

THE SOCIETY OF EXCHANGE COUNSELORS

CONTROL: Exclusive **VALUE:** \$3,100,000
LOAN: \$582,035
EQUITY: \$2,517,965

TITLE: WE ARE HERE TO SOLVE YOUR PROBLEM!!!!
TYPE OF PROPERTY: Office Building
HAVE: Office building w/ attached 460 space parking garage on 2.76 acres. Travelers occupies +/- 40,888 sq ft of rental space, 15% vacant +/- 7,805 sq ft. After vacancy filled NOI will be +/- \$350,000. Total sq. ft. incl. parking garage is 244,089 and managed!

WEBSITE ADDRESS: <http://brondino.com>
ADDRESS/PARCEL#: 150 Baldwin Street
CITY: Elmira **STATE:** NY
BENEFITS TO NEW OWNER: Travelers Ins. has been tenant for 25+ years. 3% CPI increases. Management in place! Loans can be assumed. Extensive \$ spent on TI's in 2009 by owner and tenant.

GROSS SCHEDULED INCOME: \$671,065 Actual
VACANCY LOSS: \$0
GROSS EFFECTIVE INCOME: \$671,065
EXPENSES: \$378,329
NOI: \$292,736
DEBT SERVICE: \$130,104
CASH FLOW: \$162,632
CAP RATE: 9.44%

ENCUMBRANCES:	BALANCE:	PAYMENT:	INT. RATE %:	LOAN DUE:
LOAN 1:	\$484,584	\$6,490	6.50	2020
LOAN 2:	\$97,451	\$4,352	6.00	2014

BENEFITS SOUGHT: Liberate equity to do another profitable project!

MOTIVATION: Prefer to develop and/or rehab multi-family projects up to \$10M ANYWHERE.

CAN ADD: Cash to \$500,000, +/- \$500,000 in performing paper and/or equities +/- \$1,000,000.

REMARKS: Google "Marcellus Shale Shelf" or the address for input! Clients will: take reverse cash flow apt. land, solve loan problems, and/or guarantee rent on vacant space or...? Will deliver at 9.0% cap on actual numbers. Ask for Travelers lease extension!

OWNER: Elmira Eastowne Mall
COUNSELOR: Jim D. Brondino, S.E.C. Phone: (909) 721-6940
Brondino & Associates, Inc. Cell: (909) 721-6940
P.O. Box 1387 Fax: (775) 254-9677
Ontario, CA 91762-0387 brondino@aol.com

Bing

150 Baldwin St, Elmira, NY 14901-3016



Maps

150 Baldwin St, Elmira, NY 14901-3016

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BUSINESSES AT THIS ADDRESS

Laz Parking

POPULAR CATEGORIES

Restaurants

Bars, Grills & Pubs

Malls & Shopping Centers

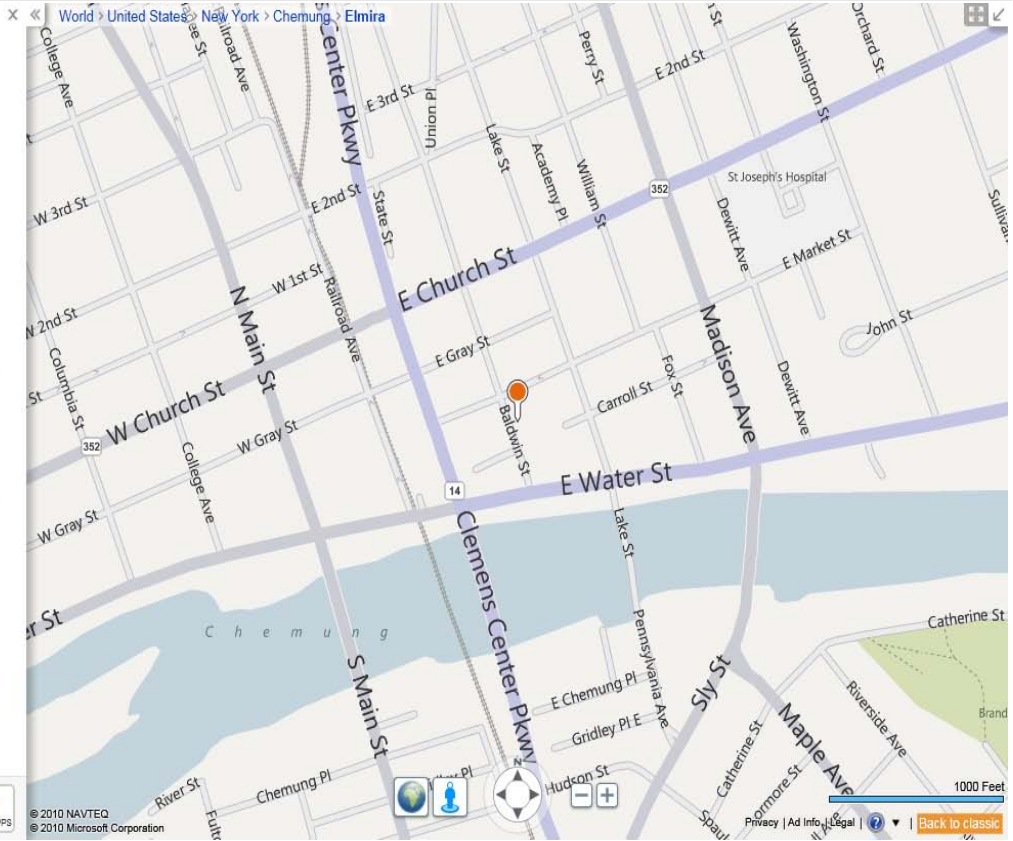
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NEARBY

Coleman's Authentic Irish Pub

★★★★☆ Reviews (8)

Tavern



EXPLORE

• Current Traffic

• What's Nearby



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1000 Feet

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NEARBY

Hillside Inn

★★★★★ · Write a review



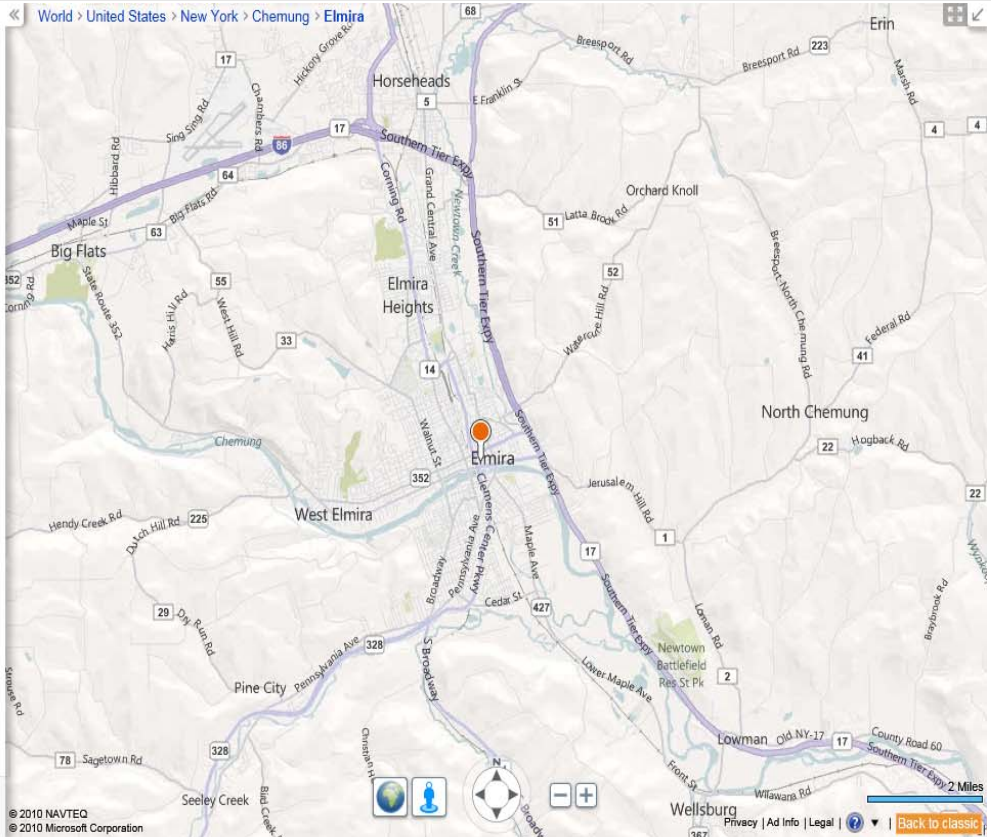
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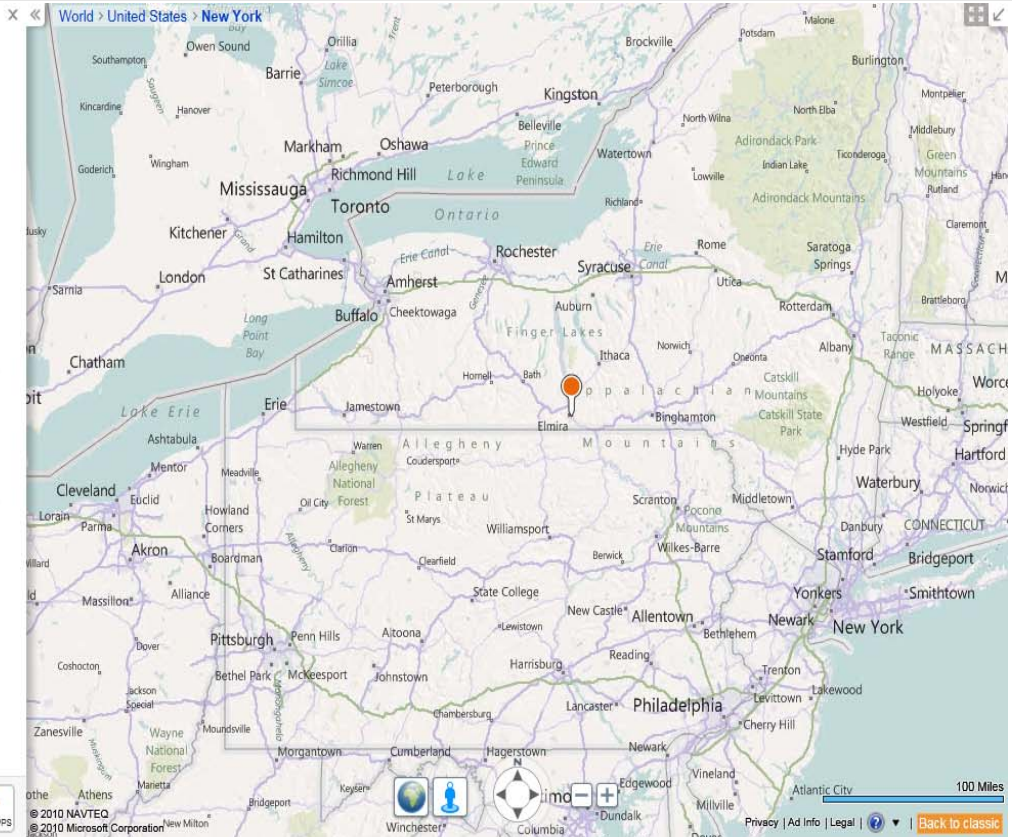
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★★★★☆ Reviews (8)

