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TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY

AND

SITTERLY DEVELOPMENT ASSOCIATES, LLC

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**PAYMENT IN LIEU OF TAX AGREEMENT**

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DATED AS OF NOVEMBER 14, 2011

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## PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT dated as of November 14, 2011 ("Agreement") by and between the TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having its office at the Clifton Park Town Hall, One Town Hall Plaza, Clifton Park, New York 12065 (the "Lessor"), and SITTERLY DEVELOPMENT ASSOCIATES, LLC a limited liability company organized and existing under the laws of the State of New York and having an address of 695 Rotterdam Industrial Park, New York 12306 (the "Company");

### WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, being Title I of Article 18-A of the General Municipal Law, Chapter 24, of the Consolidated Laws of the State of New York, as amended (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 and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any buildings or other improvements, 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, among other things, 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 of New York and to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell any or all of its facilities and to issue its bonds for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of, and interest on, any such bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities whether then owned or thereafter acquired, and to pledge the revenues and receipts from the lease or sale thereof to secure the payment of such bonds and interest thereon; and

WHEREAS, the Lessor was created pursuant to and in accordance with the provisions of the Enabling Act by Chapter 630 of the Laws of 1980 of the State of New York, as amended (said chapter and the Enabling Act being hereinafter collectively referred to as 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 of New York and improve their standard of living; and

WHEREAS, the Lessor, by resolution adopted on June 27, 2011 (the "Resolution"), resolved to undertake a project (the "Project") consisting of (A) (1) the acquisition of a ground leasehold interest in an approximately 7.1 acre parcel of land located at 103 Sitterly Road in the Town of Clifton Park, New York and bearing tax map #272.-1-40.1 and more particularly described on Schedule A attached hereto (the "Land"), (2) the construction on the Land of an approximately 38,000 square foot building to be subleased to Ellis Hospital ("Ellis") to be utilized as an urgent care facility as well as for laboratory and imaging services and potentially medical offices (the "Facility") and (3) the acquisition and installation in the Facility of certain machinery and equipment (collectively, the "Equipment" and together with the Land and the Facility, collectively the "Project Facility"); (B) the lease (with the obligation to purchase) or the 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 (C) the providing by the Agency of certain "financial assistance" (as defined in the

Act) in the form of exemptions from mortgage recording tax, state and local sales tax and real property taxes and

WHEREAS, the Lessor will lease the Project Facility to the Company pursuant to the terms of a lease agreement dated as the date hereof (as amended from time to time, the "Lease Agreement") by and between the Lessor and the Company; and

WHEREAS, financing for the Project will be provided by a loan from NBT Bank, National Association (the "Bank") to the Company; 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 Lessor is not required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, supervision or control or upon its activities; and

WHEREAS, pursuant to the provision of Section 6.6 of the Lease Agreement, the Company has agreed to make payments in lieu of real estate taxes with respect to the Project Facility in the amounts and in the manner hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

DEFINITION OF TERMS. The following capitalized terms used herein shall have the following meanings:

(1) "Eligible Subtenant" shall mean a person or entity which meets the following criteria as determined by the Lessor:

(i) such is engaged in the practice of medicine in a specialty field which supports, and has a substantial nexus to, the provisions of urgent care services consistent with those services being provided by Ellis at the Facility, including, but not limited to, primary care (inclusive of obstetrician and gynecological services), cardiology, orthopedics, general surgery, pulmonology/critical care and neurosciences; and

(ii) the operations of such person or entity within the Facility demonstrates substantial integration with the provision of urgent care services as evinced by an agreement by such person or entity to provide an enhanced level of service to urgent care patients being treated at the Facility which is consistent with the urgent care needs of the community being serviced by Ellis' operations at the Facility.

(2) "Non-Eligible Subtenant" shall mean a person or entity other than Ellis or an Eligible Subtenant" which occupies space within the Facility and which has not been otherwise approved by the Lessor for real property tax abatements in accordance with its adopted policies in effect from time to time.

All other capitalized words and terms used herein and not otherwise defined herein shall have the meanings assigned to such words and terms in the Lease Agreement.

