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PAYMENT IN LIEU OF TAXES AGREEMENT
G & S PORT CHESTER LLC
UNIT 4A

THIS AGREEMENT ("Agreement") made as of the 15th day of October 15, 2007, by and among the VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized under the laws of the State of New York, having its office at 10 Pearl Street, Port Chester, New York 10573 (the "Agency"), G & S PORT CHESTER UNIT 4A LLC, a limited liability company organized and existing under the laws of the State of New York, having its principal office at 15 North Main Street, Port Chester, New York 10573 (the "Lessee") and the VILLAGE OF PORT CHESTER, a municipal corporation duly organized under the laws of the State of New York, having its office at 10 Pearl Street, Port Chester, New York 10573 (the "Village").

WHEREAS, the New York State Industrial Development Agency Act, constituting Title I of Article 18-A of the General Municipal Law of the State of New York, as amended (the "Enabling Act") authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns on the State of New York and empowers such agencies to acquire, construct, reconstruct, lease, maintain, equip, furnish and dispose of one or more projects for the purpose of promoting, developing, encouraging and assisting in the acquisition, construction, reconstruction, improvement, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, civic, research and recreational facilities, thereby advancing the job opportunities, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Enabling Act authorizes each such agency to make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, company or corporation; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act and Chapter 1030 of the Laws of 1969 of the State of New York (together with the Enabling Act, hereinafter referred to as the "Act"), the Village of Port Chester Industrial Development Agency ("Agency"), which has been created and established pursuant thereto for the benefit of the Village of Port Chester, New York (the "Village"), proposed to undertake the acquisition, construction and financing of the project described below; and

WHEREAS, said project (hereinafter referred to as the "Project") consists of the acquisition and redevelopment of the entire Modified Marina Redevelopment Project, together with the acquisition and installation therein of machinery and equipment related thereto, all to be used for commercial purposes in the Village; and

WHEREAS, the portion of the Project subject to this Agreement consists of land (the "Land") more fully described in Exhibit A hereto and all buildings, structures and other improvements now or hereafter located thereon, and all fixtures and appurtenances and additions thereto and substitutions and replacements thereof, now or hereafter attached to or contained in or located on the Land and/or the buildings and improvements located thereon or placed on any part thereof, and attached thereto, which are used or usable in connection with the present or future operation thereof or the activities at any time conducted therein and certain machinery, equipment and other tangible personal property (and all repairs, replacements, improvements and substitutions thereof or therefor, and all parts, additions and accessories incorporated therein), subject to the terms of the lease executed as of the date hereof by and between the Lessee and the Agency (the "Lease Agreement"); and

WHEREAS, in connection with the Project, the Lessee has represented that the Project is expected to create in excess of 1,000 jobs in the Village; and

WHEREAS, the Agency proposed to undertake the Project as an authorized project under the Act by accepting ownership of the Project and the Facility; and

WHEREAS, pursuant to the terms of that certain Land Acquisition and Disposition Agreement by and among the Village, the Agency and the Lessee dated July 14, 1999, as amended by a certain First Amendment, Second Amendment, Third Amendment and Fourth Amendment thereto (the "LDA"), the execution and delivery of which by the Agency has been authorized by resolution of the Agency made contemporaneously therewith; and

WHEREAS, pursuant to Section 874(1) of the Act and Section 412-a of the Real Property Tax Law, the Agency is exempt from payment of taxes and assessments imposed on real property and improvements owned by it (the "Tax Exemption"), including taxes and assessments imposed by the State of New York, the County of Westchester and the Village (collectively, the "Taxing Jurisdictions") other than special ad valorem levies and special assessments; and

WHEREAS, the Agency is willing to confer the benefits of the Tax Exemption on the Lessee only in accordance with the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and the actions to be taken by the Agency and the Lessee with respect to the Project, the Land and the Facility, Agency and the Lessee agree as follows:

Section 1. Definitions.