Tavern



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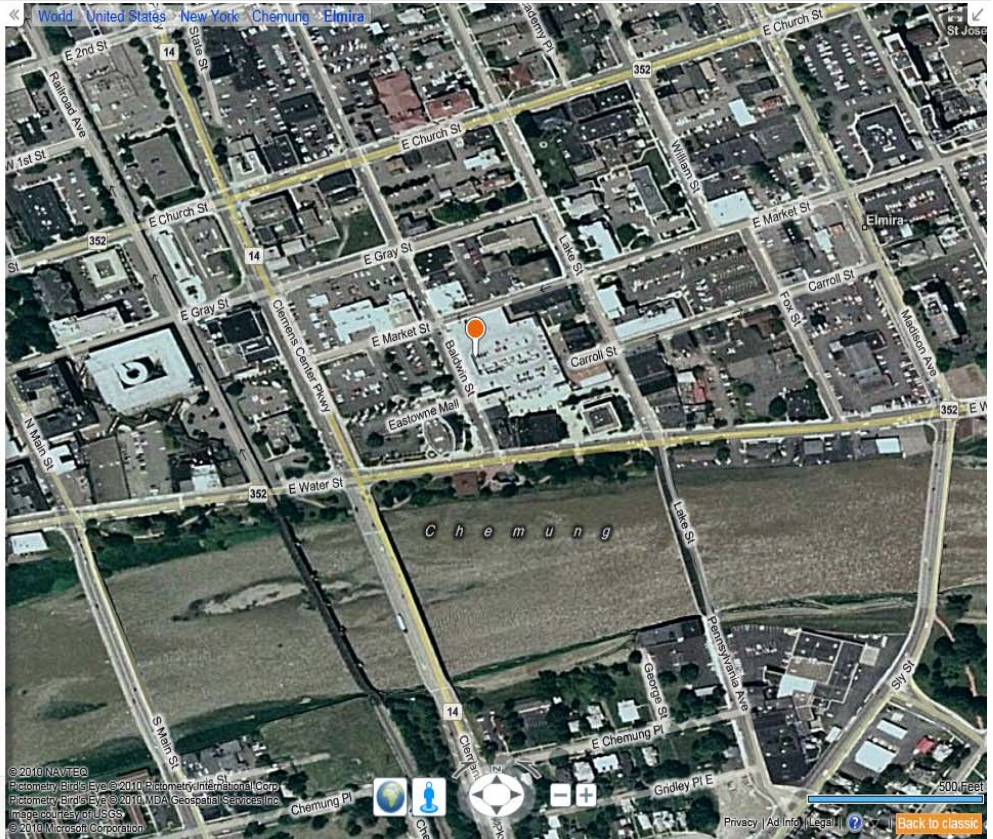
Current Traffic

What's Nearby



HISTORY

MAP APPS



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 **ST PAUL
TRAVELERS**


**DO NOT
ENTER**





 **ST PAUL
TRAVELERS**

ONE WAY

NOT
ENTER

P
P
PARK

LAZ
PARKING



OUT
CLEARANCE 6' 2"



**P
A
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K**













The Customer
Speaks Once

Employee Information



Laura Betschen

HELLO
Laura Betschen





Notice

How strong is a team? It's not the size of the team that counts, it's the quality of the team. A team is not a group of people who work together, it's a group of people who work for each other.



Notice

TEAM TOGETHER EVERYONE ACHIEVES MORE







DO NOT ENTER



DO NOT ENTER



ELMIRA EASTOWNE MALL, LLC

ELMIRA EASTOWNE MALL BALANCE SHEET
For the Twelve Months Ending December 31, 2011

ASSETS

CURRENT ASSETS:

1010-0 CASH - BUSINESS	\$57,878.77
1015-0 CASH - PARKING LOT	\$21,595.38
1020-0 DEBIT ACCOUNT	\$3,926.27
1025-0 CASH - MONEY MARKET	\$43,219.96
1102-0 A/R LAZ PARKING	\$1,622.06
1105-0 A/R SALES TAX	(\$408.06)
Total CURRENT ASSETS	<u>\$127,834.38</u>

FIXED ASSETS:

1400-0 LAND	\$145,900.00
1500-0 BUILDING	\$1,231,337.31
1510-0 ACCUM DEPREC - BUILDING	(\$344,474.00)
1515-0 2009-10 REMODEL	\$488,356.09
1555-0 ACCUM DEPR - 2009-10 REMODEL	(\$152,512.45)
Total FIXED ASSETS	<u>\$1,368,606.95</u>

TOTAL ASSETS

\$1,496,441.33

LIABILITIES

CURRENT LIABILITIES:

2000-0 ACCOUNTS PAYABLE	\$3,147.28
2040-0 PREPAID RENT	\$50,148.02
2125-0 SALES TAX PAYABLE	\$557.65
2540-0 NOTE PAYABLE - CHEMUNG CANAL TRUST CO.	\$512,233.07
2541-0 LINE OF CREDIT - CHEMUNG CANAL	\$123,887.00
Total CURRENT LIABILITIES	<u>\$689,973.02</u>

TOTAL LIABILITIES

\$689,973.02

EQUITY:

3000-0 CAPITAL - CLOUDED DECEMBER	\$521,702.73
3010-0 CAPITAL - EAST TOWNE HOLDINGS, LLC	\$132,303.03
Total EQUITY	<u>\$654,005.76</u>

RETAINED EARNINGS

\$152,462.55

TOTAL EQUITY

\$806,468.31

TOTAL LIABILITIES & EQUITY

\$1,496,441.33

ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT
For the Twelve Months Ending December 31, 2011

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2011</u>
REVENUE:		
4000-0 INCOME - TRAVELERS	\$49,937.42	\$590,522.16
4010-0 INCOME- PARKING-MONTHLY	\$6,798.21	\$73,085.12
4015-0 INCOME - PARKING-TRANSIENT	(\$942.60)	\$5,048.50
4025-0 OTHER INCOME - LAZ	\$68.50	\$289.52
4026-0 OTHER INCOME	\$25.00	\$2,120.00
Total REVENUE	<u>\$55,886.53</u>	<u>\$671,065.30</u>
OPERATING EXPENSES:		
5105-0 BANK CHARGES	\$0.00	\$35.00
5110-0 ACCOUNTING / LEGAL	\$0.00	\$3,609.92
5111-0 LANDSCAPING	\$0.00	\$485.20
5150-0 REPAIRS - GENERAL	\$0.00	\$345.00
5151-0 REPAIRS - PAINTING	\$0.00	\$64.32
5152-0 REPAIRS - PLUMBING	\$65.16	\$1,397.65
5154-0 REPAIRS - ELECTRIC	\$148.50	\$349.48
5158-0 REPAIRS - FIRE ALARM	\$0.00	\$324.00
5160-0 REPAIRS - HVAC	\$0.00	\$2,425.68
5166-0 MAINTENANCE - FIRE ALARM	\$0.00	\$461.94
5167-0 MAINTENANCE - HVAC	\$3,397.68	\$13,392.00
5168-0 MAINTENANCE - ELEVATOR	\$586.44	\$7,565.91
5190-0 MANAGEMENT - NRE	\$1,000.00	\$12,000.00
5290-0 MISCELLANEOUS	\$0.00	\$200.00
5340-0 PAYROLL - SALARIES	\$4,576.68	\$39,212.16
5341-0 PAYROLL - TAXES	\$346.23	\$3,370.20
5345-0 PAYROLL - FEES	\$105.00	\$1,249.80
5393-0 JANATORIAL - TRAVELERS	\$4,616.62	\$55,057.47
5393-1 JANITORIAL - GSA	\$0.00	\$378.00
5430-0 INSURANCE	\$4,185.44	\$8,434.38
5435-0 INSURANCE - WORK COMP	\$0.00	\$2,892.29
5465-0 PEST CONTROL	\$64.47	\$757.56
5500-0 SUPPLIES - OTHER	\$256.18	\$1,078.96

THIS FINANCIAL STATEMENT IS CONFIDENTIAL INFORMATION AND IS THE SOLE
PROPERTY OF ELMIRA EASTOWNE MALL, LLC. FOR IN HOUSE USE ONLY

ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT
For the Twelve Months Ending December 31, 2011

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2011</u>
OPERATING EXPENSES (continued):		
5505-0 SUPPLIES - OFFICE-PARKING	\$119.29	\$1,413.23
5600-0 TAXES - PROPERTY	\$0.00	\$45,885.77
5675-0 INTERNET	\$49.99	\$524.17
5689-0 ELECTRIC-PARKING	\$1,561.37	\$14,826.95
5690-0 ELECTRIC	\$6,799.09	\$92,481.16
5691-0 TRASH	\$0.00	\$4,662.56
5692-0 GAS	\$1,237.54	\$17,644.41
5693-0 SEWER	\$0.00	\$1,204.50
5694-0 WATER	\$0.00	\$2,889.72
5700-0 TELEPHONE	\$272.41	\$3,100.50
5709-0 TRAVEL EXPENSES	\$0.00	\$1,048.40
5710-0 MANAGEMENT-PARKING	\$1,000.00	\$12,000.00
5715-0 INSURANCE-PARKING	\$600.00	\$7,200.00
5720-0 REPAIRS-PARKING	\$0.00	\$2,621.28
5725-0 OTHER-PARKING	\$14.12	\$996.70
5730-0 SNOW REMOVAL - PARKING	\$0.00	\$14,742.38
Total OPERATING EXPENSES	<u>\$31,002.21</u>	<u>\$378,328.65</u>
NET INCOME FROM OPERATIONS	\$24,884.32	\$292,736.65
DEPRECIATION & INTEREST:		
5800-0 DEPRECIATION	\$8,764.56	\$104,369.84
6001-0 INTEREST INCOME	(\$5.11)	(\$159.28)
6005-0 INTEREST EXPENSE - CHEMUNG	\$2,148.00	\$27,200.04
6006-0 INTEREST EXPENSE - CHEMUNG 2ND	\$637.91	\$8,863.50
Total DEPRECIATION & INTEREST	<u>\$11,545.36</u>	<u>\$140,274.10</u>
NET INCOME (LOSS)	\$13,338.96	\$152,462.55

ELMIRA EASTOWNE MALL, LLC
 ELMIRA EASTOWNE MALL 12 MONTH INCOME STATEMENT
 For the Month Ending December 31, 2011

	December 2011	November 2011	October 2011	September 2011	August 2011	July 2011	June 2011	May 2011	April 2011	March 2011	February 2011	January 2011	12 MONTH TOTALS
REVENUE:													
INCOME - TRAVELERS	49,937.42	49,937.42	49,937.42	49,937.42	49,937.42	49,937.42	48,482.94	48,482.94	48,482.94	48,482.94	48,482.94	48,482.94	590,522.16
INCOME- PARKING-MONTHL	6,798.21	5,393.48	5,861.08	5,586.35	6,236.10	5,890.77	6,639.24	6,169.05	6,140.21	6,147.73	6,311.65	5,911.25	73,085.12
INCOME - PARKING-TRANSI	(942.60)	2,203.70	388.89	338.89	396.30	329.63	231.85	353.70	309.26	542.59	444.44	451.85	5,048.50
OTHER INCOME - LAZ	68.50	0.00	0.00	74.29	0.00	0.00	74.03	0.00	0.00	72.70	0.00	0.00	289.52
OTHER INCOME	25.00	0.00	0.00	0.00	0.00	0.00	0.00	992.00	1,103.00	0.00	0.00	0.00	2,120.00
Total REVENUE	55,886.53	57,534.60	56,187.39	55,936.95	56,569.82	56,157.82	55,428.06	55,997.69	56,035.41	55,245.96	55,239.03	54,846.04	671,065.30
OPERATING EXPENSES:													
BANK CHARGES	0.00	0.00	25.00	(100.00)	0.00	0.00	0.00	60.00	25.00	25.00	0.00	0.00	35.00
ACCOUNTING / LEGAL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,625.00	0.00	0.00	500.00	484.92	3,609.92
LANDSCAPING	0.00	0.00	0.00	48.02	0.00	46.97	0.00	390.21	0.00	0.00	0.00	0.00	485.20
REPAIRS - GENERAL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	345.00	0.00	0.00	345.00
REPAIRS - PAINTING	0.00	0.00	0.00	27.98	0.00	0.00	0.00	0.00	0.00	0.00	36.34	0.00	64.32
REPAIRS - PLUMBING	65.16	50.72	0.00	18.76	474.12	11.72	0.00	21.43	0.00	26.74	729.00	0.00	1,397.65
REPAIRS - ELECTRIC	148.50	0.00	0.00	0.00	0.00	0.00	0.00	200.98	0.00	0.00	0.00	0.00	349.48
REPAIRS - FIRE ALARM	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	324.00	0.00	0.00	0.00	324.00
REPAIRS - HVAC	0.00	0.00	0.00	0.00	0.00	0.00	0.00	170.64	0.00	2,255.04	0.00	0.00	2,425.68
MAINTENANCE - FIRE ALARM	0.00	37.50	0.00	0.00	62.64	0.00	118.80	243.00	0.00	0.00	0.00	0.00	461.94
MAINTENANCE - HVAC	3,397.68	0.00	0.00	3,397.68	0.00	0.00	3,298.32	0.00	0.00	3,298.32	0.00	0.00	13,392.00
MAINTENANCE - ELEVATOR	586.44	587.37	587.37	862.77	587.37	830.37	587.37	587.37	587.37	587.37	587.37	587.37	7,565.91
MANAGEMENT - NRE	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	12,000.00
MISCELLANEOUS	0.00	0.00	0.00	0.00	0.00	0.00	200.00	0.00	0.00	0.00	0.00	0.00	200.00
PAYROLL - SALARIES	4,576.68	3,268.68	3,124.68	3,076.68	3,076.68	3,076.68	3,076.68	3,172.68	3,532.68	3,076.68	3,076.68	3,076.68	39,212.16
PAYROLL - TAXES	346.23	232.78	232.78	232.78	232.78	232.78	232.78	232.78	238.55	235.04	460.46	460.46	3,370.20
PAYROLL - FEES	105.00	105.00	101.50	98.00	98.00	98.00	98.00	98.00	98.00	98.00	98.00	154.30	1,249.80
JANATORIAL - TRAVELERS	4,616.62	4,616.62	4,616.62	4,616.62	4,616.62	4,616.62	4,616.62	4,616.62	4,616.62	4,616.62	4,274.65	4,616.62	55,057.47
JANITORIAL - GSA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	378.00	378.00
INSURANCE	4,185.44	702.56	702.56	702.56	724.35	1,416.91	0.00	0.00	0.00	0.00	0.00	0.00	8,434.38
INSURANCE - WORK COMP	0.00	(60.00)	0.00	2,469.99	0.00	0.00	0.00	0.00	60.00	422.30	0.00	0.00	2,892.29
PEST CONTROL	64.47	64.65	64.76	63.72	63.72	63.72	63.72	61.56	62.56	61.56	61.56	61.56	757.56
SUPPLIES - OTHER	256.18	131.61	21.57	0.00	579.04	0.00	0.00	0.00	60.47	30.09	0.00	0.00	1,078.96
SUPPLIES - OFFICE-PARKIN	119.29	252.46	987.50	53.98	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,413.23
TAXES - PROPERTY	0.00	0.00	17,398.85	0.00	0.00	0.00	0.00	1,475.54	17,811.20	0.00	0.00	9,200.18	45,885.77
INTERNET	49.99	49.99	49.14	49.99	49.99	49.99	49.99	0.00	42.99	42.99	42.99	46.12	524.17
ELECTRIC-PARKING	1,561.37	1,082.23	996.05	994.79	900.19	947.42	964.60	1,105.51	1,333.84	1,546.51	1,674.60	1,719.84	14,826.95
ELECTRIC	6,799.09	6,196.05	7,970.26	8,340.59	8,914.47	8,024.33	6,906.63	6,639.50	6,543.74	8,497.38	8,089.64	9,559.48	92,481.16

