

**AMENDED AND RESTATED  
PAYMENT IN LIEU OF TAXATION AGREEMENT**

*THIS AMENDED AND RESTATED PAYMENT IN LIEU OF TAXATION AGREEMENT* ("PILOT Agreement"), is dated as of this 1<sup>st</sup> day of March, 2017 by and between COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized and existing under the laws of the State of New York, with its principal office located at One Cablevision Center, Ferndale, New York 12734 ("Agency") and HUDSUT LLC, a New York limited liability company, having a mailing address of 80 Brooks Road, Ferndale, New York 12734 ("Company").

**RECITALS**

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

*WHEREAS*, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell 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 facilities, in order to advance job opportunities, health, general prosperity and the 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 to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable; and

*WHEREAS*, pursuant to and in connection with the provisions of the Enabling Act, Chapter 560 of the Laws of 1970 of the State (collectively referred to as the "Act") created the Agency which is empowered under the Act to undertake the providing, financing and leasing of the facility described below; and

*WHEREAS*, on or about September 27, 1988, the Agency, as landlord and Sutphen East Corporation ("Sutphen"), as tenant entered into a lease ("Lease") of 4.8 acres of vacant land located at the Sullivan County Airport Industrial Park which is depicted on the 2016 Town of Bethel tax map as Section 18, Block 1, Lot 16.4 ("Land"); and

*WHEREAS*, pursuant to the Lease, Sutphen, at its sole cost and expense, constructed a 70'x150' steel frame building on the Land; and

*WHEREAS*, by application made on or about December 6, 1999, Sutphen applied to the Agency for authorization and financial assistance for the construction of a second building, being 70x100 feet in size, on the Land ("Second Building"); and

*WHEREAS*, on or about January 1, 2000, Sutphen and the Agency entered into an Agent Agreement pursuant to which the Agency appointed Sutphen as its Agent to construct the Second Building (“Agent Agreement”); and

*WHEREAS*, the Second Building was completed by Sutphen, at its sole cost and expense, in 2001; and

*WHEREAS*, on or about April 1, 2000, Sutphen and the Agency terminated the Lease and contemporaneously entered into a new straight lease transaction (“Sutphen Project”) and in furtherance thereof entered into various agreements including but not limited to a Lease Agreement and a Payment in Lieu of Tax Agreement (“Sutphen Transaction Documents” together with the Agent Agreement, collectively the “Sutphen Agency Documents”); and

*WHEREAS*, Sutphen desires to transfer, assign and convey to the Company the Sutphen Project and all of its right, title and interest in and to the Sutphen Agency Documents, and the Company, subject to the terms and conditions of the Sutphen Agency Documents, desires to accept and purchase all of Sutphen’s right, title and interest in and to the Sutphen Project and the Sutphen Agency Documents; and

*WHEREAS*, the Company and its affiliate HVFG LLC (“HVFG”) has presented an application (“Application”) to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency (i) consent to the assignment of the of the Sutphen Project and all right, title and interest in and to the Sutphen Agency Documents to the Company; (ii) consider undertaking the: (A) reconstruction and equipping of the two (2) existing buildings (“Buildings”) to include (1) an installation of a 5,000 square foot freezer (“Freezer”); and (2) construction of processing rooms; (B) installation thereon and therein of certain furniture fixtures, machinery and equipment (“Equipment”); (C) the installation of the Freezer and the processing rooms and related improvements to the Buildings, the Equipment and other improvements therein; and (D) the Land (collectively referred to as the “Facility” or “Project”) and (E) the lease of the Facility from the Agency to the Company; and

*WHEREAS*, by resolution, dated November 28, 2016, the Agency authorized the Company to act as its agent for the purposes of acquiring, reconstructing and equipping the Facility subject to the Company entering into an Agent Agreement; and

