

AMENDED AND RESTATED  
PAYMENT IN LIEU OF TAX AGREEMENT

*THIS AMENDED AND RESTATED PAYMENT IN LIEU OF TAXATION AGREEMENT* ("PILOT Agreement"), is dated as of the 15<sup>th</sup> day of December, 2015, by and between the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having its principal offices at One Cablevision Center, Ferndale, New York 12734 ("Agency") and FOUR GOATS LLC, a New York limited liability company, having a mailing address of 539 Broadway, Monticello, New York 12701 ("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 its 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 December 1, 2003, Cannie D's Corner Corp. ("Cannie D's") and the Agency entered into an Lease Agreement ("2003 Lease") relating to the premises depicted on the Town of Neversink tax map as Section 35, Block 1 and Lot 8.4 and located at 4 Schumway Road in the Town of Neversink, County of Sullivan, State of New York ("Real Property"); and

*WHEREAS*, Cannie D's requested financial assistance to construct a convenience store with gasoline island; two (2) ancillary store fronts; and a storage building aggregating to approximately 6,400 square feet and in connection therewith entered into various other agreements with the Agency, including without limitation, an Agent Agreement, dated August 28, 2003 and a Payment in Lieu of Tax Agreement, dated December 1, 2003 (and together with the 2003 Lease collectively, the "Agency Documents"); and

*WHEREAS*, Cannie D's constructed the convenience store and two (2) ancillary store fronts, the gasoline island and a fuel shed (in lieu of the storage building) aggregating to approximately 5,675 square feet ("Cannie D's Project" or "Facility"); and

*WHEREAS*, by Assignment and Assumption of Lease Agreement and Related Documents and Consent of Agency of even date herewith ("Assignment") Cannie D's transferred, assigned and conveyed to the Company the Cannie D's 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 Cannie D's obligations under the Cannie D's Project and the 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*, the Agency and the Company deem it necessary and proper to execute and deliver this PILOT Agreement making provision for payments in lieu of taxes by the Company for the benefit of the County and certain municipalities and taxing jurisdictions 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 Agency holds title to the Facility, the Company agrees to pay 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, a payment in lieu of tax ("PILOT Payment") on or before the dates indicated below computed in accordance with this PILOT Agreement.
2. Computation of PILOT Payments. The Company shall make a PILOT Payment to the Agency on or before December 15, 2015 and each December 15<sup>th</sup> thereafter during the term of this PILOT Agreement as follows:

Payment Date	Value	Exemption Percentage	Exemption Amount	Value Subject to PILOT
December 15, 2015	\$808,000	22.50%	\$181,800	\$626,200
December 15, 2016	\$808,000	20.00%	\$161,600	\$646,400
December 15, 2017	\$808,000	17.50%	\$141,400	\$666,600
December 15, 2018	\$808,000	15.00%	\$121,200	\$686,800
December 15, 2019	\$808,000	12.50%	\$101,000	\$707,000
December 15, 2020	\$808,000	10.00%	\$80,800	\$727,200
December 15, 2021	\$808,000	7.50%	\$60,600	\$747,400
December 15, 2022	\$808,000	5.00%	\$40,400	\$767,600
December 15, 2023	\$808,000	2.50%	\$20,200	\$787,800
December 15, 2024	\$808,000	0.00%	\$0.00	\$808,000

3. Calculation of Annual Payment in Lieu of Tax. The calculation of the annual PILOT Payments shall be made as follows:
  - (a) The Total Value Subject to PILOT shall be multiplied by the equalization rate as defined in ¶4 hereof; and
  - (b) The annual PILOT Payment shall be determined by multiplying the amount derived in ¶3(a) hereof by the tax rates identified in ¶5 hereof.
4. Equalization Rate. For the purposes of determining the amount of the PILOT Payment, the equalization rate shall be the equalization rate for the Town used by the County to allocate and levy County taxes in connection with the January 1<sup>st</sup> tax roll immediately preceding the due date of the PILOT Payment. In the event that the equalization rate shall exceed one-hundred (100%) percent, the equalization rate used in determining the amount of the PILOT Payment shall be one-hundred (100%) percent.
5. Tax Rates. For the purposes of determining the amount of the PILOT Payment, the tax rates for each Taxing Jurisdiction shall mean the last rate used for levy of taxes by each such jurisdiction. For the Tri-Valley School District ("School") tax purposes, the tax rates used to determine the PILOT Payment shall be the rate relating to the School tax year that began in the calendar year in which the PILOT Payment is due<sup>1</sup>. For County and Town purposes, the tax rates used to determine the PILOT Payment shall be the tax rates relating to the calendar year in which the PILOT Payment is due<sup>2</sup>. The chart which follows sets

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<sup>1</sup> For School tax purposes, the PILOT Payment is paid in arrears.