ELMIRA EASTOWNE MALL, LLC
 ELMIRA EASTOWNE MALL 12 MONTH INCOME STATEMENT
 For the Month Ending December 31, 2011

	December 2011	November 2011	October 2011	September 2011	August 2011	July 2011	June 2011	May 2011	April 2011	March 2011	February 2011	January 2011	12 MONTH TOTALS
OPERATING EXPENSES (continued):													
TRASH	0.00	0.00	0.00	4,662.56	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4,662.56
GAS	1,237.54	560.77	84.87	55.03	52.57	54.03	160.24	1,136.33	2,423.77	3,913.62	4,159.28	3,806.36	17,644.41
SEWER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,204.50	0.00	0.00	0.00	0.00	1,204.50
WATER	0.00	451.88	0.00	578.28	0.00	556.16	0.00	499.28	0.00	423.44	0.00	380.68	2,889.72
TELEPHONE	272.41	272.51	293.99	231.53	248.74	248.65	248.73	291.65	248.82	248.87	249.19	245.41	3,100.50
TRAVEL EXPENSES	0.00	365.00	683.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,048.40
MANAGEMENT-PARKING	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	12,000.00
INSURANCE-PARKING	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	600.00	7,200.00
REPAIRS-PARKING	0.00	0.00	327.56	501.94	385.85	619.61	173.43	79.30	26.86	411.25	95.48	0.00	2,621.28
OTHER-PARKING	14.12	95.36	0.00	0.00	0.00	79.22	0.00	503.23	147.54	125.04	0.00	32.19	996.70
SNOW REMOVAL - PARKING	0.00	0.00	1,119.74	0.00	0.00	0.00	0.00	746.50	988.20	4,037.14	4,556.80	3,294.00	14,742.38
Total OPERATING EXPENSE	31,002.21	21,663.74	41,988.20	33,584.25	23,667.13	23,573.18	23,395.91	28,761.61	41,772.21	36,924.00	31,292.04	40,704.17	378,328.65
NET INCOME FROM OPERATI	24,884.32	35,870.86	14,199.19	22,352.70	32,902.69	32,584.64	32,032.15	27,236.08	14,263.20	18,321.96	23,946.99	14,141.87	292,736.65
DEPRECIATION & INTEREST:													
DEPRECIATION	8,764.56	8,764.56	8,764.56	8,764.56	8,764.56	8,764.56	8,764.56	8,764.56	8,764.56	8,764.56	8,617.40	8,106.84	104,369.84
INTEREST INCOME	(5.11)	(5.61)	(8.07)	(16.90)	(15.07)	(18.05)	(11.95)	(1.06)	(13.14)	(16.50)	(20.30)	(27.52)	(159.28)
INTEREST EXPENSE - CHE	2,148.00	2,237.82	2,179.28	2,269.51	2,287.46	2,227.15	2,319.78	2,257.80	2,351.26	2,138.54	2,383.79	2,399.65	27,200.04
INTEREST EXPENSE - CHE	637.91	661.62	664.96	717.56	716.40	719.31	763.81	754.01	809.96	728.57	826.45	862.94	8,863.50
Total DEPRECIATION & INT	11,545.36	11,658.39	11,600.73	11,734.73	11,753.35	11,692.97	11,836.20	11,775.31	11,912.64	11,615.17	11,807.34	11,341.91	140,274.10
NET INCOME (LOSS)	13,338.96	24,212.47	2,598.46	10,617.97	21,149.34	20,891.67	20,195.95	15,460.77	2,350.56	6,706.79	12,139.65	2,799.96	152,462.55

ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT

For the Twelve Months Ending December 31, 2010

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2010</u>
REVENUE:		
4000-0 INCOME - TRAVELERS	\$48,482.94	\$576,091.44
4001-0 RENT - GSA	\$7,099.20	\$333,756.04
4002-0 GSA EXTRA INCOME	\$0.00	\$54,060.01
4010-0 INCOME- PARKING-MONTHLY	\$5,670.93	\$69,656.49
4015-0 INCOME - PARKING-TRANSIENT	\$501.85	\$5,996.99
4025-0 OTHER INCOME - LAZ	\$69.57	\$273.67
4026-0 OTHER INCOME	\$0.00	\$27,480.00
Total REVENUE	<u>\$61,824.49</u>	<u>\$1,067,314.64</u>
OPERATING EXPENSES:		
5105-0 BANK CHARGES	\$0.00	\$87.00
5110-0 ACCOUNTING / LEGAL	\$0.00	\$5,913.17
5111-0 LANDSCAPING	\$0.00	\$731.00
5112-0 COMMISSIONS	\$0.00	\$500.00
5150-0 REPAIRS - GENERAL	\$259.20	\$3,082.56
5151-0 REPAIRS - PAINTING	\$0.00	\$21.58
5152-0 REPAIRS - PLUMBING	\$4,328.00	\$4,829.94
5154-0 REPAIRS - ELECTRIC	\$455.50	\$1,093.25
5160-0 REPAIRS - HVAC	\$0.00	\$11,761.55
5165-0 MAINTENANCE - GENERAL	\$0.00	\$100.00
5166-0 MAINTENANCE - FIRE ALARM	\$0.00	\$790.22
5167-0 MAINTENANCE - HVAC	\$3,512.64	\$13,498.46
5168-0 MAINTENANCE - ELEVATOR	\$587.37	\$7,809.84
5190-0 MANAGEMENT - NRE	\$1,000.00	\$12,000.00
5290-0 MISCELLANEOUS	\$0.00	\$200.00
5340-0 PAYROLL - SALARIES	\$4,576.68	\$39,171.38
5341-0 PAYROLL - TAXES	\$347.53	\$3,299.31
5345-0 PAYROLL - FEES	\$98.00	\$776.81
5393-0 JANITORIAL - TRAVELERS	\$4,445.64	\$54,213.64
5393-1 JANITORIAL - GSA	\$0.00	\$10,811.78
5430-0 INSURANCE	\$4,698.70	\$8,062.75
5435-0 INSURANCE - WORK COMP	\$0.00	\$797.20
5465-0 PEST CONTROL	\$61.56	\$727.92
5500-0 SUPPLIES - OTHER	\$0.00	\$988.33
5505-0 SUPPLIES - OFFICE-PARKING	\$0.00	\$111.61
5600-0 TAXES - PROPERTY	\$788.00	\$40,887.73
5675-0 INTERNET	\$42.99	\$369.97
5689-0 ELECTRIC-PARKING	\$1,744.38	\$18,079.02
5690-0 ELECTRIC	\$8,161.81	\$112,032.25
5691-0 TRASH	\$0.00	\$4,662.56
5692-0 GAS	\$1,461.17	\$16,386.65

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ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT

For the Twelve Months Ending December 31, 2010

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2010</u>
OPERATING EXPENSES (continued):		
5693-0 SEWER	\$0.00	\$1,124.20
5694-0 WATER	\$0.00	\$3,570.96
5700-0 TELEPHONE	\$218.98	\$2,720.77
5701-0 SALES TAX	\$0.00	\$296.64
5709-0 TRAVEL EXPENSES	\$426.24	\$581.64
5710-0 MANAGEMENT-PARKING	\$1,000.00	\$12,000.00
5715-0 INSURANCE-PARKING	\$600.00	\$7,200.00
5720-0 REPAIRS-PARKING	\$109.33	\$1,959.95
5725-0 OTHER-PARKING	\$53.90	\$1,759.77
5730-0 SNOW REMOVAL - PARKING	\$1,080.64	\$10,406.44
Total OPERATING EXPENSES	<u>\$40,058.26</u>	<u>\$415,417.85</u>
NET INCOME FROM OPERATIONS	\$21,766.23	\$651,896.79
DEPRECIATION & INTEREST:		
5800-0 DEPRECIATION	\$8,739.75	\$107,123.84
6001-0 INTEREST INCOME	(\$44.88)	(\$163.25)
6005-0 INTEREST EXPENSE - CHEMUNG	\$2,341.90	\$32,647.88
6006-0 INTEREST EXPENSE - CHEMUNG 2ND	\$852.50	\$5,277.50
6010-0 INTEREST EXPENSE - CITY OF ELMIRA	\$0.00	\$11,655.76
Total DEPRECIATION & INTEREST	<u>\$11,889.27</u>	<u>\$156,541.73</u>
NET INCOME (LOSS)	\$9,876.96	\$495,355.06

ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT

For the Twelve Months Ending December 31, 2009

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2009</u>
REVENUE:		
4000-0 INCOME - TRAVELERS	\$47,532.30	\$586,742.82
4001-0 RENT - GSA	\$32,297.32	\$95,815.38
4010-0 INCOME- PARKING-MONTHLY	\$4,847.41	\$59,221.28
4015-0 INCOME - PARKING-TRANSIE	\$344.44	\$5,674.40
4025-0 OTHER INCOME - LAZ	\$59.31	\$243.42
Total REVENUE	<u>\$85,080.78</u>	<u>\$747,697.30</u>
OPERATING EXPENSES:		
5105-0 BANK CHARGES	\$0.00	\$25.00
5110-0 ACCOUNTING / LEGAL	\$0.00	\$7,889.00
5111-0 LANDSCAPING	\$0.00	\$119.54
5112-0 COMMISSIONS	\$0.00	\$16,389.28
5150-0 REPAIRS - GENERAL	\$956.80	\$4,239.32
5151-0 REPAIRS - PAINTING	\$19.33	\$19.33
5152-0 REPAIRS - PLUMBING	\$36.16	\$2,190.58
5154-0 REPAIRS - ELECTRIC	\$0.00	\$365.90
5158-0 REPAIRS - FIRE ALARM	\$0.00	\$216.00
5160-0 REPAIRS - HVAC	\$0.00	\$144.56
5166-0 MAINTENANCE - FIRE ALARM	\$0.00	\$388.50
5167-0 MAINTENANCE - HVAC	\$3,233.52	\$12,513.60
5168-0 MAINTENANCE - ELEVATOR	\$569.87	\$6,903.64
5190-0 MANAGEMENT - NRE	\$1,000.00	\$12,000.00
5260-0 PARKING EXPENSE	\$0.00	\$8.80
5290-0 MISCELLANEOUS	\$0.00	\$200.00
5340-0 PAYROLL - SALARIES	\$4,098.83	\$34,101.83
5341-0 PAYROLL - TAXES	\$327.35	\$3,401.63
5345-0 PAYROLL - FEES	\$50.50	\$622.00
5393-0 JANATORIAL - TRAVELERS	\$4,341.64	\$52,244.69
5393-1 JANITORIAL - GSA	\$563.34	\$563.34
5430-0 INSURANCE	\$0.00	\$8,134.26
5435-0 INSURANCE - WORK COMP	\$0.00	\$1,400.59
5465-0 PEST CONTROL	\$59.40	\$702.00
5500-0 SUPPLIES - OTHER	\$10.80	\$1,095.66
5505-0 SUPPLIES - OFFICE-PARKING	\$28.98	\$963.49
5600-0 TAXES - PROPERTY	\$0.00	\$37,698.47
5605-0 TAXES - SPECIAL DISTRICT	\$0.00	\$2,229.73
5675-0 INTERNET	\$34.39	\$412.68
5689-0 ELECTRIC-PARKING	\$1,837.85	\$18,621.74
5690-0 ELECTRIC	\$11,021.75	\$120,255.97
5691-0 TRASH	\$0.00	\$4,018.56
5692-0 GAS	\$1,408.41	\$18,408.09

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ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT

For the Twelve Months Ending December 31, 2009

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2009</u>
OPERATING EXPENSES (continued):		
5693-0 SEWER	\$0.00	\$1,073.60
5694-0 WATER	\$0.00	\$3,071.78
5700-0 TELEPHONE	\$255.17	\$2,483.00
5709-0 TRAVEL EXPENSES	\$0.00	\$1,403.95
5710-0 MANAGEMENT-PARKING	\$1,000.00	\$12,000.00
5715-0 INSURANCE-PARKING	\$600.00	\$7,200.00
5720-0 REPAIRS-PARKING	\$2,353.32	\$4,509.26
5725-0 OTHER-PARKING	\$226.50	\$3,673.77
5730-0 SNOW REMOVAL - PARKING	\$1,605.36	\$10,408.66
Total OPERATING EXPENSES	<u>\$35,639.27</u>	<u>\$414,311.80</u>
NET INCOME FROM OPERATIONS	\$49,441.51	\$333,385.50
DEPRECIATION & INTEREST:		
5800-0 DEPRECIATION	\$7,196.59	\$54,640.77
6001-0 INTEREST INCOME	(\$26.14)	(\$2,151.02)
6005-0 INTEREST EXPENSE - CHEM	\$3,267.21	\$40,878.78
6006-0 INTEREST EXPENSE - CHEM	\$978.52	\$3,200.41
6010-0 INTEREST EXPENSE - CITY O	\$1,062.50	\$12,750.00
Total DEPRECIATION & INTEREST	<u>\$12,478.68</u>	<u>\$109,318.94</u>
NET INCOME (LOSS)	\$36,962.83	\$224,066.56

ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT

For the Twelve Months Ending December 31, 2008

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2008</u>
REVENUE:		
4000-0 INCOME - TRAVELERS	\$50,258.17	\$599,213.64
4010-0 INCOME- PARKING-MONTHLY	\$4,917.78	\$59,948.14
4015-0 INCOME - PARKING-TRANSIE	\$579.62	\$6,277.71
4016-0 INCOME - INSURANCE REIMB	\$0.00	\$15,116.80
4025-0 OTHER INCOME - LAZ	\$63.11	\$248.71
Total REVENUE	<u>\$55,818.68</u>	<u>\$680,805.00</u>
OPERATING EXPENSES:		
5110-0 ACCOUNTING / LEGAL	\$855.32	\$3,246.66
5111-0 LANDSCAPING	\$0.00	\$342.06
5149-0 INSURANCE LOSS EXPENSE	\$0.00	\$13,654.96
5150-0 REPAIRS - GENERAL	\$822.35	\$5,741.79
5152-0 REPAIRS - PLUMBING	\$0.00	\$318.14
5154-0 REPAIRS - ELECTRIC	\$140.56	\$1,556.42
5165-0 MAINTENANCE - GENERAL	\$0.00	\$75.00
5166-0 MAINTENANCE - FIRE ALARM	\$0.00	\$547.52
5167-0 MAINTENANCE - HVAC	\$2,907.00	\$11,689.80
5168-0 MAINTENANCE - ELEVATOR	\$754.35	\$6,943.20
5190-0 MANAGEMENT - NRE	\$1,000.00	\$12,000.00
5290-0 MISCELLANEOUS	\$0.00	\$200.00
5340-0 LABOR	\$3,113.45	\$27,192.16
5341-0 PAYROLL TAXES-EMPLR	\$977.02	\$9,873.57
5345-0 PAYROLL FEES	\$52.00	\$630.57
5393-0 JANATORIAL	\$4,341.64	\$51,932.69
5430-0 INSURANCE	\$0.00	\$8,156.37
5435-0 INSURANCE - WORK COMP	\$0.00	\$1,586.88
5465-0 PEST CONTROL	\$57.24	\$689.69
5500-0 SUPPLIES - OTHER	\$3.95	\$1,503.47
5505-0 SUPPLIES - OFFICE-PARKING	\$0.00	\$58.44
5600-0 TAXES - PROPERTY	\$0.00	\$37,772.55
5605-0 TAXES - SPECIAL DISTRICT	\$0.00	\$702.75
5675-0 INTERNET	\$34.39	\$412.80
5689-0 ELECTRIC-PARKING	\$1,855.30	\$20,698.41
5690-0 ELECTRIC	\$9,550.05	\$123,284.35
5691-0 TRASH	\$0.00	\$4,217.81
5692-0 GAS	\$2,614.87	\$16,917.72
5693-0 SEWER	\$0.00	\$1,724.80
5694-0 WATER	\$0.00	\$3,066.65
5700-0 TELEPHONE	\$188.91	\$2,148.12
5709-0 TRAVEL EXPENSES	\$0.00	\$779.32
5710-0 MANAGEMENT-PARKING	\$1,000.00	\$12,000.00

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ELMIRA EASTOWNE MALL, LLC

EEM INCOME STATEMENT For the Twelve Months Ending December 31, 2008

	<u>PTD</u> <u>DEC</u>	<u>YTD</u> <u>2008</u>
OPERATING EXPENSES (continued):		
5715-0 INSURANCE-PARKING	\$600.00	\$7,200.00
5720-0 REPAIRS-PARKING	\$0.00	\$2,709.55
5725-0 OTHER-PARKING	\$14.21	\$4,199.93
5730-0 SNOW REMOVAL - PARKING	\$3,354.00	\$13,235.80
Total OPERATING EXPENSES	<u>\$34,236.61</u>	<u>\$409,009.95</u>
NET INCOME FROM OPERATIONS	\$21,582.07	\$271,795.05
DEPRECIATION & INTEREST:		
5800-0 DEPRECIATION	\$2,576.00	\$32,680.00
6001-0 INTEREST INCOME	(\$227.61)	(\$4,124.74)
6005-0 INTEREST EXPENSE - CHEM	\$3,469.54	\$43,379.75
6010-0 INTEREST EXPENSE - CITY O	\$1,062.50	\$12,750.00
Total DEPRECIATION & INTEREST	<u>\$6,880.43</u>	<u>\$84,685.01</u>
NET INCOME (LOSS)	\$14,701.64	\$187,110.04

LEASE

Dated: April 15, 1999

**ARTICLE I.
REFERENCE DATA**

1.01 CERTAIN TERMS

Each reference in this Lease (the "Lease") to any of the following terms shall be construed to mean and incorporate the data stated after such terms in this Section 1.01:

A. Landlord:

THE CITY OF ELMIRA, NEW YORK, a municipal corporation organized and existing under the laws of the State of New York.

B. Landlord's Address:

City of Elmira
City Hall, Third Floor
317 E. Church Street
Elmira, New York 14901
Attn: Law Department

C. Tenant:

THE TRAVELERS INDEMNITY COMPANY, a Connecticut corporation organized and existing under the laws of the State of Connecticut.

D. Tenant's Address:

One Tower Square
Hartford, Connecticut 06183-7130
Attn: Corporate Real Estate & Services, 1 MSA

With a copy to:
4400 North Point Parkway
Alpharetta, Georgia 30022
Attn: Corporate Real Estate & Services, Senior Manager

E. Premises:

As shown on Exhibit A-3 (PLAN OF PREMISES) and described as follows:

(i) Rentable Area of the Premises: 25,926 square feet, situated on the 1st floor of the building, subject to the terms of Section 2.03 and Section 2.04 of the Lease;

(ii) Usable Area of the Premises: 25,926 square feet, subject to the terms of Section 2.03 and Section 2.04 of the Lease;

F. Building:

(i) Total Rentable Area of the Building: 53,466 square feet;

(ii) Building Address: Eastowne Mall
116 Baldwin Street
Elmira, New York 14901

G. Property:

The Land, the Building, the Common Area Facilities and the Premises.

H. Land:

116,557.08 square feet as described in the legal description attached as Exhibit A-1 (DESCRIPTION OF LAND) and as identified on the tax assessor's plan attached as Exhibit A-2 (TAX ASSESSOR'S PLAN).

I. Tenant's Proportionate Share:

Forty-eight and 49/100 percent (48.49%), to be adjusted as provided for in Section 2.04 of this Lease.

J. Lease Term: Five years

K. Scheduled Lease Commencement Date: July 1, 1999.

L. Scheduled Lease Expiration Date: June 30, 2004.

**M. Address for Payment: City of Elmira
City Hall
317 E. Church Street
Elmira, New York 14901
Attn: City Chamberlain**

N. Parking: as shown on Exhibit A-4 (PLAN OF PARKING AREA) and described as follows:

"Parking Ratio": 6.5 parking spaces for every 1,000 square feet of Rentable Area of the Premises, at the Eastowne Parking Garage, for a total of 169 parking spaces. The first 104 parking spaces (or 4 parking spaces for every

1,000 square feet of Rentable Area of the Premises) shall be provided to Tenant at no cost or expense; the balance of Tenant's parking spaces (65 parking spaces, based on 2.5 parking spaces for every 1,000 square feet of Rentable Area of the Premises) shall be provided to Tenant at the cost of \$10.53 per parking space, per month.

O. **Brokers:** Equis of New York.

P. **Overtime HVAC Costs:** Based on Landlord's actual costs, not to exceed \$10.00 per hour.

1.02 EXHIBITS

These Exhibits, attached hereto, are incorporated herein as part of this Lease:

EXHIBITS: A-1 Description of Land
A-2 Tax Assessor's Plan
A-3 Plan of Premises
A-4 Plan of Parking Area
B-1 Operating Cost Information Form
B-2 Real Estate Tax Information Form
C Base Building Improvements
D Work Letter Agreement
E Janitorial Service and Supplies
F Direct Deposit Form
G Base Rent Schedule
H Commencement Date Agreement
I Subordination, Attornment and Non-Disturbance Agreement
J Building Rules and Regulations
K Short Form Memorandum
L Present Lease Hold-Over Provision

In each instance in which the provisions of this Article I shall contradict or be inconsistent with the specific and detailed provisions of Articles II through X herein, the provisions of Articles II through X shall prevail.

ARTICLE II. BASIC LEASE PROVISIONS

2.01 PARTIES

This Lease is entered into by and between the Landlord and the Tenant identified in Article I.

2.02 NOTICES

All notices and notifications required or permitted under this Lease to be sent from one party to the other shall be in writing and sent by a nationally recognized private carrier of overnight mail (e.g., Federal Express) or by United States certified mail, return receipt requested and postage prepaid, to either Landlord or Tenant, as the case may be, at the addresses identified in Article I, or at such other addresses as the parties may designate by written notice from time to time.

All notices shall be deemed effective three (3) days after the date of mailing or on the date of actual receipt or refusal, if sooner.