*WHEREAS*, by Assignment and Assumption of Lease Agreement and Related Documents and Consent of Agency of even date herewith (“Assignment”) Sutphen transferred, assigned and conveyed to Company the Sutphen Project and all of its rights, title and interest in and to the Agency Documents as it related to the Real Property, and the Company, subject to the terms and conditions of the Assignment, accepted and assumed all of Sutphen’s obligations under the Sutphen Project and the Sutphen Agency Documents relating to the Real Property on or after the date of the Assignment; and

*WHEREAS*, to induce the Agency to consent to the Assignment, the Company agreed to amend and restate the Agency Documents to create a direct contractual obligation between the

Company and the Agency (collectively the “Amended and Restated Transaction Documents”); and

*WHEREAS*, from and after the date of the Assignment, the Agency shall lease the Real Property to the Company and the Company desires to rent the Real Property from the Agency, upon the terms and conditions hereinafter set forth in the Lease; and

*WHEREAS*, the Agency and the Company deem it necessary and proper to execute and deliver to the Agency a PILOT Agreement making provision for payments in lieu of taxes by the Company for the benefit of the County, and certain municipalities and taxing authorities located therein (collectively referred to as the “Taxing Jurisdictions”); and

*WHEREAS*, all agreements of the Agency and the Company relating to payments in lieu of taxes shall be governed by this PILOT Agreement.

*NOW, THEREFORE*, in consideration of the foregoing recitals and the mutual terms, conditions, limitations and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed as follows:

1. Agreement to Make Payments in Lieu of Taxes. As long as the Project is owned by the Agency, the Company agrees to pay annually to the Agency at One Cablevision Center, Ferndale, New York 12734, or at such other address as shall be designated from time to time by the Agency, annual payments in lieu of taxes (“PILOT Payments”) on or before the dates indicated below computed in accordance with this PILOT Agreement.
2. Computation of PILOT Payments. PILOT Payments shall be made in the amounts and in the manner contemplated by this Agreement on account of the premises located in the Town as more particularly described on Schedule A.
  - (a) Total Value Subject to PILOT. The total value subject to PILOT (“Total Value Subject to PILOT”) shall be the following amounts for the following years:

<b>Year</b>	<b>Payment Due Date</b>	<b>Total Value Subject to PILOT</b>
1	February 1, 2018	\$479,452
2	February 1, 2019	\$479,452
3	February 1, 2020	\$479,452
4	February 1, 2021	\$479,452
5	February 1, 2022	\$479,452

Year	Date	PILOT Base	Improvement Value	Exemption Percentage	Exemption Amount	Improvement Value Net of Exemption	Total Value Subject To PILOT
6	February 1, 2023	\$479,452	\$200,000	90%	\$180,000	\$ 20,000	\$499,452
7	February 1, 2024	\$479,452	\$200,000	80%	\$160,000	\$ 40,000	\$519,452
8	February 1, 2025	\$479,452	\$200,000	70%	\$140,000	\$ 60,000	\$539,452
9	February 1, 2026	\$479,452	\$200,000	60%	\$120,000	\$ 80,000	\$559,452
10	February 1, 2027	\$479,452	\$200,000	50%	\$100,000	\$100,000	\$579,452
11	February 1, 2028	\$479,452	\$200,000	40%	\$ 80,000	\$120,000	\$599,452
12	February 1, 2029	\$479,452	\$200,000	30%	\$ 60,000	\$140,000	\$619,452
13	February 1, 2030	\$479,452	\$200,000	20%	\$ 40,000	\$160,000	\$639,452
14	February 1, 2031	\$479,452	\$200,000	10%	\$ 20,000	\$180,000	\$659,452
15	February 1, 2032	\$479,452	\$200,000	0%	\$ 0	\$200,000	\$679,452