<sup>2</sup> For County and Town tax purposes, although the tax rate used to compute a PILOT Payment is the tax rate used to compute the prior calendar year's tax bill, the PILOT Payment paid in that year covers the succeeding

forth the remaining years of the overall twenty (20) 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.

Year	Payment Date	School Fiscal Year Beginning	County/Town
12	December 15, 2015	July 1, 2015	January 1, 2015
13	December 15, 2016	July 1, 2016	January 1, 2016
14	December 15, 2017	July 1, 2017	January 1, 2017
15	December 15, 2018	July 1, 2018	January 1, 2018
16	December 15, 2019	July 1, 2019	January 1, 2019
17	December 15, 2020	July 1, 2020	January 1, 2020
18	December 15, 2021	July 1, 2021	January 1, 2021
19	December 15, 2022	July 1, 2022	January 1, 2022
20	December 15, 2023	July 1, 2023	January 1, 2023

6. Other Agreements Relating to PILOT Payments. The Agency shall remit to the Taxing Jurisdictions any PILOT Payment (and other amounts received hereunder) within thirty (30) days of receipt and shall allocate that PILOT Payment 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 December 15, 2015 which follows the twelfth (12<sup>th</sup>) year of an approximately twenty (20) year period in which the Cannie D's Project is to receive tax benefits. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the period provided in this Agreement. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for in this Agreement and specifically agrees that the exemptions provided for in this Agreement, to the extent actually received (based upon the number of years elapsed), supersede and are in substitution of the exemptions provided by §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 it were signatories hereto.

7. Determination of Valuation of the Facility. The Agency and the Company have agreed upon the Value Subject to PILOT of the Cannie D's Project. Such valuation was made without regard to the actual cost of construction of improvements to be made at the Facility. Such valuation shall not be increased or decreased if the Facility or any related work on or

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tax year. For example, the portion of the PILOT Payment owed to the County and Town due on December 15, 2015 shall be computed using the 2015 tax rate, but the PILOT Payment shall cover the tax period for the calendar year 2016. In other words, for County and Town purposes, the PILOT Payment is paid in advance.

improvements are completed in substantial conformity with the plans and specifications. If there is a substantial change relating to the Facility or any related work or improvements during the construction phase, the Agency may redetermine the improvement value of the Facility. An increase (or decrease) in building size shall not be deemed to be a substantial change unless such increase (or decrease) is more than ten (10%) percent of the building's square feet prior to the increase (or decrease).

8. Valuation of Additions to the Facility. If there shall be an addition constructed to the Cannie D's Project, 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.

9. Employment Obligations.

(a) Employment Goals.

- (i) Employment Goal Definitions: For the purpose of this PILOT Agreement, the following terms shall have the meaning set forth in each definition:
- (1) "Employee" shall mean a person first employed by the Company at the Facility on or after October 1, 2003.
  - (2) "Full-Time Equivalent Employee" or "FT" shall mean an employee who works forty (40) hours in any seven (7) day period at the Facility.
  - (3) "Base Compensation" shall be determined in accordance with the provisions of the Fair Labor Standards Act.

- (4) "At the Facility" shall mean that a FT is employed primarily at the Facility.
- (ii) FT Employment Goals: The Company agrees that a FT- employment goal of six (6) jobs shall be maintained for any FT Employment Year (as defined below).

The Company shall file with the Agency not later than November 1, 2016 and on November 1<sup>st</sup> of each year thereafter a statement certified under oath setting forth the actual FT's employed at the Facility for the preceding October 1<sup>st</sup> to September 30<sup>th</sup> period (each a "FT Employment 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 FT-employment" shall be determined by adding the actual FTEs employed in each month of the applicable FT Employment Year and dividing such sum by twelve (12).