## ARTICLE I

### REPRESENTATIONS AND WARRANTIES

SECTION 1.01. REPRESENTATIONS AND WARRANTIES OF LESSEE. The Company represents and warrants that:

(A) Power: The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York and has the power and capacity to perform the obligations hereunder.

(B) Authorization: Neither the execution and delivery of this Agreement, the consummation by the Company of the transactions contemplated hereby nor the fulfillment by the Company of or compliance by the Company with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of the articles of organization or operating agreement of the Company or of any order, judgment, agreement, or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing.

(C) Governmental Consent: To the knowledge of the Company 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 precedent to the execution, delivery or performance of this Agreement by the Company or as a condition precedent to the consummation by the Company of the transactions contemplated hereby.

SECTION 1.02. REPRESENTATIONS AND WARRANTIES OF THE LESSOR. The Lessor represents and warrants that:

(A) Power: The Lessor is duly established under the provisions of the Act and has the power to enter into this Agreement and to carry out its obligations hereunder. By proper official action, the Lessor has been duly authorized to execute, deliver and perform this Agreement.

(B) Authorization: Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby by the Lessor nor the fulfillment by the Lessor or compliance by the Lessor with the provisions of this Agreement will conflict with or result in a breach by the Lessor of any of the terms, conditions or provisions of the Act, the by-laws of the Lessor, or any order, judgment, restriction, agreement or instrument to which the Lessor is a party or by which it is bound, or will constitute a default by the Lessor under any of the foregoing.

(C) Governmental Consent: To the knowledge of Lessor no consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Lessor is required as a condition precedent to the execution, delivery or performance of this Agreement by the Lessor or as a condition precedent to the consummation by the Lessor of the transactions contemplated hereby.

## ARTICLE II

### COVENANTS AND AGREEMENTS

#### SECTION 2.01. TAX-EXEMPT STATUS OF PROJECT FACILITY.

(A) Assessment of Facility: Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the parties hereto acknowledge that, upon acquisition of the Project Facility by the Lessor, and for so long thereafter as the Lessor 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 Lessor of title to the Project Facility. The Company shall promptly, following acquisition by the Lessor of title to the Project Facility, cooperate to ensure that the Project Facility is assessed as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to such acquisition by the Lessor, and for so long thereafter as the Lessor shall own 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 Lessor will cooperate with the Company and will take all action as may be necessary (subject to the provisions of Section 3.01 hereof) to preserve the tax exempt status of the Project Facility. Pursuant to the provisions of the Lease Agreement, the Partnership will be required to pay to the appropriate Taxing Entity all taxes and assessments lawfully levied and/or assessed by the appropriate Taxing Entity 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 appropriate Taxing Entity.

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

#### SECTION 2.02. PAYMENTS IN LIEU OF TAXES.

(A) Agreement to Make Payments: The Company agrees that it will make annual payments in lieu of real estate taxes with respect to the Project Facility to the Lessor in the amounts hereinafter provided for redistribution to the respective Taxing Entities in proportion to the amounts which said Taxing Entities would have received had not the Project Facility been acquired and owned by the Lessor.

(B) Amount of Payments in Lieu of Taxes:

(1) Space Occupied by Ellis: During the term of this Agreement, , no payments in lieu of real estate taxes shall be due, owing and payable by the Company to the Lessor with respect to that portion of the Project Facility occupied by Ellis.

(2) Space Occupied by Eligible Subtenants. During the term of this Agreement, , no payments in lieu of real estate taxes shall be due, owing and payable by the Company to the Lessor with respect to that portion of the Project Facility occupied by an Eligible Subtenant. At any time during the term of this Agreement should the Lessor make an initial determination that any subtenant of the Facility does not

constitute an Eligible Subtenant, the Company shall have sixty (60) days from receipt of written notice of such determination to provide a written response to the Lessor regarding such determination. In the event the Company shall fail to respond within (60) days or upon receipt of a response from the Company, the Lessor shall determine that a particular subtenant of Ellis occupying space within the Facility does not constitute an Eligible Subtenant, then payments in lieu of tax shall be due with respect to the space within the Facility occupied by such subtenant in the manner set forth in subparagraph (B) (3) of this Section 2.02.