Terms used in this Agreement but not defined herein shall have the meanings ascribed to them in the Lease Agreement .

Section 2. Effective Date of Agreement; Termination.

This Agreement is hereby made effective as of the Commencement Date of the Lease Agreement (the "**Effective Date**"). Notwithstanding anything to the contrary in this Agreement or any Lease Agreement, this Agreement shall not be terminable by Lessee for any reason other than a material default of the Agency or the Village hereunder.

Section 3. Term of Agreement.

Unless sooner terminated pursuant to its terms, this Agreement shall expire upon the expiration or earlier termination of the term of the Lease Agreement. In the event that this Agreement is terminated prior to the expiration of the term of the Lease Agreement, then the Lessee shall be subject to the restrictions and limitations set forth in Section 2.5(a) of the LDA.

Section 4. Payment Amounts.

So long as the Agency is the record owner of the Land, Lessee hereby covenants and agrees to make payments in lieu of real property taxes with respect to such Unit ("**payment-in-lieu-of-taxes**") to the Taxing Jurisdictions, at the times and in the respective proportions determined as set forth in Section 5 of this Agreement, as follows:

(a) Base Payments

Commencing on the Commencement Date of the Lease Agreement and during each year or part thereof until a Change Date (as hereinafter defined), the Lessee shall pay the sum of One Dollar (\$1.00) (the "**Base PILOT Amount**").

The Base PILOT Amount is subject to reduction on each Change Date (as hereinafter defined) as set forth in subsection (b) below.

(b) Adjustment for Completed Space

Commencing on the earlier of (x) the date on which a tenant is obligated to commence paying rent to the Lessee under a sublease made between the Lessee and the tenant for any portion of a Unit, or (y) the date on which such tenant opens to the public for business (each such date, a "**Change Date**"), and during each year or part thereof thereafter until the expiration of the term of the Lease Agreement for that Unit, the Lessee shall pay with respect to such Unit a payment-in-lieu-of-taxes equal to the sum of (1) the amount equal to \$3.14 per square foot per year (such rate, the "**Adjusted PILOT Rate**") of Completed Floor Area (as hereinafter defined), and (2) the amount equal to the Base PILOT Amount for that Unit less the Base PILOT Amount times a fraction, the numerator of which shall equal the number of square feet of Completed Floor Area of that Unit (with respect to which the Adjusted PILOT Rate is then in effect) and the denominator of which shall be the total number of square feet of Net Leasable Floor Area (as hereinafter defined) of that Unit. Notwithstanding anything to the contrary in this Agreement: (i)

the term "Completed Floor Area" shall mean the number of square feet of floor area within a building for which the Lessee charges rent to a tenant under a sublease of any portion of a Unit (regardless of the manner by which such rent is calculated and whether the Lessee charges "free" rent for any portion of such floor area for any period of time), as evidenced by an executed sublease; and (ii) the term "Net Leasable Floor Area" shall mean the sum of the total horizontal floor areas within a Unit which are designed for the exclusive use and occupancy of tenants, measured from the interior faces of exterior walls, not including the areas of: (1) floor space of cellars (as defined in the Village Zoning Regulation); (2) floor space designed and intended for the parking of motor vehicles of any kind; (3) elevator shafts; (4) stairwells and exit corridors; (5) floor space used for mechanical equipment having structural headroom of less than seven (7) feet, six (6) inches; or floor space of mezzanines and other areas not accessible to the general public.

Notwithstanding anything to the contrary in this Agreement, the Lessee and the Agency agree that from and after the Project Completion Date, the Lessee shall pay a payment-in-lieu-of-taxes which equals the greater of (x) the Adjusted PILOT Rate times the total number of square feet of Completed Floor Area of all of the Units, or (y) the Adjusted PILOT Rate times four hundred fifty thousand (450,000) square feet. Within thirty (30) days prior to any Change Date, and from time to time thereafter upon reasonable request of the Agency, the Lessee agrees to deliver to the Agency and to the Assessor of the Village copies of any subleases then in effect for any portion of any Unit (with rental amounts and other proprietary information deleted). The Completed Floor Area and Net Leasable Floor Area of a Unit shall be determined by the Assessor of the Village, whose determination shall be conclusive absent manifest error.