2.03 PREMISES, BUILDING AND LAND

Landlord leases to Tenant upon the terms and conditions contained in this Lease, the Premises as defined in Article I(E), together with the right, in common with others, to use the Common Area Facilities (as hereinafter defined) of the Building and of the Land on which the Building is located.

As used in this Lease, the "Common Area Facilities" shall include all loading docks, freight and passenger elevators, sidewalks, parking areas, driveways, hallways, stairways, public restrooms, common entrances, lobby, emergency systems and other similar public areas and access ways of the Building and the Land.

Tenant may increase or decrease the Rentable Area of the Premises and the corresponding Tenant's Proportionate Share and Base Rent (as hereinafter defined), by up to twenty percent (20%) based upon Tenant's final "design intent" drawings referred to in Exhibit D (WORK LETTER AGREEMENT). In the event that Tenant elects to increase or decrease the Rentable Area of the Premises, then as of the Lease Commencement Date, the Rentable Area of the Premises, Base Rent and Tenant's Proportionate Share payable under this Lease shall be adjusted accordingly and an amendment reflecting these adjustments shall be executed by Landlord and Tenant within thirty (30) days of Tenant's election to increase or decrease the Rentable Area of the Premises.

Landlord shall make no change to the Building configuration that increases Tenant's Proportionate Share (as identified in Article 1.01(I)) by more than five percent (5%), or that materially effects Tenant's use of or access to the Premises, without Tenant's prior written consent.

2.04 AREA VERIFICATION AND MEASUREMENT

It is hereby understood and agreed by both parties hereto, that the Rentable Area of the Premises and the Usable Area of the Premises, as stated in Article I(E) hereof, is an estimate, and the final Rentable Area of the Premises and the final Usable Area of the Premises shall be determined upon the completion of the Tenant Improvements, as further described in Exhibit D (WORKLETTER AGREEMENT), attached hereto and made a part hereof.

For purposes of this Lease, the Premises and the Building shall be measured in accordance with the Building Owners and Management Association (BOMA) Method, American National Standard (ANSI Z65.1-1996). All references to rentable area and usable area as used in this Lease shall refer to rentable and usable area calculations derived by the application of BOMA. Landlord shall provide, upon Tenant's request, the calculations which show how the Total Rentable Area of the Building and Rentable Area of the Premises were derived.

Upon completion of the Premises, and prior to the Lease Commencement Date (as hereafter defined), Tenant shall have a physical measurement of the Rentable Area and Usable Area of the Premises and of the Total Rentable Area of the Building, performed by a licensed architect (the "Certification"), at Landlord's sole cost and expense. It is hereby agreed that the Base Rent and Tenant's Proportionate Share, as described in Section 1.01(I) (CERTAIN TERMS) hereof, shall be equitably adjusted if the Certification indicates that the actual Total Rentable Area of the Building or the Rentable Area of the Premises differs from the numbers set forth in such Section 1.01 as to the Rentable Area of the Premises and/or the Total Rentable Area of the Building.

Tenant may, at any time during the Lease Term and at Tenant's sole cost and expense, retain a licensed or registered surveyor to measure the rentable and usable area of the Premises and the rentable area of the Building. If such re-measurement reveals a difference of greater than five percent (5%) between the rentable area of the Premises or the Building, from what is stated in Article I(E) of this Lease or in the Survey, the Base Rent and Tenant's Proportionate Share shall be equitably adjusted on a retroactive basis.

2.05 USE

Tenant may use the Premises for general office use, for any other uses related to general office use, and for any other use permitted under applicable law.

2.06 LEASE TERM

Tenant shall have and hold the Premises for the Lease Term stated in Section 1.01, commencing on the Scheduled Lease Commencement Date, as identified in Section 1.01, unless Tenant elects to occupy the Premises early as provided in Section 3.03 of Exhibit D (WORK LETTER AGREEMENT). However, notwithstanding the foregoing to the contrary, Landlord and Tenant hereby agree that, subject to the terms of Exhibit D (WORK LETTER AGREEMENT), attached hereto and made a part hereof, the Lease Commencement Date shall be the date which is the first business day following a total period of three (3) months after the date which Landlord delivers possession of the Premises to Tenant, such that Tenant may commence its Tenant Improvement work (and the Base Building Improvement Work, as described in Exhibit D) in order to prepare the Premises for its occupancy, and relocate to the Premises, provided that: (i) Landlord delivers possession of the Premises to Tenant on the Possession Delivery Date, as defined in Exhibit D

(WORK LETTER AGREEMENT); (ii) an event of Force Majeure (as defined herein) has not occurred which would prevent Tenant from commencing or substantially completing the Tenant Improvement work and the Base Building Improvement Work for the Premises within a period of three (3) months from the date of receipt of possession of the Premises from Landlord; (iii) a Landlord Delay (as defined in Exhibit D) has not occurred which would prevent Tenant from commencing or substantially completing the Tenant Improvement work and the Base Building Improvement Work, as described in Exhibit D, for the Premises within a period of three (3) months from the date of receipt of possession of the Premises from Landlord (or a material portion thereof); (iv) in addition to the Premises, access to the following areas of the Building is provided to Tenant such that Tenant may complete the Tenant Improvements and Base Building work:

- (1) Freight and passenger elevators as reasonably required by Tenant;
- (2) Loading, unloading, staging and parking facilities
- (3) Trash receptacles and removal;
- (4) Existing as-built plans of the Building;
- (5) To portions of the Building other than the Premises if necessary (e.g., the ceiling of the floor below); and
- (6) Access to the Base Building electrical services and other utilities as necessary for construction.

and (v) provided that Tenant has applied for the same, in an expeditious manner, and Landlord has in no way unduly delayed Tenant's receipt of the same, Tenant has secured a temporary or permanent certificate of occupancy in order to occupy the Premises. However, it is hereby agreed and acknowledged, that Tenant's obtaining of a temporary or permanent certificate of occupancy shall only be a determination of the Lease Commencement Date in the event that Tenant is not able to obtain one due to (x) any acts or omissions of Landlord (or its agents, contractors or employees), or (y) Tenant has expeditiously applied for the same, however, the applicable governmental authority has not yet issued it, due to no act or omission of Tenant, or its agents, employees or contractors. Therefore, it is hereby understood and agreed that, subject to the terms of Section 3.03 of Exhibit D (WORK LETTER AGREEMENT), the Lease Commencement Date shall occur as of the later of the (A) Scheduled Lease Commencement Date, or (B) the first business day following a period of three (3) months after the date which Landlord delivers possession of the Premises to Tenant, subject to the foregoing provisions (i) - (v) of this Section 2.06 (the "Lease Commencement Date").

Within fifteen (15) days after the Lease Commencement Date, Landlord and Tenant shall execute and be bound by a "Lease Commencement Date Agreement", the form of which is attached hereto as Exhibit H (COMMENCEMENT DATE AGREEMENT).

2.07 DELAYED OCCUPANCY

If Landlord, for any reason whatsoever, cannot deliver possession of the Premises to

the Tenant, and on the Possession Delivery Date, as set forth in Exhibit D, such that Tenant may perform and substantially complete the Tenant Improvement work in order to prepare the Premises for its occupancy on or before the Scheduled Lease Commencement Date (subject to the terms of Section 2.06 above), this Lease shall not be void or voidable (except as expressly provided for herein); however, if Landlord is unable to deliver possession of the entire Premises to Tenant as described in Exhibit D, and on the date described therein, Landlord shall immediately notify Tenant. In addition, in the event that (x) Landlord does not deliver possession of the Premises to Tenant, on the date set forth in Exhibit D (and such is not due to the negligence or willful omission or willful misconduct of Tenant, or its agents, contractors or employees), or (y) Tenant's commencement or completion of the Tenant Improvement work for the Premises is delayed due to a Landlord Delay, as described in Exhibit D, and either event causes Tenant not to substantially complete the Tenant Improvement work and the Base Building Improvement Work as of the Scheduled Lease Commencement Date, then, commencing with the Scheduled Lease Commencement Date and continuing until the date which the actual Lease Commencement Date occurs (both pursuant to Section 2.06 above), Landlord shall reimburse Tenant, without penalty or default, for (i) any amount of rent in excess of the Base Rent, as set forth herein which Tenant must pay for Tenant's continued occupancy at its present location or for any temporary or alternate premises which Tenant must obtain beyond the Scheduled Lease Commencement Date of this Lease (this shall include any payment of rent for a full month which Tenant must pay for its continued occupancy at its present location, even though in that last calendar month, Tenant may move to the Premises (or the respective parcel) described herein, in the middle of such calendar month), and (ii) any reasonable additional expenses which Tenant incurs in continuing to occupy space beyond the Scheduled Lease Commencement Date of this Lease, or in moving to a temporary location; and (iii) any costs or damages (however, specifically excluding loss of business or consequential damages (which are expressly excluded under the terms of this Lease)), including reasonable attorney's fees, caused by such delay in occupancy. For purposes hereof, Tenant's present location is situated at 200 East Church Street, Elmira, New York, pursuant to the terms of a Lease dated December 19, 1994, as amended (hereafter the "Present Lease"), and any holdover under the terms of this Present Lease shall be on a month to month basis, subject to the "Holding Over" provision of such Present Lease, a copy of which provision is attached hereto as Exhibit L (PRESENT LEASE HOLD-OVER PROVISION), and subject to any additional rent and/or electricity payments which Tenant shall be responsible for during the period of time which Tenant holds-over at this location, as opposed to moving to the Premises. Tenant's monthly base rent under this Present Lease shall be \$20,704.00 per month, as of the expiration date of this Present Lease (excluding any hold-over penalties).

If Landlord is not able to deliver possession of the entire Premises to Tenant (and such is not due to the negligence, willful misconduct or a willful omission of Tenant, or its agents, contractors or employees), within two (2) months after the date described in Exhibit D for delivery of possession, Tenant shall have the option to terminate this Lease upon giving written notice to Landlord.

In the event the Scheduled Lease Commencement Date does not occur due to a Landlord Delay (as defined in Exhibit D) or an event of Force Majeure, then, the monthly installments of Base Rent and any other sums due hereunder shall not commence to accrue until the actual Lease Commencement Date, and the Lease Expiration Date shall be extended accordingly. However, notwithstanding anything to the contrary contained herein, if the Premises is not Substantially Completed (as defined in Exhibit D) on or before the Scheduled Lease Commencement Date due to a Tenant Delay (as hereafter defined), then the Lease Commencement Date shall be deemed to be the date when the Premises would have been Substantially Completed if not for such Tenant Delay (i.e. which shall be the first business day following a period of three (3) months after the date which Landlord delivers possession of the Premises to Tenant, provided that Tenant did receive possession of the Premises as of the Possession Delivery Date, set forth in Exhibit D), and the monthly installments of Base Rent and any other sum due hereunder shall commence to accrue as of such date. [In the event Landlord does not deliver possession of the Premises to Tenant as of the Possession Delivery Date described in Exhibit D, and a Tenant Delay still occurs, the Lease Commencement Date shall be deemed to be the date when the Premises would have been Substantially Completed (i.e. which shall be the first business day following a period of three (3) months after the date which Landlord delivers possession of the Premises to Tenant, if not for such Tenant Delay adjusted by the number of days which Landlord did not deliver the Premises to Tenant, as scheduled.]

For purposes hereof, a Tenant Delay shall mean any of the following: (i) Tenant's failure to deliver Plans and Specifications to Landlord in the manner described in Exhibit D; (ii) Any changes to Tenant's Final Plans and Specifications or the Base Building Work, each as defined in Exhibit D, which change(s) cause an actual delay in completing the Tenant Improvement work, such that the Tenant Improvement work is not completed within the period of time set forth herein and in Exhibit D; (iii) Delays caused by the performance of the Tenant Improvement work or the Base Building Improvement Work or by any of Tenant's employees, agents, or contractors, including, without limitation, not diligently commencing the Tenant Improvement work upon receipt of possession of the Premises from Landlord; or (iv) Any non-compliance by Tenant with the terms of Exhibit D, provided that such non-compliance does not result from a negligent act or willful omission or willful misconduct of Landlord or its agents, contractors or employees (hereafter any event being a "Tenant Delay").