- (b) Calculation of Annual Payment in Lieu of Tax. The calculation of the annual PILOT Payments shall be made as follows:
- (i) The Total Value Subject to PILOT shall be multiplied by the equalization rate as defined in 2(c) hereof; and
- (ii) The annual PILOT Payment shall be determined by multiplying the amount derived in 2b(i) hereof by the tax rates identified in 2(d) hereof.
- (c) Equalization Rate. The equalization rate to be used in making the computation contemplated by 2b(i) hereof shall mean the equalization rate for the Town used by the County to allocate and levy County taxes in connection with the January 1st tax roll immediately preceding the due date of the PILOT Payments. In the event that the equalization rate shall exceed one hundred (100%) percent, the equalization rate used in making the computation contemplated by 2b(i) shall be one hundred (100%) percent.
- (d) Tax Rates. For the purposes of determining the amount of the PILOT Payments as contemplated by 2b(ii) hereof, the tax rates for each Taxing Jurisdiction shall mean the last tax rate used for levy of taxes by each such jurisdiction. For County and Town purposes, the tax rates used to determine the PILOT Payment shall be the tax rates relating to the calendar year which includes the PILOT Payment due date. For school district purposes, the tax rates used to determine the PILOT Payment shall be the rate relating to the school tax year which began in the calendar year immediately preceding the year in which the PILOT Payment is due. The chart which follows sets forth the years of the overall fourteen (14) year period governed by this PILOT Agreement; the date that a PILOT Payment is due; and the appropriate tax periods utilized in determining the tax rates for computing the PILOT Payment:

<b>Year</b>	<b>Payment Date</b>	<b>School Fiscal Year Beginning</b>	<b>County &amp; Town</b>
1	February 1, 2018	July 1, 2017	January 1, 2018
2	February 1, 2019	July 1, 2018	January 1, 2019
3	February 1, 2020	July 1, 2019	January 1, 2020
4	February 1, 2021	July 1, 2020	January 1, 2021
5	February 1, 2022	July 1, 2021	January 1, 2022
6	February 1, 2023	July 1, 2022	January 1, 2023
7	February 1, 2024	July 1, 2023	January 1, 2024
8	February 1, 2025	July 1, 2024	January 1, 2025
9	February 1, 2026	July 1, 2025	January 1, 2026
10	February 1, 2027	July 1, 2026	January 1, 2027
11	February 1, 2028	July 1, 2027	January 1, 2028
12	February 1, 2029	July 1, 2028	January 1, 2029
13	February 1, 2030	July 1, 2029	January 1, 2030
14	February 1, 2031	July 1, 2030	January 1, 2031
15	February 1, 2032	July 1, 2031	January 1, 2032

3. Other Agreements Relating to PILOT Payments. The Agency shall remit to the Taxing Jurisdictions amounts received hereunder within thirty (30) days of receipt and shall allocate the PILOT Payments among the Taxing Jurisdictions in the same proportion as normal taxes would have been allocated but for the Agency's involvement.

The PILOT Payments provided for herein shall commence as of February 1, 2018 which follows the first (1st) year of an approximately fifteen (15) year period in which the Company is to receive tax benefits relative to the Project. Except as otherwise agreed to by written and approved consent, in no event shall the Company be entitled to receive tax benefits relative to the Project for more than the period provided in this PILOT Agreement. The Company agrees that it will not seek any tax exemption for the Project which could provide benefits for more than the periods provided for in this PILOT Agreement and specifically agrees that the exemptions provided for in this PILOT Agreement, to the extent actually received (based upon the number of years elapsed), supersede and are in

substitution of the exemptions provided by section 485(b) of the Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Taxing Jurisdictions can rely upon and enforce this waiver to the same extent as if they were signatories hereto.