(3) Space Occupied by Non-Eligible Subtenants. For any portion of the Project Facility occupied by a Non-Eligible Subtenant, payments in lieu of real estate taxes shall be due, owing and payable by the Company to the Lessor on account of town and county and school taxes in an amount to be determined by multiplying (i) a percentage amount equal to the ratio of the gross leasable square footage of the Project Facility to the portion of the gross leasable square footage of the Project Facility occupied by said Non-Eligible Subtenant times (ii) the Assessed Value of the Project Facility determined pursuant to Section 4 of this Section 2.02 by (iii) the tax rate or rates of the Town of Clifton Park and Saratoga County/Shenendehowa Central School District applicable to the Project Facility for the current tax year of the Town of Clifton Park/Shenendehowa Central School District

(4) (a) For purposes of this Section 2.02 the "Assessed Value" of the Land or the Project Facility, as applicable, shall be determined by the appropriate officer or officers of the Taxing Entity responsible for assessing properties in each Taxing Entity (said officer or officers being hereinafter collectively referred to as the "Assessor"). The Assessor shall (a) appraise the Land or the Project Facility, as applicable, (excluding, where permitted by law, personal property) in the same manner as other similar properties in said Taxing Entity and (b) place a value for assessment purposes upon the Land or the Project Facility, as applicable, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The parties acknowledge and agree that the Assessed Value may be modified at the time of any general reassessment of real property values in the Town of Clifton Park.

(b) If the Company is dissatisfied with the amount of Assessed Value of the Project Facility as initially established or as changes, the Company may pursue review of the Assessed Value under Article 7 of the New York State Real Property Tax Law or any other law or ordinance then in effect relating to disputes over assessed valuation of real property in the State of New York, and may take any and all other action available to it at law or in equity. The Lessor hereby irrevocably appoints the Company its attorney-in-fact and agent (coupled with an interest) for the purpose of commencing any proceeding, preparing and filing all documents and taking any and all other actions required to be taken by Lessor, necessary or desirable, in the opinion of the Company, to contest or dispute any Assessed Value; provided, however, that the Lessor shall incur no expense or liability in connection with any action taken or omitted to be taken by its attorney-in-fact and agent.

(5) 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 (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 "Normal Tax") which would be payable to each Taxing Entity

if such Additional Facilities were owned by the Company and not the Agency by multiplying (a) the additional Assessed Value of such Additional Facilities determined pursuant to subsection (B)(4) 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 calendar year during the term of this Agreement (commencing in the calendar year when such Additional Facilities first appear 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 with respect to such Additional Facilities pursuant to this 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 calendar 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).

SECTION 2.03. INTEREST. If the Company shall fail to make any payment required by this Agreement when due, its obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with late fees and interest thereon equal to the greater of (A) any late fees and interest which would be applicable with respect to each Taxing Entity were the Project Facility owned by the Company and not the Lessor and (B) the late fees and interest prescribed by subsection (5) of Section 874 of the General Municipal Law of the State of New York (or any successor statute thereto).

## ARTICLE III

### LIMITED OBLIGATION OF THE LESSOR

#### SECTION 3.01. NO RECOURSE; LIMITED OBLIGATION OF THE LESSOR.

(A) No Recourse: All covenants, stipulations, promises, agreements and obligations of the Lessor contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Lessor and not of any member, officer, agent, servant or employee of the Lessor in his individual capacity, and no recourse under or upon any obligation, covenants or agreement contained in this Agreement, or otherwise based upon or in respect of this 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 Lessor or any successor public benefit corporation or political subdivision or any person executing this Agreement on behalf of the Lessor, either directly or through the Lessor or any successor public benefit corporation or political subdivision or any person so executing this Agreement, it being expressly understood that this 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 Lessor or of any successor public benefit corporation or political subdivision or any person so executing this Agreement under or by reason of the obligations, covenants or agreements contained in this 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 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 Agreement.

(B) Limited Obligation: The obligations and agreements of the Lessor contained herein shall not constitute or give rise to an obligation of the State of New York or the Town of Clifton Park, New York, and neither the State of New York nor the Town of Clifton Park, New York shall be liable thereon, and further such obligations and agreements shall not constitute or give rise to a general obligation of the Lessor, but rather shall constitute limited obligations of the Lessor payable solely from the revenues of the Lessor derived and to be derived from the lease, sale or other disposition of the Project Facility.