2.08 IMPROVEMENTS

Tenant shall accept the Premises in its "as is" condition, with all of the Base Building Improvements, as described in Exhibit C (BASE BUILDING IMPROVEMENTS), included therewith, in their "as is" condition, subject to the Base Building Improvement Work to be performed by Tenant, at Landlord's sole cost and expense. Landlord hereby represents that the Base Building Improvements, excluding the Base Building Improvement Work, have been installed in a first-class and workman like manner and are in good working order and condition. In addition, Landlord shall provide Tenant with an allowance, as

further described in Exhibit D (WORK LETTER AGREEMENT), in order for Tenant to prepare the Premises for its occupancy (the "Tenant Improvement Allowance"). The Tenant Improvement Allowance shall be provided to Tenant, in accordance with the terms of Exhibit D, and shall be for Tenant's Improvement work only, and shall not be used to pay for any Base Building Improvements or Base Building Improvement Work, which are to be completed (if not already completed) at Landlord's sole cost and expense. The Tenant Improvement Allowance shall be subject to the following:

a. Tenant shall coordinate and manage any Tenant Improvement work, including design and build-out of the Premises, in accordance with the terms of this Lease;

b. Tenant may select, at its discretion (and Landlord agrees not to specify the same), all consultants and vendors including architects, engineers, consultants, contractors and subcontractors for performance of the Tenant Improvements;

c. The Tenant Improvement Allowance is intended to cover all hard and soft costs associated with the Tenant Improvements, including but not limited to, construction, architecture and consultant fees, furniture, moving, voice and cabling costs;

d. There shall be no Landlord supervision or administrative fees associated with the Tenant Improvements; and

e. Tenant may retain any unused portion of the Tenant Improvement Allowance and the same shall be credited to Tenant in the form of a reduction of the monthly installments of annual Base Rent, until such unused portion is exhausted.

The Tenant Improvements shall be performed and completed by Tenant in accordance the terms of Exhibit D. Any Tenant Improvements completed by Tenant shall immediately become the property of Landlord, upon completion, unless otherwise agreed to in writing.

In addition to the foregoing, Landlord hereby represents and warrants to Tenant, that as of the date of this Lease, (i) there are no water leaks within the Building or the Premises, and (ii) the carbon monoxide (CO 2) fumes from the garage are not entering the Premises. In the event that at any time during the Lease Term, any water leaks occur, or the carbon monoxide fumes from the garage are detected within the Premises, Landlord shall repair and/or correct the same, in accordance with Section 4.02 (REPAIRS AND MAINTENANCE) hereof (and in accordance with any Laws governing the same); however, notwithstanding anything contained therein or in Section 3.02 (ESCALATION), at Landlord's sole cost and expense.

**ARTICLE III.
TENANT'S OBLIGATION TO PAY RENT**

3.01 RENT

Tenant agrees to pay to Landlord Base Rent in monthly installments in the amounts set forth in Exhibit G (BASE RENT SCHEDULE) (the "Base Rent"), commencing as of the Lease Commencement Date, as finally determined in accordance with Section 2.06 (LEASE TERM) hereof (which for purposes hereof shall be deemed the "Rent Commencement Date"). The monthly installments of the Base Rent and Additional Rent Paid on Account (as hereinafter defined) shall be paid in advance, either by check or by electronic direct deposit, at Tenant's option, within the first ten (10) business days of each month. If such monthly installments are made by check they shall be sent to the address for payment of rent as shown in Article I(M). If such installments are made by electronic direct deposit, Landlord shall designate a bank account and shall furnish Tenant with a "Direct Deposit Authorization" in the form of Exhibit F (DIRECT DEPOSIT FORM). Landlord shall give Tenant notice if the address or bank account for rental payments changes. If the Lease Term commences or ends on a day other than the first day or last day of a calendar month, or if the Base Rent and/or Additional Rent for any calendar month is to be prorated for any reason, the monthly installments of the same shall be prorated on a per diem basis based upon the number of days in the calendar month.

The Base Rent shall be calculated on a "full service basis" which includes Building Operating Expenses, Real Estate Taxes, Building Services, utilities and parking (each as hereinafter defined).

3.02 ESCALATION

For the purposes of calculating the portion of any increases in the operating costs and the real estate taxes for the Building, including the Common Area Facilities, and the Land, where applicable, which Tenant shall pay Landlord as set forth herein, Tenant's Proportionate Share (as identified in Article I) is the percentage obtained by dividing the Rentable Area of the Premises by the Total Rentable Area of the Building.

A. Operating Cost Escalation

- (1) This section is intended to insure that Tenant pays for Tenant's Proportionate Share of all inflationary type increases in the costs of operations and maintaining the Building over the costs of the Base Year (as hereafter defined). In addition to the Base Rent, Tenant shall pay the Operating Cost Escalation (as hereinafter defined). The "Operating Cost Escalation" means the difference between Tenant's Proportionate Share of the Building Operating Expenses for the Base Year and Tenant's Proportionate Share of Building Operating Expenses for the calendar year in question.

For the purposes of this Section 3.02, Operating Cost Escalation shall be subject to the following: :

- (i) Base Year shall mean the calendar year 1999.
- (ii) Computation Year shall mean each full twelve (12) calendar months subsequent to the Base Year through the end of the Lease Term, as the same may be extended.
- (iii) Tenant's Proportionate Share shall mean the ratio, expressed as a percentage, of the Rentable Area of the Premises, measured as described in Section 2.04, to the entire rentable area in the Building, which is currently FIFTY THREE THOUSAND FOUR HUNDRED SIXTY-SIX (53,466) rentable square feet. The numerator of Tenant's Proportionate Share is subject to adjustment if the rentable square foot area of the Premises changes pursuant to the provisions of this Lease, and the denominator of Tenant's Proportionate Share is subject to adjustment if the rentable square foot area of the Building increases, however, subject to the terms of Section 2.03 hereof.
- (iv) Building Operating Expenses means the total actual out-of-pocket expenses paid by Landlord for the operation, maintenance and repair of the Property which are incurred during any calendar year or portion thereof, in accordance with generally accepted accounting principles consistently applied to first-class office buildings.

With the exception of Real Estate Taxes, which shall not be adjusted in the following manner, the Operating Expenses for the Base Year shall be adjusted, if necessary, to a level of 95 % occupied (or the actual percentage occupied if higher) and a fully operational first-class office building at costs levels prevailing in the geographic market which the Building is located for an entire year. This adjustment shall include; (a) when building systems are under warranty during the Base Year, an adjustment for the cost of service contracts and other expenses that would have been incurred in the absence of such warranties, and (b) adjustments for all other atypical costs that occur or do not occur during the Base Year other than those costs which would occur in the Base Year in the ordinary course of business. The purpose of these adjustments is to include in the Operating Expenses for the Base Year all reasonable cost components that occur or are likely to occur in later years.

If at any time during the Lease Term, less than 95% (or the actual percentage occupied if higher) of the Total Rentable Area of the Building is occupied by tenants, or the Landlord is not supplying services to 95 % of the Total Rentable Area of the Building (or the

actual percentage occupied if higher) at any time during any calendar year, the Operating Expenses (not including Real Estate Taxes) for such calendar year shall be reasonably determined to be an amount equal to the expenses that would normally be expected to be incurred had such occupancy been 95% of the Total Rentable Area of the Building (or the actual percentage occupied if higher) and had Landlord been supplying services to 95 % of the Total Rentable Area of the Building (or the actual percentage occupied if higher) throughout the calendar year. The only costs which shall be adjusted in this manner shall be variable expenses (specifically excluding Real Estate Taxes), otherwise includable as Operating Expenses, where the amount is directly related to the level of occupancy or square foot area receiving a particularly service. Landlord will indicate which expenses were adjusted in this manner on Exhibit B-1 (OPERATING COST INFORMATION FORM). Landlord will provide specific calculations detailing this adjustment upon Tenant's request. In addition, Landlord shall provide Tenant, at Tenant's request, with copies of all contracts for services, where the cost associated therewith shall be related to the level of occupancy of the Building, or the square foot area receiving such service, in order to evidence to Tenant that the costs thereof shall be adjusted in the manner set forth in this paragraph.

If a new category of expense is incurred after the Base Year, the first full year's expense for such item shall be added to the Operating Expenses for the Base Year commencing with the first full calendar year that such expense is incurred, so that Tenant shall only be required to pay subsequent increases in such expense. The expense incurred for such item during the first year shall be subject to the adjustments described in the immediately preceding paragraphs of this sub-section.

Where Landlord allocates Operating Expenses to the Building, the Common Area Facilities or the Land, which Operating Expenses are shared with other buildings; (i) the costs so allocated must be clearly identified on the Operating Cost Information Form in accordance with Exhibit B-1 (OPERATING COST INFORMATION FORM); (ii) the rationale and the underlying method of allocation must be set forth in detail; and (iii) the benefit enuring to Tenant quantified. Absent the foregoing disclosure, allocated costs shall, in no event, be deemed Operating Expenses. Tenant reserves the right to challenge the propriety of all allocated costs.

- (2) Building Operating Expenses shall mean the following reasonable expenses which are paid or incurred (computed on an accrual basis), as permitted pursuant to generally accepted accounting principles, consistently applied, for operating and maintaining the Building, the Common Area Facilities and the Land in a first-class manner, as

described in Section 10.07 (FIRST-CLASS BUILDINGS):

- (a) janitorial services and supplies;
- (b) maintenance and engineering services and supplies;
- (c) fire and extended coverage, rental interruption and liability insurance applicable solely to the Building;
- (d) water, sewer use, gas and other fuel's and other utilities;
- (e) electricity used by Landlord in the operation and maintenance of the Building;
- (f) A property management fee of not greater than four percent (4%) of the gross receipts from the Building (exclusive of Tenant reimbursements or capital expenditures) applicable to the Building for said calendar year. However, if the Landlord is not the City of Elmira such fee may include salaries and wages of employees, other than employees above the grade level of building superintendent or building manager, whose time is spent directly and solely in the operation of the Property, together with a property management fee of not greater than three percent (3 %) of the gross rents (exclusive of tenant reimbursements or capital expenditures) applicable to the Building for said relevant calendar year.

Management fees for the Base Year shall be computed as if 95% of the Building was occupied (or the actual percentage occupied if greater) during that year, at Tenant's Base Rent, including reasonably anticipated amounts for escalations and other rents; however, without regard to rent abatements or other concessions. After the Base Year, management fees shall be computed for unoccupied space by using Tenant's Base Rent, including reasonably anticipated amounts for escalation; and for occupied space by substituting, with respect to such leased space, the actual base rents, including reasonably anticipated amounts for escalations and other rents, without regard to rent abatements or other concessions of those tenants. This provision (g) will supersede, with respect to management fees, the general gross up set forth above.

- (g) expenses incurred in connection with emergency systems and systems for policing and protecting the Building;
- (h) assessments on real property excluding Real Property Taxes; and

- (i) other reasonable expenses other than reserves.
- (3) Notwithstanding anything in this Lease to the contrary, the following expenses are excluded from Building Operating Expenses:

- (a) Capital expenditures, including any capital replacement, capital repair or capital improvement made to the Building, the Common Area Facilities or the Land and any other expense which would be deemed to be a capital expenditure under generally accepted accounting principles, consistently applied. Replacement of an item or of a major component of an item and major repairs to such items in lieu of replacement shall each be considered a capital expenditure if the original item or a subsequent improvement to such item was, or could have been, capitalized.