4. Determination of Total Value Subject to PILOT. The Agency and the Company have agreed upon the Total Value Subject to PILOT of the Facility. Such valuation was made without regard to the cost of construction of improvements to be made at the Project.
5. Valuation of Additions to the Facility. If there shall be an addition constructed to the, or if there shall be any additional buildings or other structures constructed on the Real Property, the Company shall promptly notify the Agency of such addition ("Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans, specifications, and any other relevant information that the Agency may request. Upon the earlier of substantial completion of the Addition, or the issuance of a Certificate of Occupancy, there shall be an increase in the PILOT Payment. The Agency shall notify the Company of any proposed increase in the Value Subject to PILOT caused by such Addition. Absent an agreement to the contrary, the Value Subject to PILOT caused by any Addition shall be subject to calculation of PILOT Payments as contemplated by ¶ 2 hereof. If the Company shall disagree with the Agency's determination of the Value Subject to PILOT for any Addition, then and in that event the Value Subject to PILOT shall be the assessed value of the Addition as determined by the Town Assessor. If there shall be a reduction by way of condemnation or other taking, the Company shall promptly notify the Agency of such reductions. The Agency shall notify the Company of any proposed decrease in the Value Subject to PILOT caused by any such condemnation taking. If the Company shall disagree with the Agency's determination of the Value Subject to PILOT caused by any reduction by way of condemnation or other taking, then and in that event the Agency's determination of the Value Subject to PILOT shall be the assessed value as determined by the Town Assessor.
6. Employment Obligations.
  - (a) Definitions. For the purposes of this PILOT Agreement, the following terms shall have the meaning set forth in each definition:
    - (i) "Employee" shall mean a person first employed by the Company at the Project on or after March 1, 2017.
    - (ii) "Full-Time Equivalent Employee" or "FTE" shall mean an employee who works forty (40) hours in any seven (7) day period at the Project.
    - (iii) "Base Compensation" shall be determined in accordance with the provisions of the Fair Labor Standards Act.
    - (iv) "At the Facility" shall mean that an FTE is employed primarily at the Facility or at another facility operated by the Company.

The Company shall file with the Agency no later than November 1, 2017 and on November 1<sup>st</sup> of each year thereafter a statement certified under oath setting forth the actual FTE's employed by the Company at the Project for the preceding calendar year. Such statement shall contain such additional information as the Agency may reasonably request. The Company shall make available to the Agency such information as it may request to verify the information provided to the Agency including but not limited to State and Federal employment tax forms and payroll records of the Company. "Actual average FTE - employment" shall be determined by adding the actual FTEs employed in each month of the applicable calendar year and dividing such sum by twelve (12).

- (b) Job Posting and Hiring Requirements. The Company agrees that it shall comply with the provisions of General Municipal Law §858(b) which requires that unless otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the Agency shall be listed with the administrative entities of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) serving Sullivan County and the New York State Department of Labor Community Services Division. The Company agrees that except as otherwise provided by collective bargaining contracts or agreements, the Company will first consider for new employment opportunities persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) program who shall be referred by administrative entities of the service delivery area servicing Sullivan County or by the New York State Department of Labor Community Services Division.

The Company acknowledges that it is not now bound by the provisions of collective bargaining contracts or agreements which limit or restrict the Company from listing such employment opportunities or from giving first consideration to persons eligible to participate in job training partnership act programs. The Company agrees not to enter into any collective bargaining contracts or agreements which create such restriction or limitation unless the union or employee organization with which the Company shall negotiate a collective bargaining contract or agreement has a bona fide program for apprenticeship in such union or has a comparable program for providing employment opportunities to persons eligible to participate in such Job Training Partnership Act Programs under apprenticeship programs conducted by such union or employee organization. The Company agrees that any agreement which creates or imposes or changes any such restriction or limitation shall be first submitted to the Agency for review prior to ratification of such PILOT Agreement. The Company shall provide the Agency with copies of collective bargaining contracts or agreements hereinafter executed. The Company shall submit to the Agency a statement of the manner in which the Company has complied with the provisions of this section of this PILOT Agreement. Such statement (together with documentation of each such referral and plan of hiring) shall be made under oath and shall be submitted no later than December 1st (or such other date as the parties shall agree) of each year of this PILOT Agreement.

After an audit by the Agency and a determination that there has been a failure for a period of two (2) years to list such job opportunities as herein provided or to hire and retain persons eligible for Job Training Partnership Act Programs without a reason for the failure to do so shall give rise to a presumption of intentional noncompliance with the provision of this section.