(c) Escalation

(i) Commencing with the second anniversary of a Commencement Date of a Unit Lease and on each anniversary date thereafter, the Base PILOT Amount for such Unit then in effect (as may have been reduced pursuant to subsection (b) above), if any, shall be increased by two percent (2%) of the Base PILOT Amount for such Unit for the previous year.

(ii) Commencing with the first anniversary of a Change Date and on each anniversary date thereafter, the Adjusted PILOT Rate for the Completed Floor Area subject to such Change Date shall be increased by five percent (5%) of the Adjusted PILOT Rate for such Completed Floor Area for the previous year.

(iii) The amounts of such increases shall be furnished by written notice to the Lessee by the Agency or the Village Assessor.

(d) Adjustment Upon Termination of the Agreement

If this Agreement should, with respect to any Unit, be terminated, whether at or prior to the scheduled maturity date of the term, then, with respect to such period of time (i) from and after the date on which the Agreement terminates through (ii) the date on which the Unit is restored to the tax rolls and the real property taxes coming due shall become subject to tax liens (the "Restoration Period"), the Lessee shall pay an amount equal to 100% of the taxes and assessments that would have been levied upon the Unit during the Restoration Period if the Unit had been owned by the Lessee without Agency participation and such entire amount shall be due and payable by Lessee promptly upon the determination by the Village of the proper amount therefor.

Section 5. Billing; Payments.

The Assessor and Receiver of Taxes of the Village shall jointly: (a) calculate the payments-in-lieu-of-taxes payable in each year pursuant to this Agreement to the Taxing Jurisdictions; (b) allocate to each of the Taxing Jurisdictions that proportion of the total amount that such Taxing Jurisdiction's Tax Levy bears to the total tax levy of all Taxing Jurisdictions during the applicable period; and (c) specify the due dates of the amount payable to each Taxing Jurisdiction, which shall be those dates which are applicable to other taxpayers in the Village during the period in which real property taxes would be payable without penalty (which may be different for different Taxing Jurisdictions). The Assessor shall notify the Lessee, the Agency and each Taxing Jurisdiction of amounts and dates determined pursuant to the preceding sentence. Amounts due hereunder that are allocable to a Taxing Jurisdiction, as set forth in the notice from the assessor described above, shall be payable directly to the applicable Taxing Jurisdiction by the applicable due date.

Section 6. Late Payments.

If the Lessee fails to pay any portion of payments-in-lieu-of-taxes by the applicable due date, the amount or amounts so in default shall continue as an obligation of the Lessee until fully paid in accordance with Section 874 of the General Municipal Law. Anything in this Agreement to the contrary notwithstanding (a) any portion of payments-in-lieu-of-taxes which are delinquent shall be subject to a late payment penalty of five percent (5%) of the amount due which shall be paid to the affected Taxing Jurisdiction at the time that the amount is paid, and (b) for each month, or part thereof, that any portion of payments-in-lieu-of-taxes is delinquent beyond the first month, interest shall accrue to and be paid to the affected Taxing Jurisdiction on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made. The Lessee and the Agency agree that the respective Taxing Jurisdictions and their officials shall be third party beneficiaries of this section of this Agreement, and are authorized by the parties hereto to enforce the provisions hereof. However, the Taxing Jurisdictions (other than the Village) are not authorized to enforce any other provisions of this Agreement.

Section 7. Special Assessments and Benefits.

The Lessee shall also make payments in respect of special and/or benefit assessments duly made against the Unit by governmental authorities from the date the Agency becomes the owner of record of the Unit as required if the Lessee were the owner of record. Nothing contained herein shall exempt the Lessee from paying all fire district taxes, special district benefit assessments or user charges, including sewer and water charges, rents, assessments or fees imposed on the Unit or that would be imposed on the Unit if the Lessee were the owner of record.