Capital expenditures of \$1,000.00 or less may be included in Building Operating Expenses. For purposes of this clause, a group of expenditures related to the same capital project shall be considered a single expenditure;

- (b) Depreciation or amortization of the Building or its contents or components;
- (c) Expenses for the preparation of space or other work which Landlord performs for any tenant or prospective tenant of the Building;
- (d) Expenses for repairs or other work which is caused by fire, windstorm, casualty or any other insurable occurrence, including costs subject to Landlord's insurance deductible;
- (e) Expenses incurred in leasing or obtaining new tenants or retaining existing tenants, including leasing commissions, legal expenses, advertising or promotion;
- (f) Legal expenses incurred in enforcing the terms of any lease;
- (g) Interest, amortization or other costs, including legal fees, associated with any mortgage, loan or refinancing of the Land, the Building or the Common Area Facilities;
- (h) Expenses incurred for any necessary replacement of any item to the extent that it is covered under warranty;
- (i) The cost of any item or service which Tenant separately reimburses Landlord or pays to third parties, or that Landlord

provides selectively to one or more tenants of the Building, other than Tenant, whether or not Landlord is reimbursed by such other tenant(s). This category shall include the actual cost of any special electrical, heating, ventilation or air conditioning required by any tenant that exceeds normal building standards or is required during times other than the Business Hours, as hereinafter defined in Section 4.01 (SERVICES FURNISHED BY LANDLORD);

- (j) Accounting and legal fees relating to the ownership, construction, leasing, sale or any litigation relating to the Building, the Common Area Facilities or the Land;
- (k) Any interest or penalty incurred due to the late payment of any Building Operating Expense;
- (l) Any amount paid to an entity or individual related to Landlord which exceeds the amount which would be paid for similar goods or services on an arms-length basis between unrelated parties;
- (m) The cost of correcting defects in the construction of the Building, the Common Area Facilities or the Land; repairs resulting from ordinary wear and tear shall not be deemed to be defects;
- (n) The initial cost or the replacement cost of any permanent landscaping, or the regular landscaping maintenance for any property other than the Land;
- (p) Any costs of complying with any governmental laws, rules, regulations, or other requirements applicable to the Land, the Building, the Common Area Facilities, or the Premises;
- (q) Any ground rent, air space rent or other rent incurred for the Land;
- (r) The cost of correcting any applicable building or fire code violation(s) or violations of any other applicable law relating to the Building, the Common Area Facilities or the Land, or the cost of any penalty or fine incurred for non-compliance with the same;
- (s) Any costs incurred to test, survey, cleanup, contain, abate, remove or otherwise remedy Hazardous Materials, as hereinafter defined in Section 6.02 (ENVIRONMENTAL COMPLIANCE), or asbestos containing materials from the Building, the Common Area Facilities or the Land, including

any damages or future claims asserted against Landlord in connection with the same;

- (t) Any personal property taxes of the Landlord for equipment or items not used directly in the operation or maintenance of the Building;
- (u) All expenditures pertaining to the administration of the Building, the Common Area Facilities and the Land, including payroll and payroll-related expenses associated with administrative and clerical personnel; general office expenditures; other administrative expenditures (including expenditures for travel, entertainment, dues, subscriptions, donations, data processing, errors and omissions insurance, automobile allowances, charitable contributions, political donations and professional fees of any kind) unless specifically enumerated as Building Operating Expenses ;
- (v) Rentals and other related expenses. if any. incurred in leasing capital items;
- (w) Any costs or expenses for sculpture, paintings, or other works of art, including costs incurred with respect to the purchase, ownership, leasing, repair, and/or maintenance of such works of art;
- (x) Contributions to Building Operating Expense reserves;
- (y) The cost of overtime or other expense to Landlord in performing work expressly provided in this Lease to be borne at Landlord's expense;
- (Z) All expenses directly resulting from the negligence or willful misconduct of the Landlord, its agents, servants or other employees;
- (aa) All bad debt loss, rent loss, or reserve for bad debt or rent loss;
- (bb) Any other cost or expense which, under generally accepted accounting principles consistently applied, would not be considered to be an operating cost of the Building;
- (cc) Any additional costs incurred in order to operate or maintain the Building or costs directly incurred by the Landlord due to the nature of business conducted by any tenant(s) ~~within the Building~~ which would not customarily be incurred in an office building, including, however not limited to, retail or food service tenants;

- (dd) Any and all costs, charges and expenses incurred by Landlord in connection with any change of any company providing electricity or other utility service to the Building, Common Area Facilities or the Premises or telecommunication services to the Building, the Common Area Facilities or the Premises, including, but not limited to, maintenance, repair, installation or services and costs associated therewith; and
- (ee) Expenses incurred in connection with bringing to a level of "year 2000 compliant" standard, any portion of the Building or any of the Building mechanical systems or equipment including but not limited to any plumbing, sprinkler, HVAC systems, Building electrical and mechanical lines and equipment associated therewith, the elevators or boilers or any of the life/safety or Building security systems.

B. Real Estate Tax Escalation

Real Estate Taxes shall mean all taxes, assessments, levies and other charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which shall or may be during the term assessed, levied, charged, confirmed or imposed upon the Property and provided that said Real Estate Taxes have been finally determined by legal proceedings or otherwise to be legally payable but shall not include any municipal, state or federal capital levy, estate, succession, inheritance, transfer, sales, use or franchise taxes, or any income, profits, or revenue tax, assessment or charge imposed upon the rent received as such by the Landlord under this Lease; provided, however, that if at any time during the Term, Landlord, any affiliate of Landlord or any tenant of the Property shall receive an abatement of such taxes, assessments, levies or other charges, then Real Estate Taxes shall be deemed reduced by the amount of such abatement during the Computation Year that such abatement is received; provided, further, that if at any time during the Lease Term, the present method of real estate taxation or assessment shall be so changed that there shall be substituted for the whole or any part of such taxes, assessments, levies, impositions or charges, now or hereafter levied, assessed or imposed on real estate and improvements, a capital tax or other tax imposed on the rents or income received by Landlord from the Property or the rents or income reserved herein, or any part thereof, then all such capital taxes or other taxes shall, to the extent that they are so substituted, be deemed to be included within the term "Real Estate Taxes", but only to the extent that such taxes would be payable if the Building were the only property of the Landlord subject to such capital taxes or other taxes. In no event shall Tenant be obligated to pay interest or penalties imposed for late payment or otherwise. For purposes hereof, the Real Estate Taxes assessment for the Building for calendar year 1999, is \$38,862.00; however, in the event the Building no longer maintains a tax exempt status, or such tax exempt status is phased-out, over a period of years, the Base Real Estate

Taxes shall be determined as set forth below.

In the event the Building shall no longer be tax exempt, as hereafter described, special assessments may be included with Real Estate Taxes to the extent that (i) the special assessment benefits all tenants of the Building equally in proportion to a tenant's rentable area of the Building; (ii) the special assessment benefits the Building, as defined in this Lease, as opposed to another building within a project or park, and (iii) the special assessment is not incurred or paid by Landlord in lieu of a capital expenditure. As to any such special assessments which are payable over a period of time extending beyond the Lease Term, only a pro rata portion thereof, covering the portion of the Lease Term unexpired at the time of the imposition of such assessment, shall be included in Real Estate Taxes. If, after Tenant shall have made a Tax Payment, as hereafter defined, under this Subsection, Landlord shall receive a refund of any portion of the Real Estate Taxes on which such Tax Payment was based, as a result of a reduction of such Real Estate Taxes by final determination of legal proceedings, settlement or otherwise, Landlord shall within thirty (30) days after receiving the refund, pay to Tenant, Tenant's Proportionate Share of the refund.

"Tax Year" means the full fiscal period for each levied or assessed Real Estate Tax.

"Base Tax Year" means the later to occur of (i) calendar year 1999, or (ii) the first Tax Year in which the Building no longer carries a tax exempt status and is 100% fully assessed and 100% fully taxed, as a 100% fully completed structure.

"Base Real Estate Taxes" means Real Estate Taxes for the Base Tax Year.

Tenant shall not be responsible for any increase in Real Estate Taxes which results solely from the creation of additional rentable area on the Land or in the Building or from improvements or alterations made by Landlord or other tenants; provided, however, Tenant shall be responsible for any additional Real Estate Taxes which are imposed upon the Building and which result solely from the creation of additional rentable area in the Building due to Tenant's exercise of an Additional Space Option, pursuant to Section 5.05 hereof, or the exercise of a Right of First Offer, pursuant to Section 5.06 hereof, provided that there is an actual increase in the Total Rentable Area of the Building in accordance with the BOMA Method of measurement.

If (i) there is a tax abatement program or other reduction in effect at any time prior to or during the Base Tax Year which reduces Real Estate Taxes, or (ii) Real Estate Taxes are "phased in" during the Base Tax Year, or (iii) the Building is not 100% fully assessed and 100% fully taxed as a 100% completed structure, during the Base Tax Year, then in such an event the Real Estate Taxes for the Base Tax Year shall be adjusted in the subsequent Tax Years so that the Base Tax Year is computed on the same basis as the

Real Estate Taxes for the Tax Year(s) during which the tax abatement or phase-in is no longer in effect, or the Building finally represents a 100% fully assessed, 100% fully taxed Building as a 100% completed structure.

For example, if Real Estate Taxes for the Base Tax Year are reduced by fifty percent (50%), or are phased in to the extent of the Building being only 50% assessed, as part of a tax abatement program; and then Real Estate Taxes are reduced by 25%, or are phased in to the extent of the Building being only 75% assessed for the next Tax Year (year 2), and then are not reduced at all, or the Real Estate Taxes are 100% fully phased in for the following Tax Year (year 3), for purposes of computing the increase for year 2, the Base Year Real Estate Taxes shall be recomputed as if there were a 25 % abatement in effect, or the Real Estate Taxes were 75% of full assessment, and for purposes of computing the increase for year 3, the Base Real Estate Taxes shall be computed as if there were no abatement in effect, or the building was 100% fully assessed. In such an event, year 3 would therefore be considered the actual Base Tax Year.

It is the intention of the parties that the Tenant's obligation under this provision of the Lease is for all of the increases in the taxes caused by changes in the city, county and school Tax Rates over the Base Year, and not the increases in taxes that result solely from the Premises' change in status from tax exempt to taxable or partially taxable.

At Tenant's option, Tenant may bring appropriate proceedings in Landlord's name or Tenant's name or both for contesting any assessment for any Tax Year during the Lease Term. The net amount of taxes recovered as a result of such proceedings (e.g., the amount recovered after payment of all sums necessary to attain such recovery) shall be shared between Landlord and Tenant with Tenant receiving Tenant's Proportionate Share thereof. Landlord shall cooperate with Tenant with respect to the proceedings so far as is reasonably necessary.

Any increase in Real Estate Taxes for the Building or the Land resulting from a refinancing or sale of the Building or the Land shall be added to the Base Real Estate Taxes.

C. Payment of Additional Rent

In addition to the annual Base Rent set forth in Exhibit G (BASE RENT SCHEDULE), for each Computation Year during the Term, Tenant shall pay Landlord the following sums (collectively "Additional Rent"):

- (i) The positive difference, if any, between Tenant's Proportionate Share of the Real Estate Taxes for the Base Tax Year, ~~and Tenant's~~ Proportionate Share of the Real Estate Taxes for any such Tax Year (the "Tax Payment"). The Tax Payment shall be made by Tenant in accordance with the terms of Section 3.02 and shall be subject to

adjustments as provided for in this Section 3.02. The Premises, being owned by a municipal corporation, are presently carried on the exempt tax rolls of the local taxing authorities. It is anticipated that the Premises may be subject to Real Estate Taxes at some point during the term or any extension of this Lease.

- (ii) The positive difference, if any, between Tenant's Proportionate Share of the Building Operating Expenses of any Computation Year, over Tenant's Proportionate Share of the Building Operating Expenses for the Base Year (the "Operating Expense Payment"); provided, however, that in no event shall the Operating Expense Payment for any Computation Year include an increase of more than four percent (4%) per year over the preceding Computation Year (the "Cap"). The Operating Expense Payment shall be made by Tenant in accordance with the terms of Section 3.02 and shall be subject to adjustment as provided for in this Section 3.02. This Cap shall be calculated each year for which the Building Operating Expenses are payable. This is only a limitation and it is the intent that Tenant shall pay Tenant's Proportionate Share, in any given year, of the lesser of (i) the actual Building Operating Expenses (less the Base Year Building Operating Expenses) or (ii) the capped amount of the Building Operating Expenses, as set forth herein (less the Base Year Building Operating Expenses).

Tenant shall make the first Tax Payment and Operating Expense Payment, if any, at the end of the first Computation Year following the Base Year or Base Tax Year, and within sixty (60) days of the receipt of a statement from Landlord in accordance with this Section 3.02. For each Computation Year or Tax Year after the first Computation Year or Tax Year, Tenant shall pay, (i) after the end of each such Computation Year or Tax Year, the Tax Payment, if any, owed by Tenant for the most recent Tax Year, and (ii) at the time of the payment of each monthly installment of Base Rent, an amount equal to one twelfth (1/12) of the actual Operating Expense Payment for the immediately preceding Computation Year. Said monthly payments shall serve as an estimate of the Operating Expense Payment for the then current Computation Year and shall be subject to adjustment based on the final calculation of the Operating Expense Payment as provided for in this Section 3.02.