- (c) Equal Opportunity Requirements. During the term of this PILOT Agreement, the Company shall be in compliance with the Sullivan County "Equal Opportunity Policy Statement", providing equal employment opportunity without regard to age, race, religion, creed, color, and other non-merit factors in compliance with State and Federal laws.
- (d) Defaults and Remedies Relating to Employment Obligations. The following remedies shall apply to Employment Obligation defaults:
  - (i) Employment Goal Filing: If the Company shall fail to file a certification of FTE's employed prior to the time such statement is required to be filed with the Agency, the Agency may make the calculation of the PILOT Payment based on no FTEs for the affected year and the amount so calculated shall be paid. If the Company thereafter files such a statement and the filing results in a determination that the Company has made an overpayment, the Agency shall refund to the Company an amount equal to ninety (90%) of the overpayment, less the actual costs incurred by the Agency to enforce this provision of this PILOT Agreement. In the Agency's sole discretion, such refund may be applied as a credit against the next succeeding PILOT Payment(s).
  - (ii) Employment Eligibility Requirements: If the Company fails to provide information reasonably requested by the Agency necessary to determine the eligibility of one or more persons to be considered as an Employee, the Agency may, upon fifteen (15) days' notice to the Company, compute the PILOT Payment as if the person(s) were not eligible employees. No calculation so made shall be subject to recomputation.
  - (iii) Compliance with Other Hiring Requirements: If the Company shall fail to comply with the Job Posting and Hiring Act requirements set forth in 5(b) or the Equal Opportunity requirements set forth in 5(c), the Agency, upon fifteen (15) days' notice to the Company, may disallow in the calculation of the PILOT Payment any employee(s) hired in violation of the foregoing requirements.
  - (iv) Intentional Non-Compliance: In the event of a finding by the Agency of intentional non-compliance with the Job Posting and Hiring requirements set forth on 5(b), or the Equal Opportunity requirements set forth in 5(c), the Agency may compute the PILOT Payment by adjusting the exemption amount to the level of exemption the Project would have received if eligible



for exemption under RPTL §485(b).

- (v) Payment Required: Timely payment of all amounts due shall be made by the Company notwithstanding any dispute related to the calculation of the PILOT Payment.
- (vi) Condition Precedent to Suit: It shall be a condition precedent to the institution of any action or proceeding by the Company against the Agency with respect to the calculation of any amount claimed to be due the Agency that all amounts claimed to be due shall have been paid to the Agency by the Company prior to the institution of such action or proceeding.

7. Additional Payments. In addition to the PILOT Payments to be made by the Company to the Agency pursuant to this PILOT Agreement, the Company shall pay to the Agency all special assessments, special ad valorem levies, and any other charges for which the Agency shall be liable and for which it is not wholly exempt from taxation. Such payments shall be made within ten (10) days after the date upon which a bill shall be rendered by the Agency to the Company. Such charges shall be paid without adjustment, exemption or other deduction provided; in each case, however, to the Company's right to obtain exemption and credits, if any, which would be afforded a private owner of the Facility, including any available exemptions under RPTL 485(b) with respect to the Facility. The Company hereby authorizes the Agency to request that any Taxing Jurisdiction bill the Company directly for all special assessments, special ad valorem levies and any other charges for which the Agency shall be liable and for which it is not wholly exempt from taxation. In the event the Company is directly billed for such charges, the Company shall pay such charges within the time in which such statement or bill may be paid without interest or penalty.

8. Representations and Warranties.

- (a) The Company is a limited liability company duly organized, existing and in good standing under the laws of the State of New York.
- (b) The Company is duly authorized under all applicable provisions of law to enter into and perform this PILOT Agreement. The Company's entry into and performance of this PILOT Agreement will not violate any applicable provisions of law and will not result in a breach of or a default under any agreement or instrument to which the Company is a party and will not result in the creation of any lien, charge or encumbrance upon any of the assets of the Company under any such agreement or instrument.
- (c) The Company is not a party to any agreement or subject to any restriction (including without limitation any agreement among or between its shareholders) that materially and adversely effects its business assets or financial condition.