Section 8. Adjustments.

It is understood and agreed by the parties to this agreement that the Agency is entering into this Agreement in order to provide assistance to the Lessee for the Project and to accomplish the public purposes of the Act. In consideration therefor, the Lessee hereby agrees that if there shall occur an "Adjustment Event" (as hereinafter defined) with respect to any Unit, upon prior written notice by the Agency to the Lessee of the occurrence of such Adjustment Event, the amounts payable by the Lessee pursuant to Section 4 of this Agreement shall thereafter be adjusted upward such that in each year thereafter the amount payable by the Lessee shall be an amount equal to 100% of the real property taxes and assessments that would be levied upon the Unit if owned by the Lessee without Agency participation.

The Lessee covenants and agrees to furnish the Agency with written notification upon any Adjustment Event or disposition of the Unit or any portion thereof made during the term of this Agreement, which notification shall set forth the terms of such Adjustment Event or disposition.

The provisions of this Section 8 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

For the purposes of this Section 8, "Adjustment Event" shall with respect to any Unit mean any of the following events:

- (a) The Lessee shall have liquidated its operations or assets, except in connection with a sale, transfer or conveyance permitted under the Lease Agreement;
- (b) The Lessee shall have ceased all or substantially all of its operations at the Unit;
- (c) There shall be an Event of Default under the Lease Agreement beyond any applicable notice or grace period and the Agency shall have exercised its right to terminate the Lease Agreement; or
- (d) The Lessee shall be in default of any payment obligation or any other material obligation under this Agreement and such default shall remain uncured thirty (30) days following delivery by the Agency or any Taxing Jurisdiction of written notice of such default.

Notwithstanding the foregoing, an Adjustment Event shall not be deemed to have occurred if the Adjustment Event shall have arisen as a direct result of (i) a taking or condemnation by a governmental authority of all or substantially all of the Unit, or (ii) the inability of the Lessee to rebuild, repair, restore or replace the Unit after the occurrence of a Loss Event to substantially its condition prior to such Loss Event, which inability shall have arisen in good faith through no fault on the part of the Lessee or any Affiliate, including, without limitation, as a result of the provisions of any tenant sublease or any mortgage of the Project.

Section 9. Assignment.

The duties and obligations of the Lessee under this Agreement shall not be assigned without the written consent of the Agency except to permitted transferees under, and in accordance with, Section 10.3 of the Lease Agreement.

Section 10. Transfer of Project.

In the event that any Unit is transferred from the Agency to the Lessee or another party, the provisions of New York State Real Property Tax Law §520 shall apply and the obligation of the Lessee hereunder to pay payments-in-lieu-of-taxes shall be null and void with respect to such Unit.

Section 11. Change in Law.

In the event that any Unit of the Project is declared to be subject to taxation by an amendment to the Act, other legislative change, or by a final judgment of a court of competent jurisdiction, the obligation of the Lessee hereunder pay payments-in-lieu-of-taxes with respect to such Unit shall to such extent be null and void.

Section 12. Non-Recourse to Agency.

Obligations arising out of this Agreement are solely the responsibility of the Lessee and not of the Agency and are payable out of receipts, funds or other monies of the Lessee.

Section 13. Governing Law.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard or giving effect to the principles of conflicts of laws thereof.

Section 14. Counterparts.

This Agreement may be executed by one or more parties in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

SIGNATURE PAGE TO UNIT 4A PILOT AGREEMENT

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names and on their behalf by their duly authorized officers, all as of the day and year first above written.

VILLAGE OF PORT CHESTER

By: _____

[Signature]

VILLAGE OF PORT CHESTER INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

Name: _____

Title: Chairman

G & S PORT CHESTER UNIT ^{4A} ^{DR} ~~LLC~~

By: _____

Name: _____

Title: _____

[Signature]
Douglas Fley
Manager