- (iii) Computation of PILOT Payment If FT Goals Not Attained: In the FT-employment goal is not attained with respect to the FT Employment Year preceding a PILOT Payment due date, the amount due ("Adjusted PILOT Payment") shall be (i) the amount calculated as contemplated by ¶3 hereof, plus (ii) an amount equal to the difference between the PILOT Payment and what real estate taxes would have been had the Agency not been involved in the Cannie D's Project, times the percentage:

- (1) the numerator of which is equal to six (6) minus the actual average FT employment for the prior calendar year, and
- (2) the denominator of which is six (6).

By way of example, if (i) the actual average FT employment for the 2016-2017 FTE Employment Year is four (4); (ii) the PILOT Payment calculated in the manner contemplated by ¶3 is \$20,000; (iii) real estate taxes had the Agency not been involved in the Cannie D's Project would have been \$30,000, then the Adjusted PILOT Payment due the Taxing Jurisdictions would be computed as follows:

### Adjusted PILOT Payment

Adjusted PILOT Payment = PILOT Payment + [(Taxes without Agency Involvement – PILOT Payment) x Percentage of Underemployment]

$$\$23,333.33 = \$20,000 + (\$30,000 - \$20,000) \times 33.3\%$$

- (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 the County and the State Department of Labor Community Services Division. Except as otherwise provided by collective bargaining contracts or agreement, 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 the County or by the 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 that 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 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 detailing 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 November 1<sup>st</sup> (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 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 FTEs 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%) percent of the overpayment plus interest at the then prevailing rate, 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.
  - (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 a FTE, 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 ¶9(b) or the Equal Opportunity requirements set forth in ¶9(c), the Agency, upon fifteen (15) days' notice to the Company, may disallow in the calculation of the PILOT Payment any FTEs 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 ¶9(b), or the Equal Opportunity requirements set forth in ¶9(c), the Agency may compute the PILOT Payment by adjusting the exemption amount to the level of exemption the Cannie D's Project would have received if eligible for exemption under RPTL §485-b.
  - (v) **Continuous Underemployment:** If the Company shall fail for a period of two (2) consecutive years to employ at least two (2) FTEs for each year, the



Agency may compute the PILOT Payment by adjusting the exemption amount to the level of exemption the Facility would have received if eligible for exemption under RPTL §485-b. Such an adjustment shall relate to the exemption level only, and not the valuation of the Carrie D's Project.

- (vi) 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.
- (vii) 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.

10. Company Representations and Warranties.

- (a) 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, except as otherwise disclosed to the Agency and its counsel, 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.
- (b) The Company is not a party to any agreement or subject to any restriction (including without limitation any agreement among or between its directors) that materially and adversely affects its business assets or financial condition.
- (c) When executed, this PILOT Agreement will be a valid and binding obligation of the Company.

11. 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.

12. 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 Agency was not involved with the Cannie D's 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 Agency was not involved with the Cannie D's 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. In the event that a transfer occurs after a tax status date for real property tax, PILOT Payments for any tax, which is paid in arrears under the PILOT Agreement shall continue to be due and owing.

13. 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.
14. 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.
15. Remedies on Default in Payment; Termination. Upon the happening of any event of default as defined in ¶14(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.
16. Remedies On Other Defaults; Termination. Upon the happening of any event of default as defined in ¶14 (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 14(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 14(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 Chief Executive Officer, Chairman or Vice Chairman, 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.

17. 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.
18. 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.
19. 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.
20. 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 Cannie D's 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.

21. 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.

22. 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:

Four Goats LLC  
539 Broadway  
Monticello, New York 12701

with a copy to:

Steven Mogel, Esq.  
457 Broadway, Suite 16A  
Monticello, New York 12701

- (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 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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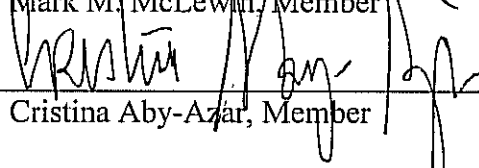
*IN WITNESS WHEREOF*, the parties hereto have executed this PILOT Agreement as of the date first written above.

COUNTY OF SULLIVAN INDUSTRIAL  
DEVELOPMENT AGENCY

  
By: Steve White, Chief Executive Officer

FOUR GOATS LLC

  
By: Mark M. McLewin, Member

  
By: Cristina Aby-Azar, Member