(C) Further Limitation: Notwithstanding any provision of this Agreement to the contrary, the Lessor shall not be obligated to take any action pursuant to any provision hereof unless (1) the Lessor 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 Lessor (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Lessor shall have received from the Company security or indemnity and an agreement from the Company satisfactory to the Lessor to defend and hold harmless the Lessor 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 (hereinafter an "Event of Default") shall constitute a default under this Agreement:

(A) Failure of the Company to pay any amount due and payable by it pursuant to this 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 by it 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 the Company shall have commenced action to cure the breach of such 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 a period not to exceed ninety (90) days from the date of receipt by the Company of such notice; or

(C) Any warranty or representation by the Company contained in this 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 Agreement and such falsity or incorrectness has a material adverse affect on the Company's ability to perform its obligations under this Agreement.

SECTION 4.02. REMEDIES ON DEFAULT. Whenever any Event of Default shall have occurred and be continuing with respect to this Agreement, the Lessor 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 Agreement including, without limitation, the exercise by the Lessor of the remedy set forth in Section 10.2 of the Lease Agreement. Pursuant to Section 5.6 of the Lease Agreement, the Lease Agreement constitutes a first priority lien on the Project Facility as security for the payments due to the Lessor hereunder. 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. The Company irrevocably agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of the State of New York, 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. If an Event of Default should occur and be continuing under this Agreement and the Lessor should employ attorneys or incur other reasonable expenses for the collection of any amounts due and payable hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor by the Lessor, reimburse the Lessor for the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred, whether or not an action is commenced.

SECTION 4.04. REMEDIES; WAIVER AND NOTICE.

(A) No Remedy Exclusive: Notwithstanding anything to the contrary contained herein, no remedy herein conferred upon or reserved to the Lessor or the Company 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 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 an 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 Lessor to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Agreement.

(D) No Waiver: In the event any provision contained in this 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 Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM OF AGREEMENT.

(A) General: This Agreement shall become effective and the obligations of the Company and the Lessor shall arise absolutely and unconditionally upon the execution and delivery of this Agreement by the Company and the Lessor. This Agreement shall continue to remain in effect until the termination of the Lease Agreement in accordance with its terms.

(B) Extended Term: In the event that (1) title to the Project Facility shall be conveyed to the Company, (2) on the date on which the Company obtains title to the Project Facility, the Project Facility shall be assessed as exempt upon the assessment roll of any one or more of the Taxing Entities solely as a result of the Lessor's prior ownership of the Project Facility, and (3) the fact of obtaining title shall not immediately obligate the Company to make pro rata tax payments pursuant to legislation similar to Chapter 635 of the 1978 Laws of New York (codified as subsection 3 of Section 302 of the Real Property Tax Law and Section 520 of the Real Property Tax Law), this Agreement shall remain in full force and effect but only to the extent set forth in this sentence and the Company shall be obligated to make payments to the Lessor in amounts equal to the Normal Tax which would be due from the Company if the Project Facility were owned by the Company and not the Lessor 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 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. AMENDMENT OF AGREEMENT. This Agreement may not be amended, changed, modified, altered, supplemented or terminated unless such amendment, change, modification, alteration or termination is in writing and unless signed by the party against which enforcement of the amendment, change, modification, alteration, supplement or termination shall be sought.

SECTION 5.05. NOTICES. All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (A) 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 (including, but not limited to, overnight delivery) or (B) delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery. The address to which notices, certificates and other communications hereunder shall be delivered are as follows:

(A) TO THE LESSOR:

Town of Clifton Park Industrial Development Agency  
One Town Hall Plaza  
Clifton Park, New York 12065  
Attention: Chairman

WITH A COPY TO:

Jean M. Mahserjian, Esq., PC  
Clifton Executive Park  
1741 Route 9  
Clifton Park, New York 12065  
Attention: Jean M. Mahserjian, Esq.

(B) TO THE COMPANY:

Sitterly Development Associates, LLC  
695 Rotterdam Industrial Park  
Schenectady, New York 12305  
Attention: David Buicko

WITH A COPY TO:

Steven K. Porter, Esq.  
695 Rotterdam Industrial Park  
Schenectady, New York 12305

provided, that the Lessor and the Company may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

SECTION 5.06. BINDING EFFECT. This Agreement shall inure to the benefit of, and shall be binding upon, the Lessor, the Company and their respective successors and assigns.

