to where a 5/8" steel rod capped "Rasmussen Surveyors" was set for a corner of the herein described parcel, being a corner of said Stevens Estate's land. Said capped rod is in an easterly bounds of an alleyway (right of way), being the lands of said Stevens Estate. Thence, northerly along the east side of said alleyway (right of way), being the bounds of said Stevens Estate's land, on a bearing of N28°10'43"W, a distance of 61.01 feet to a point being a corner of said Stevens Estate's land and a corner of lands now or formerly of Central National Bank, Canajoharie Re: L874 P278 and Filed Map 4380, Otsego County Clerk's Office. Thence, northerly along the east bounds of said Bank's land, being the east bounds of aforesaid alleyway (right of way) on a bearing of N28°15'06"W, a distance of 58.15 feet to where a "PK" nail was set for the most westerly corner of the herein described parcel in the southeast bounds of Wall Street. Thence, northeasterly along the southeast bounds of Wall Street the following courses and distances: 1) N61°47'55"E, a distance of 72.00 feet to a point. 2) N59°32'55"E, a distance of 79.08 feet to where a 5/8" steel rod in a drill hole was set for the most northerly corner of the premises of Otsego County Development Corporation Re: L1110 P506. Said 5/8" steel rod is in the most westerly corner of other lands of the Otsego County Development Corporation, Re: L1127 P547. Thence, northeasterly along the southeasterly bounds of Wall Street on a bearing of N59°32'55"E a distance of 49.41 feet to where a 5/8" steel rod was set in a drill hole in the most northerly corner of lands now or formerly of the Otsego County Development Corporation Re: L1127 P547 being the most westerly corner of lands now or formerly of Richard Polgar Re: L674 P1036. Thence, southeasterly along the southwesterly bounds of said Polgar's land on a bearing of S31°05'41"E, a distance of 74.39 feet to a point being the most southerly corner of

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said Polgar's land. Thence, northeasterly along the southeast bounds of said Polgar's land on a bearing of N59°19'22"E, a distance of 9.89 feet to a point being a corner of the herein described parcel in the most westerly corner of lands now or formerly of Bonnie S. Potter and Judith T. Baker Re: L674 P1036. Thence, southeasterly along the southwesterly bounds of said Potter and Baker's land on a bearing of S30°19'02"E, a distance 25.58 feet to a point being a corner of the herein described parcel; being the most southerly corner of the aforesaid Potter and Baker's land. Thence, northeasterly along the southeasterly bounds of Potter and Baker's land on a bearing of N63°47'36"E, a distance of 43.77 feet to where a 5/8" steel rod in a drill hole was set for the east-northeast corner of the herein described parcel in the westerly bounds of Dietz Street. Said rod is further referenced as being a corner of aforesaid Potter and Baker's land. Thence, southerly along the westerly bounds of Dietz Street on a bearing of S11°27'58"W, a distance of 7.49 feet to a point being an angle in said Dietz Street. Thence, southeasterly along the southwesterly bounds of Dietz Street on a bearing of S30°28'02"E, a distance of 28.17 feet to where a 5/8" steel rod in a drill hole was set for the most easterly corner of the herein described parcel. Said rod is in the northwesterly bounds of a brick alleyway (Windsor Avenue) and is in the most northerly corner of lands now or formerly of Abul Masud and Maria Masud Re: L1090 P27. Thence, southwesterly along the northwesterly bounds of said Abul Masud and Maria Masud's land Re: L1090 P27 and lands now or formerly of Wilber and Clark Enterprises, Inc. Re: L786 P1155 on a bearing of S59°41'08"W, a distance of 73.45 feet to where a 5/8" steel rod capped "Rasmussen Surveyors" was set for the most westerly corner of said Wilber and Clark's land Re: L786 P1155. Thence, southeasterly along the southwesterly bounds of said Wilber and Clark's land Re: L786 P1155 on a bearing of S29°02'32"E, a distance of 6.58 feet to where a 5/8" steel rod capped as above was set for a corner of the herein described parcel. Said capped rod is in the westerly bounds of lands of aforesaid Wilber and Clark Enterprises, Inc. Re: L786 P1155 and is the most northerly corner of lands now or formerly of Wilber and Clark Enterprises, Inc. Re: L711 P1102. Thence, southwesterly along the northwesterly bounds of said Wilber and Clark's land Re: L711 P1102 on a bearing of S59°45'12"W, a distance of 24.90 feet to where a 5/8" steel rod capped as above was set for the most southerly corner of lands now or formerly of the Otsego County Development Corporation Re: L1127 P547. Said capped rod is in the northwesterly bounds of lands now or formerly of Wilber and Clark Enterprises, Inc. Re: L711 P1102 and is the most easterly corner of lands now or formerly of the Otsego County Development Corporation Re: L1110 P506. Thence, southwesterly along the northwesterly bounds of said Wilber and Clark Enterprises, Inc.'s land Re: L711 P1102 on a bearing of S59°45'12"W, a distance of 25.23 feet to where a 5/8" steel rod capped as above was set for a corner of the herein described parcel, being the most westerly corner of said Wilber and Clark's land Re: L711 P1102. Thence, southeasterly along the southwest bounds of said Wilber and Clark's land and along the extents of a common party wall and beyond said wall on a bearing of S30°12'53"E, a distance of 112.85 feet to where a 5/8" steel rod in a drill hole was set for an east-southeast corner of the herein described parcel in the northwest bounds of Main Street. Thence, southwesterly along the northwest bounds of Main Street on a bearing of S59°31'58"W, a distance of 93.51 feet to the point and place of beginning containing 40492.48 square feet (0.9296 acre) of land. Bearings referred to are Record North per Filed Map 2383, City of Oneonta Engineer's Office.

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and extending from Wall Street southeasterly to a right of way thirteen feet in width extending from the above mentioned right of way westerly to Chestnut Street, Re: L1110 P506.

Also conveying the right to use, in common with others, said right of way extending to Chestnut Street, Re: L1110 P506.

Also conveying a right of way for ingress and egress at all times either on foot or with teams or vehicles or otherwise over and along a strip of land about ten feet in width know as Windsor Avenue and running and extending along the southerly bounds of the above described parcel, said right of way to be used by parties of the second part in common with others.

All the above is shown on survey map numbered 34-637, dated June 7, 2012, prepared by Rasmussen Land Surveyors, 8 Highland Street, Oneonta, N.Y.