(d) When executed, this PILOT Agreement will be a valid and binding obligation of the Company.

9. Transfer of Facility to the Company. In the event that the Facility is transferred from the Agency to the Company, and the Company is ineligible for a continued tax exemption under some other tax incentive program, or any available exemptions result in a payment to the Taxing Jurisdictions in excess of the payment computed pursuant to this PILOT Agreement, the Company shall pay, no later than the next tax lien date (plus any applicable grace period), to each of the Taxing Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemptions provided for herein.
10. The Company's Right to Challenge. Except as otherwise provided in this PILOT Agreement, the Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this PILOT Agreement, as if and to the same extent as if the Company were the owner of the Project.

Except as otherwise provided in this PILOT Agreement, the Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Project, with respect to the assessed value of the Facility by any of the Taxing Jurisdictions and shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment.

11. Involuntary Termination of Agreement. To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the Company's obligations hereunder shall, to such extent, be amended.
12. Event of Default. During the term of this PILOT Agreement, the following shall be an event of default:
- (a) The failure to make PILOT Payments within the time allowed for payment, time being of the essence;
  - (b) The happening of an Event of Default under the Amended and Restated Lease Agreement;
  - (c) The adjudication of the Company as a bankrupt and the failure to vacate, set aside or terminate such adjudications within ninety (90) days thereafter;

- (d) The failure of the Company to pay the amounts required to be paid pursuant to Sections 2.5 or 3.3 or 3.7 of the Amended and Restated Lease Agreement and such failure shall have continued for a period of ten (10) days after the Agency gives written notice of such failure to the Company;
  - (e) The appointment by any court of a receiver or trustee to take possession of all, or substantially all, of the assets of the Company which said appointment shall not have been discharged within a period of ninety (90) days after the filing of same;
  - (f) The making by the Company of an assignment for the benefit of creditors;
  - (g) The abandonment of the Facility by the Company for a period of thirty (30) consecutive days or more, unless such abandonment is caused by fire or other catastrophe, war, terrorist act, act of God or governmental order or decree without fault of the Company contributing thereto; provided, however, that in the event of fire or other catastrophe, if the Company elects within ninety (90) days from the happening of such event to reconstruct the Facility the same will not constitute a default;
  - (h) The attachment, execution or other seizure of all or substantially all of the assets of the Company, which such attachment, execution or other seizure is not discharged within a period of sixty (60) days after the date of levy; or
  - (i) The failure, refusal or neglect of the Company to perform, keep or observe any of the terms, covenants and agreements herein contained on the part of the Company to be performed, kept or observed.
13. Remedies on Default in Payment; Termination. Upon the happening of any event of default as defined in ¶12(a) hereof, the Agency may immediately terminate this PILOT Agreement without notice to the Company and without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by conveying title to the Real Property by quitclaim deed as well as title to the equipment, all as determined by the Agency, from the Agency to the Company. The Company hereby appoints the Agency's Chief Executive Officer, Chairman or Vice Chairman as its attorney-in-fact for the limited purpose of signing any forms necessary to effectuate the foregoing. The Company acknowledges that the foregoing appointment is coupled with an interest and is irrevocable.
14. Remedies On Other Defaults; Termination. Upon the happening of any event of default as defined in ¶12 (b - g) hereof, after thirty (30) days written notice to the Company specifying the event of default, if the default shall not be remedied within such thirty (30) day period or such other longer period specified in ¶'s 12(c), (e), (g) and (h), (or if, with reasonable diligence the default cannot be remedied within such thirty (30) day period or such longer period as specified in ¶'s 12(c), (e), (g) and (h), then within such extended period as may be reasonably required therefor) the Agency, at its option, may take any action hereinafter set forth and all such remedies shall be cumulative and not exclusive:

- (i) Recover damages for the breach of any covenant or condition hereof;
  - (ii) Seek an injunction to bar any actual or threatened violation or breach of this PILOT Agreement;
  - (iii) Seek any other remedy authorized by law or in equity; and
  - (iv) Terminate this PILOT Agreement, without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by conveying title to the Land by quitclaim deed as well as title to the Equipment all as determined by the Agency from the Agency to the Company and the recording of said deed in the Sullivan County Clerk's Office shall be deemed to be delivery thereof. The Company hereby appoints the Agency's Chairman, Executive Director or Chief Executive Officer, each acting individually, as its attorney-in-fact for the limited purpose of signing any forms necessary to accompany the deed in order for the deed to be recorded.
15. Legal Fees on Default. If the Agency shall be required to take any action to enforce this PILOT Agreement or to collect any amount due hereunder, the Company shall be liable to pay, in addition to any other costs and expenses incurred by the Agency, its reasonable legal fees and the reasonable fees of any experts, accountants, or other professionals retained by it, without regard to whether the Agency shall have instituted any lawsuit or action at law or in equity in any court or before anybody, provided such expenses were actually and necessarily incurred.
16. Late charges. If any PILOT Payment is not made by the due date, or if any other payment required to be made hereunder is not made when due by the last day of any applicable cure period, the Company shall pay penalties and interest as provided herein. With respect to PILOT Payments, if said payment is not received by the due date, the Company shall pay, in addition to the PILOT Payment, a late charge equal to five percent (5%) of the amount due plus interest on said payment equal to one percent (1%) per month or fraction thereof until the PILOT Payment, penalty and interest is paid in full. With respect to all other payments due hereunder, if said payment is not received when due or by the last day of any applicable cure period, the Company shall pay, in addition to said payment, the greater of (a) a late charge equal to five (5%) percent of the amount due plus interest on said payment equal to one (1%) percent per month or fraction thereof until said payment, penalty and interest is paid in full; or (b) penalties and interest which would have been incurred had payments made hereunder been made to the Taxing Jurisdictions.
17. Termination of Use, Modification. If the substantial use of the Facility shall be discontinued by the Company, the Value Subject to PILOT may be modified. It is understood that the benefits of this PILOT Agreement have been extended to the Company on the grounds set forth in various related agreements between the parties; that new jobs at the Facility will be an economic asset to the County's economy; that the creating of new

jobs in the County is considered beneficial to the well-being of the County as of the date of this PILOT Agreement and for the foreseeable future; and that the discontinuance of the substantial use of the Facility by the Company would alter the purpose for which this PILOT Agreement was made. In such event, the Agency may give notice to the Company that modification is required. If the parties cannot agree on the basis of modification the Agency may increase the Value Subject to PILOT to an amount not exceeding the assessed value of the Facility as determined by the Town Assessor.

18. Indemnification. The Company shall indemnify, defend and hold the Agency (and its chief executive officer, executive director, directors, officers, members, agents, employees, servants and their successors, representatives and assigns) harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever in relation to the Sutphen Project, including expenses incurred by the Agency (and its chief executive officer, executive director, directors, officers, members, agents, employees, servants and their successors, representatives and assigns) in defending any claim, suit or action which may result as a result of the foregoing; provided, however the Company shall have no responsibility with respect to liability resulting from the Agency's gross negligence or intentional misconduct. The foregoing indemnities shall apply notwithstanding the breach of a statutory obligation or the application of any rule of comparative apportioned liability. The foregoing obligations of the Company shall remain in full force and effect after the termination of this PILOT Agreement.
  
19. No Recourse, Special Obligation. Notwithstanding anything to the contrary contained herein, the obligations and agreements of the Agency contained herein and in any other agreement executed by the Agency and in any other instrument or document supplemental thereto executed in connection therewith shall be deemed the obligation and agreements of the Agency, and not of any director, officer, member, agent, employee or representative of the Agency in his or her individual capacity, and the chief executive officer, executive director, directors, officers, members, agents, employees and representatives of the Agency shall not be liable personally thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State, the County, or any of the Taxing Jurisdictions, and neither the State, County, or any other Taxing Jurisdictions shall be liable thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute a limited obligation of the Agency payable solely from revenues derived from the sale of the Facility.
  