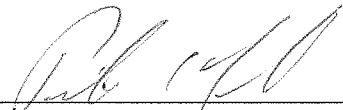
SECTION 5.07. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, 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 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 5.08. APPLICABLE LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of New York including all matters of construction, validity and performance.

SECTION 5.09. ASSIGNMENT. This Agreement may not be assigned by the Company absent the prior written consent of the Lessor.

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

TOWN OF CLIFTON PARK INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Peter Fort, Chairman

SITTERLY DEVELOPMENT ASSOCIATES, LLC


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

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

TOWN OF CLIFTON PARK INDUSTRIAL  
DEVELOPMENT AGENCY

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

SITTERLY DEVELOPMENT ASSOCIATES, LLC

By:  \_\_\_\_\_  
Name: David M. Buiguo  
Title: Auth Rep

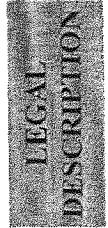
# FIDELITY NATIONAL TITLE INSURANCE COMPANY

Issued by

**SNEERINGER MONAHAN PROVOST REDGRAVE  
TITLE AGENCY, INC.**

## SCHEDULE A DESCRIPTION

All that certain tract, piece or parcel of land situate in the Town of Clifton Park, County of Saratoga, State of New York, lying along the northeasterly line of Sitterly Road, east of Clifton Park Center Road, west of The Adirondack Northway (I-87) and being further bounded and described as follows:



Commencing at the point of intersection of the easterly line of Clifton Park Center Road and the northerly line of Sitterly Road with the common division line of lands now or formerly of John A. Holland, III as conveyed in Book 1230 of Deeds at Page 452 to the northeast and lands of a 0.098 +/- acre parcel to be conveyed to The Town of Clifton Park to the southwest; thence from said point of commencement along said common division line, South 51 deg. 27 min. 30 sec. East, 26.71 feet to the point of beginning of the hereinafter described parcel of land; thence from said point of beginning along the common division line of said lands of John A. Holland, III as conveyed in Book 1230 of Deeds at Page 452 to the northeast and lands now or formerly of The First National Bank of Glens Falls as conveyed in Book 1394 of Deeds at Page 790 to the southwest the following two (2) courses and distances:

- 1) South 51 deg. 27 min. 30 sec. East, 194.36 feet to a point marked with a capped iron rod found;
- 2) South 55 deg. 03 min. 30 sec. East, 285.93 feet to a point marked with a concrete monument found; thence along the common division line of said lands of John A. Holland, III as conveyed in Book 1230 of Deeds at Page 452, in part, and other lands now or formerly of John A. Holland, III as conveyed in Book 1052 of Deeds at Page 243 to the west and north and said lands of The First National Bank of Glens Falls as conveyed in Book 1394 of Deeds at Page 790 to the east and south the following two (2) courses and distances:

- 1) North 21 deg. 17 min. 30 sec. East, 392.57 feet to a point marked with a broken concrete monument found;
- 2) North 84 deg. 11 min. 30 sec. East, 142.69 feet to a point marked with a capped iron rod found in the westerly line of lands of The People of the State of New York, Adirondack Northway (I-87); thence along said westerly line the following four (4) courses and distances:

- 1) South 08 deg. 10 min. 30 sec. East, 1.42 feet to a point marked with a granite monument found;
- 2) South 04 deg. 51 min. 36 sec. East, 751.35 feet to a point;
- 3) South 16 deg. 45 min. 45 sec. East, 72.90 feet to a point;
- 4) South 04 deg. 12 min. 16 sec. West, 109.48 feet to a point in the northeasterly line of Sitterly Road; thence along said northeasterly line the following four (4) courses and distances:

- 1) North 67 deg. 09 min. 57 sec. West, 181.84 feet to a point;
- 2) North 51 deg. 13 min. 51 sec. West, 233.20 feet to a point;
- 3) North 35 deg. 41 min. 22 sec. West, 335.42 feet to a point;
- 4) North 34 deg. 56 min. 42 sec. West, 122.45 feet to the point of intersection of said northeasterly line with the common division line of a 0.098 +/- acre parcel of land to be conveyed to The Town of Clifton Park to the northwest and lands now or formerly of the First National Bank of Glens Falls as conveyed in Book 1394 of Deeds at Page 790 to the southeast; thence along said common division line the following three (3) courses and distances:

- 1) North 10 deg. 03 min. 20 sec. East, 21.21 feet to a point;

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# FIDELITY NATIONAL TITLE INSURANCE COMPANY

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- 2) North 34 deg. 56 min. 42 sec. West, 210.00 feet to a point;
- 3) North 17 deg. 17 min. 21 sec. West, 53.71 feet to the point or place of beginning containing 7.007 +/- acres of land.

THE ABOVE PREMISES ARE MORE ACCURATELY DESCRIBED AS FOLLOWS:

ALL that plot piece or parcel of land situate and being in the Town of Clifton Park, County of Saratoga and State of New York, bounded and described as follows:

BEGINNING at a point at the northeasterly side of the lands now or formerly of the Town of Clifton Park, described in Book 1483 of deeds at page 575, said point marked by a capped iron rod set at the most northwesterly corner of the herein described parcel, a point on the southerly bounds of lands of Belmonte, described in Book 1535 of deeds at page 225; said point being located S 51 deg. 31 min.05 sec. E 26.71 feet from a point at the intersection of the southeasterly side of Clifton Park Center Road with the northeasterly side of Sitterly Road; thence along lands of Belmonte, S 51 deg. 31 min.05 sec. E 194.36 feet to a capped iron rod set, S 55 deg. 07 min.05 sec. E 285.93 feet to a concrete monument, continuing along lands of Belmonte and along other lands now or formerly of Belmonte described in Book 1495 of deeds at page 302, N 21 deg. 13 min.55 sec. E 392.57 feet to a capped iron rod set and N 84 deg. 07 min.55 sec. E 142.69 feet to a capped iron rod set; thence along the westerly side of Interstate 87 Adirondack Northway, S 8 deg. 14 min.05 sec. E 1.42 feet to a concrete monument, S 4 deg. 55 min.11 sec. E 751.35 feet to a capped iron rod set, S 16 deg. 49 min.20 sec. E 72.90 feet and S 4 deg. 08 min.41 sec. W 109.48 feet to a point at the northeasterly side of Sitterly Road; thence along the same, N 67 deg. 13 min.32 sec. W 181.84 feet to a capped iron rod set, N 51 deg. 17 min.26 sec. W 233.20 feet to a capped iron rod set, N 35 deg. 44 min.57 sec. W 335.42 feet to a capped iron rod set, N 35 deg. 00 min.17 sec. W 122.45 feet to a capped iron rod set; thence along lands of the Town of Clifton Park, N 9 deg. 59 min.45 sec. E 21.21 feet to a capped iron rod set, N 35 deg. 00 min.17 sec. W 210.00 feet to a capped iron rod set and N 17 deg. 20 min.56 sec. W 53.71 feet to the point or place of beginning.

CONTAINING 7.01 ACRES OF LAND

BEING and intended to be all that certain tract or parcel of land described in a conveyance from GKF Realty, LLC to Alpin Haus Ski Shop, Inc. by deed dated December 20, 2001 and recorded in Book 1604 of deeds at page 682.

Said parcel is made subject to a nonexclusive Ingress/Egress Easement and being further bounded and described as follows:

Beginning at a point in the northeasterly line of Sitterly Road, said point located the following two (2) courses and distances, from the point of intersection of the easterly line of Clifton Park Center Road with the said northeasterly line as measured along Sitterly Road:

- 1) South 17 deg. 17 min. 21 sec. East, 78.14 feet to a point;
- 2) South 34 deg. 56 min. 42 sec. East, 248.61 feet said point of beginning of the hereinafter described Ingress/Egress Easement; thence from said point of beginning through lands now or formerly of The First National Bank of Glens Falls as conveyed in Book 1394 of Deeds at Page 790 the following two (2) courses and distances:

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1) North 38 deg. 41 min. 30 sec. East, 76.64 feet to a point;  
2) North 52 deg. 53 min. 32 sec. West, 189.96 feet to a point in the northeasterly line of a 0.098+/- acre parcel to be conveyed to the Town of Clifton Park; thence along said proposed northeasterly line of the 0.098 +/- acre parcel, the following two (2) courses and distances:

1) North 34 deg. 56 min. 42 sec. West, 43.98 feet to a point;  
2) North 17 deg. 17 min. 21 sec. West, 53.71 feet to a point in the southwesterly line of lands now or formerly of John Holland, III; thence along said southwesterly line the following two (2) courses and distances:

1) South 51 deg. 27 min. 30 sec. East, 194.36 feet to a point marked with a capped iron rod found;  
2) South 55 deg. 03 min. 30 sec. East, 285.93 feet to point marked with a concrete monument found; thence through said lands of The First National Bank of Glens Falls the following three (3) courses and distances:

1) South 21 deg. 17 min. 30 sec. West, 63.28 feet to a point;  
2) North 51 deg. 18 min. 29 sec. West, 162.00 feet to a point;  
3) South 38 deg. 41 min. 30 sec. West, 90.27 feet to a point in the northeasterly line of Sitterly Road; thence along said northeasterly line, North 34 deg. 56 min. 42 sec. West, 62.53 feet to the point or place of beginning of said Ingress/Egress Easement containing 26,442 +/- square feet of land more or less.

Together with a 25' wide permanent easement for a sanitary sewer line and temporary easement for construction of said sewer line over lands now or formerly of John A. Wood and Gerald Arzoumanian bounded and described as follows:

All that certain tract, piece or parcel of land situate in the Town of Clifton Park, County of Saratoga, State of New York, lying Easterly of Clifton Park Center Road and Westerly of Interstate Route 87 - Adirondack Northway, and being more particularly bounded and described as follows:

BEGINNING at a point on the division line between the lands now or formerly of John A. Wood and Gerald Arzoumanian as described in Book 1076 of Deeds at Page 428 and Book 1194 of Deeds at Page 158 on the North and the lands now or formerly of Northstar Chevrolet, Inc. as described in Book 1684 of Deeds at Page 529 on the South, said point being situate South 68 deg. 05 min. 30 sec. West as measured along said division line 11+/- feet from its point of intersection with the Westerly right-of-way boundary of Interstate Route 87 - Adirondack Northway and runs thence from said point of beginning along the above first mentioned division line South 68 deg. 05 min. 30 sec. West 26+/- feet to a point; thence through the said lands now or formerly of John A. Wood and Gerald Arzoumanian the following two (2) courses: 1) North 05 deg. 30 min. 00 sec. West 119+/- feet to a point; and 2) North 11 deg. 03 min. 00 sec. West 214+/- feet to a point; thence continuing through the said lands now or formerly of John A. Wood and Gerald Arzoumanian and along the Southerly boundary of an existing sanitary sewer easement previously granted to the Saratoga County Sewer District No. 1 as described in Book 994 of Deeds at Page 92 Parcel 6/3 North 82 deg. 24 min. 00 sec. East 25+/- feet to a point on the Westerly highway boundary of Interstate Route 87 - Adirondack Northway; thence along said Westerly highway boundary South 11 deg. 03 min. 00 sec. East 214+/- feet to a point; thence continuing through the said lands now or formerly of John A. Wood and Gerald

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**TITLE AGENCY, INC.**

Arzoumanian South 05 deg. 30 min. 00 sec. East 113+/- feet to the point or place of beginning and containing 8,247+/- square feet or 0.19 acre of land, more or less.

Being a strip of land 25 feet in width and 330+/- feet in length as measured along its centerline to be used for the installation and maintenance of a sanitary sewer force main and its appurtenances.

Together with a 25' permanent easement for a sanitary sewer line and temporary easement for construction of said sewer line over lands now or formerly of Peter J. Belmonte, Sr. bounded and described as follows:

All that certain tract, piece or parcel of land situate in the Town of Clifton Park, County of Saratoga, State of New York, lying Easterly of Clifton Park Center Road and Westerly of Interstate Route 87 - Adirondack Northway, and being more particularly bounded and described as follows:

BEGINNING at a point on the division line between the lands now or formerly of Peter J. Belmonte, Sr. as described in Book 1495 of Deeds at Page 302 on the North and the lands now or formerly of Alpin Haus Ski Shop, Inc. as described in Book 1604 of Deeds at Page 682 on the South, said point being situate South 84 deg. 22 min. 18 sec. West as measured along said division line 24+/- feet from its point of intersection with the Westerly highway boundary of Interstate Route 87 - Adirondack Northway and runs thence from said point of beginning along the above first mentioned division line South 84 deg. 22 min. 18 sec. West 25+/- feet to a point; thence through the said lands now or formerly of Peter J. Belmonte, Sr. North 08 deg. 00 min. 00 sec. West 312+/- feet to a point on the division line between the said lands now or formerly of Peter J. Belmonte, Sr. on the South and lands now or formerly of Northstar Chevrolet, Inc. as described in Book 1684 of Deeds at Page 529 on the North; thence North 88 deg. 38 min. 28 sec. East along the last mentioned division line 25+/- feet to a point; thence through the said lands now or formerly of Peter J. Belmonte, Sr. South 08 deg. 00 min. 00 sec. East 311+/- feet to the point or place of beginning and containing 7,788+/- square feet or 0.18 acre of land, more or less.

Being a strip of land 25 feet in width and 312+/- feet in length as measured along its centerline to be used for the installation and maintenance of a sanitary sewer force main and its appurtenances.

Together with a 25' wide permanent easement for a sanitary sewer line and temporary easement for construction of said sewer line over lands now or formerly of Northstar Chevrolet, Inc., bounded and described as follows:

All that certain tract, piece or parcel of land situate in the Town of Clifton Park, County of Saratoga, State of New York, lying Easterly of Clifton Park Center Road and Westerly of Interstate Route 87 - Adirondack Northway, and being more particularly bounded and described as follows:

BEGINNING at a point on the division line between the lands now or formerly of Northstar Chevrolet, Inc. as described in Book 1684 of Deeds at Page 529 on the North, and the lands now or formerly of Peter J. Belmonte, Sr. as described in Book 1495 of Deeds at Page 302 on the South, said point being situate South 88 deg. 38 min. 28 sec. West as measured along said division line 24+/- feet from its point of intersection with the Westerly highway boundary of Interstate Route 87 - Adirondack Northway and runs thence from said point of beginning along the above first mentioned division line South 88 deg. 38 min. 28 sec. West 25+/- feet to a point; thence through the said lands now or formerly of Northstar Chevrolet, Inc. the following two (2) courses: 1) North 08 deg. 00 min. 00 sec. West 59+/- to a point and 2) North 05 deg. 30 min. 00 sec. West 314+/- feet to a point on the division

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line between the said lands now or formerly of Northstar Chevrolet, Inc. on the South and lands now or formerly of John A. Wood and Gerald Arzoumanian as described in Book 1076 of Deeds at Page 428 (Second Parcel) on the North; thence North 68 deg. 05 min. 30 sec. East along the last mentioned division line 26+/- feet to a point; thence through the said lands now or formerly of Northstar Chevrolet, Inc. the following two (2) courses: 1) South 05 deg. 30 min. 00 sec. East 321+/- feet to the point and 2) South 08 deg. 00 min. 00 sec. East 61+/- feet to the point or place of beginning and containing 9,428+/- square feet or 0.22 acre of land, more or less.

Being a strip of land 25 feet in width and 317+/- feet in length as measured along its centerline to be used for the installation and maintenance of a sanitary sewer force main and its appurtenances.

The above sewer line easements were conveyed to Ellis Hospital by a Deed of Easement from Alpin Haus Ski Shop, Inc. dated September 22, 2010 recorded September 23, 2010 as Instrument #2010030779.

Together with and subject to terms of a Water Easement from Ellis Hospital to Clifton Park Water Authority, dated November \_\_\_\_\_, 2011 and recorded in the Saratoga County Clerk's Office November \_\_\_\_\_, 2011 as Instrument No. \_\_\_\_\_.

Together with and subject to terms of a Deed of Easement from Ellis Hospital to The Town of Clifton Park for purposes of a bicycle path and highway improvements, dated November \_\_\_\_\_, 2011 and recorded in the Saratoga County Clerk's Office on November \_\_\_\_\_, 2011 as Instrument No. \_\_\_\_\_.

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