20. General Provisions.
  - (a) Notices. All notices provided for by this PILOT Agreement shall be made in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given, or on the next day after mailing if mailed to the party to whom notice is to be given by overnight courier of national reputation providing evidence of receipt and properly addressed, or on the third day

after mailing if mailed to the party to whom notice shall be given by First Class, Certified mail, postage prepaid and properly addressed to the following:

If to the Agency:

County of Sullivan Industrial Development Agency  
One Cablevision Center  
Ferndale, New York 12734  
Attn: Chief Executive Officer

with a copy to:

GARIGLIANO LAW OFFICES, LLP  
449 Broadway, P.O. Drawer 1069  
Monticello, New York 12701-1069  
Attn: Agency Counsel

To the Company:

HUDSUT LLC  
80 Brooks Road  
Ferndale, New York 12734  
Attn: Marcus Henley

with a copy to:

Proyect & Hart Attorneys at Law  
50 Breezy Hill Road, P.O. Box 157  
Parksville, New York 12768

or at such other addresses and/or addressees as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this section.

- (b) Assignment. This PILOT Agreement may not be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits hereunder without the prior written consent of the Agency, which consent may be withheld by the Agency in its sole and absolute discretion.
- (c) Binding Effect. This PILOT Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and its respective permitted successors and assigns.
- (d) Waiver. No waiver of any of the provisions of this PILOT Agreement shall be deemed to or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.
- (e) Severability. If any provision of this PILOT Agreement shall be determined to be illegal and unenforceable by any court of law or any competent governmental or other authority, the remaining provisions shall be severable and enforceable in accordance with its terms so long as this PILOT Agreement without such terms or provisions does not fail of its essential purpose or purposes. The parties will negotiate in good faith to replace any such illegal or unenforceable provision or

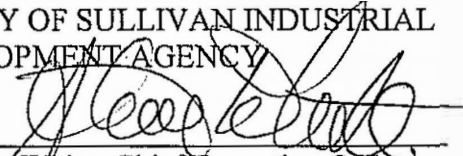
provisions with suitable substitute provisions which will maintain the economic purposes and intentions of this PILOT Agreement.

- (f) Governing Law. Venue. This PILOT Agreement shall be governed by and construed in accordance with the laws of the State of New York. The parties hereby designate a court of proper jurisdiction located in the County as the exclusive venue for resolution of any disputes which may arise under or by reason of this PILOT Agreement.
- (g) Survival of Obligations. The obligations of the Company to make the PILOT Payments, which are due only prior to expiration of this PILOT Agreement and all of the Company's indemnification obligations shall survive any termination or expiration of this PILOT Agreement.
- (h) Section Headings Not Controlling. The headings of the several sections in this PILOT Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this PILOT Agreement.
- (i) Entire Agreement. This PILOT Agreement together with the Amended and Restated Lease Agreement sets forth the entire agreement and understanding between the parties relating to the subject matter hereof and supersedes all prior discussions and negotiations between them. This PILOT Agreement may not be amended in any respect, except by a written amendment expressly referring to this PILOT Agreement and executed by the parties to be bound thereby.

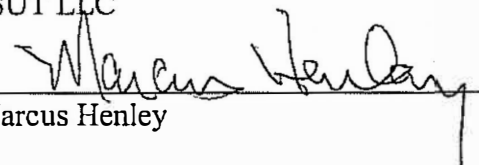
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*IN WITNESS WHEREOF*, the parties hereto have executed this PILOT Agreement effective as of the date hereof.

COUNTY OF SULLIVAN INDUSTRIAL  
DEVELOPMENT AGENCY

  
\_\_\_\_\_  
By: Steve White, Chief Executive Officer

HUDSUT LLC

  
\_\_\_\_\_  
By: Marcus Henley