After the end of each Computation Year, Tenant shall make or receive for any Computation Year after the first Computation Year, an Additional Rent payment or refund equal to any deficiency or excess between the actual Operating Expense Payment owed by Tenant for the most recent Computation Year and the amounts paid by Tenant as an estimate of the Operating Expense Payment in accordance with Section 3.02. Tenant shall pay such Additional Rent or receive such refund of Additional Rent within sixty (60) days following receipt of notice thereof and receipt of the statement described in Section 3.02.

Landlord shall pay before delinquency all Real Estate Taxes and Building Operating Expenses for the Property. Tenant shall pay to Landlord the Tax Payment and the Operating Expense Payment as provided herein.

Within ninety (90) days after the end of the Base Year and the end of each Computation Year, Landlord shall furnish to Tenant itemized statements certified by Landlord in the forms attached hereto as Exhibit B-1 (OPERATING EXPENSE INFORMATION FORM) and Exhibit B-2 (REAL ESTATE TAX INFORMATION FORM) setting forth the computed Real Estate Taxes, as defined in Section 3.02 (a)(iv) and Building Operating Expenses for the Base Year and for the most recently completed Computation Year or Tax Year, as the case may be, and Tenant's Tax Payment and Operating Expense Payment. Such statement shall include any receipted tax bills due and payable or paid by Landlord for the Base Tax Year or such Tax Year and shall include such detail as to Building Operating Expenses including invoices, copies of calculations and other such information as Tenant shall reasonably require.

Within two (2) years after receipt of any statement, Tenant shall have the right, by notice to Landlord, to dispute the inclusion and amounts of any item or items in any statement. In the event that Tenant disputes the inclusion or amounts of any item or items, and such dispute is not settled by agreement between Landlord and Tenant within thirty (30) days after notice has been delivered to Landlord, the dispute as to whether such item, items or amounts have been properly included in any such statement shall be determined by a firm of independent certified public accountants (the "Accountants"), said firm to be mutually acceptable to Landlord and Tenant. If Tenant shall dispute the inclusion or amounts of any item or items in any statements within sixty (60) days after receipt of such statement, then Tenant shall pay the Operating Expense Payment and the Tax Payment, excluding the items or amounts in dispute. The Accountants, Landlord, and Tenant all shall be entitled to review all records relating to the disputed items, and the parties shall be granted a hearing before the Accountants prior to the rendering of a determination by the Accountants. The determination of any such matter by the Accountants shall be final and binding upon both Landlord and Tenant and the expenses involved in such determination shall be borne by the party against whom the decision is rendered by the Accountants; provided, that if more than one item is disputed and the decision shall be against each party in respect of any item or items so disputed, the expenses shall be apportioned equitably according to the number of items decided against each party, and the amounts involved. If, at the time of such disagreement, Landlord and Tenant have not agreed upon and selected the Accountants, and Landlord unreasonably withholds or delays its approval of prospective Accountants for more than thirty (30) days, then Tenant shall be granted a right of set off against future payments of the Operating Expense Payment and the Tax Payment for the items in dispute. Notwithstanding the foregoing provisions of this Section

3.02. Tenant shall have the right within two years of the end of the Base Year or the Base Tax Year to dispute the amount of Building Operating Expenses calculated for the Base Year, or the Real Estate Taxes of the Base Tax Year. Any such dispute shall be settled by the Accountants selected as aforesaid. If the Accountants determine that the amount of Building Operating Expenses for the Base Year or the Real Estate Taxes of the Base Tax Year should be increased, then, at Tenant's election, Landlord shall refund to Tenant or credit against any rent due from Tenant any overpayment of Additional Rent for the applicable Computation Years or Tax Years.

If a dispute by Tenant of the items in said statements is decided against Tenant, then Tenant shall, to the extent such item remains unpaid, promptly pay to Landlord the amount of such item. To the extent that Tenant has made estimated payments to the Landlord of the Operating Expense Payment in accordance with Paragraph 7(c) in excess of the actual Operating Expense Payment, or to the extent that Tenant has made an overpayment of the Tax Payment, Tenant shall promptly receive a credit against Annual Base Rent from Landlord of such overpayment applied against each monthly installment of Annual Base Rent until the credit is eliminated; provided, however, that if any such credit against Annual Base Rent would become due after the expiration or termination of this Lease, Landlord shall promptly refund to Tenant the amount of any overpayment and said obligation of Landlord shall survive any such termination or expiration of this Lease.

Landlord will notify Tenant promptly and, prior to the expiration of any rights of appeal, of any increase in Real Estate Taxes resulting from other than a general increase in the tax rate. Should Landlord fail to notify Tenant of any such increase prior to the expiration of any appeal rights, such increase shall not be included in the computation of Real Estate Taxes.

Tenant's obligation with respect to the Operating Expense Payment and the Tax Payment shall survive the expiration or early termination of the Lease and all such payments shall be prorated to reflect only the actual period in which Tenant occupied the Premises.

Landlord's failure to render a statement with respect to increases in Building Operating Expenses or Real Estate Taxes for any Computation Year shall not prejudice Landlord's right to thereafter render a statement with respect thereto or with respect to any other Computation Year, provided that if such failure continues for more than one (1) calendar year, then Tenant shall not have any liability for increases in Building Operating Expenses or Real Estate Taxes under this Section 3.02 for any period which is more than one (1) calendar year old.

Tenant shall have the right, not more often than once a year, to examine, to copy and to have an audit conducted of all books and records of Landlord as shall pertain to Building Operating Expenses and Real Estate Taxes. Such

audit shall be conducted by an accounting/auditing firm retained by Tenant. All expenses of such audit shall be borne by Tenant unless such audit shall disclose an overstatement of Building Operating Expenses or Real Estate Taxes of three percent (3%) or more, in which case all expenses of such audit shall be borne by Landlord, and Tenant's Operating Expense Payment or Tax Payment shall be adjusted accordingly. In the event Landlord disputes the findings of said audit, and Landlord and Tenant are unable to reach an agreement with respect to any difference in such Building Operating Expenses or Real Estate Taxes, then Landlord and Tenant agree to submit the matter to the Accountants for resolution pursuant to the terms of Section 3.02 (g). If, at the time of such disagreement, Landlord and Tenant have not agreed upon and selected the Accountants, and Landlord unreasonably withholds or delays its approval of prospective Accountants for more than thirty (30) days, then Tenant shall be granted a right of setoff against future payments of the Operating Expense Payment and the Tax Payment for the items in dispute. Landlord shall maintain all books and records for a period of not less than two (2) years following the applicable Computation Year.

ARTICLE IV. LANDLORD'S OBLIGATIONS

4.01 SERVICES PROVIDED BY LANDLORD

Landlord shall provide Tenant with the following services at Landlord's sole cost and expense (the "Building Services"). Landlord shall provide these services, using first-class materials and workmanship, Monday through Friday from 6 a.m. to 9 p.m. and Saturday from 7 a.m. to 1 p.m. (the "Business Hours"), or as specified below. Landlord shall not be required to provide services on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day (the "Holidays").

- A. A heating, ventilation, and air conditioning ("HVAC") system, as further described in Exhibit C (BASE BUILDING IMPROVEMENTS) for the Premises, fully equipped and of sufficient capacity to achieve maximum efficiency and conserves energy in its operation for Tenant's employees and business machinery and equipment. The HVAC system shall maintain the temperature in the Premises at not less than 72° F based upon a "dry-bulb" measurement (and 55° F based upon a "wet-bulb" measurement) in the winter and not more than 76° F based upon a "dry-bulb" measurement (and 60° F based upon a "wet-bulb" measurement) in the summer.
- B. Electrical current to the Premises for ordinary office use, lighting and the HVAC system, which shall be available 24 hours a day, 7 days a week, with a load capacity as set forth in Exhibit C (BASE BUILDING IMPROVEMENTS). Ordinary office use shall include, but shall not be limited to, the operation of office equipment, typewriters, word processors, personal computers, telephones, telecopy machines and photocopy machines.

In addition to the foregoing, Landlord shall also provide, install and replace, as necessary, light bulbs, tubes and ballasts as required to maintain a light level, evenly distributed, as set forth in Exhibit C (BASE BUILDING IMPROVEMENTS).

- C. Complete janitorial service and supplies, as described in Exhibit E (JANITORIAL SERVICES).
- D. Hot and cold water sufficient for drinking, lavatory, toilet and ordinary cleaning purposes.
- E. Security shall be provided by the Landlord. If additional security is required by Tenant, then it shall be mutually agreed to by the Landlord and Tenant.
- F. Automatic passenger elevators and freight elevators, which shall provide access to the Premises twenty four (24) hours a day, seven (7) days a week, including Holidays and when Tenant moves into and out of the Premises.
- G. Extermination and pest control when necessary.
- H. Maintenance of and service to all Common Area Facilities in order to maintain the same in a first-class condition. This maintenance and service shall include, but shall not be limited to cleaning, HVAC, electrical current and illumination, snow removal, de-icing, repairs, replacements, lawn care, trash disposal and landscaping.
- I. Electrical current and HVAC for the telecommunications rooms as described in Exhibit D (WORK LETTER AGREEMENT) shall be provided twenty-four (24) hours a day, seven (7) days a week.
- J. Condenser water, twenty-four (24) hours per day, seven (7) days per week for Tenant's supplementary air conditioning systems.
- K. Access to and egress from the Building, the Premises, the Common Area Facilities and the parking spaces provided by Landlord to Tenant pursuant to Section 4.03 (Parking), twenty four (24) hours per day, seven (7) days per week.

Tenant shall have the right to request any or all of the above Building Services outside of the Business Hours provided above, or on Holidays, and the same shall be supplied to Tenant, upon advance notice, at Tenant's cost and expense, subject to the terms of this paragraph. If more than one tenant directly benefits from these Building Services (outside of the Business Hours or on Holidays), then the cost of providing the Building Services during non-Business Hours or Holidays shall be allocated proportionately between or among the benefiting tenants based upon the amount of time each tenant benefits and the square footage of each tenant's premises. The cost for these additional Building Services, shall, in no event, exceed Landlord's actual costs, and the cost for additional HVAC shall be as stated in

Article I, and all shall be allocated as described above.

Notwithstanding an event of Force Majeure, as further described in Section 10.01 hereof, where prior notice to Tenant may not be possible, in the event that it is necessary for Landlord to cease or interrupt the electric service to (i) the Premises (or any portion of the Premises), or (ii) the Building (which will affect the Premises or any portion thereof), for scheduled repairs, maintenance or alterations, Landlord shall provide Tenant with at least two (2) weeks prior written notice of such cessation or interruption so that Tenant may prepare its systems and equipment for the same. Landlord's notice to Tenant of such cessation or interruption of the electric service shall set forth the date and time of such interruption, where the cessation or interruption will occur if it is other than the entire Premises, and the anticipated date and time when the electric service will be fully restored. The terms hereof are subject to the terms of Section 9.03 of this Lease.

Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right at any time and from time to time during the Lease Term to contract separately for service from the current providers of utility services, including, without limitation, telecommunication services, electricity, gas and water (the "Original Service Provider(s)") or to contract from other companies offering or providing alternate utility services and/or telecommunication services to the Building (individually an "Alternate Service Provider" and collectively "Alternate Service Providers"). Landlord shall cooperate with Tenant, Original Service Provider and any Alternate Service Providers at all times and as reasonably necessary shall allow Tenant, Original Service Provider and any Alternate Service Providers reasonable access to the Building's utility lines, feeders, risers, wiring and any other associated machinery located within the Building, the Common Area Facilities or the Premises for the purposes of allowing Tenant to implement the foregoing. Tenant hereby agrees to indemnify Landlord from and against any and all costs or expenses incurred by or imposed upon Landlord due to any change by Tenant to an Alternate Service Provider.

Without limiting any other obligation of Landlord under this Lease, Landlord represents and warrants to Tenant that all necessary equipment, software and appliances, including, but not limited to, elevators, HVAC systems, door locks, energy management systems and other Building systems or Building Services, will remain fully functional and perform their normal operations, without interruptions or malfunctions as a result of the transition from the calendar year 1999 to 2000. If any repairs or alterations must be made at any time to any of the aforesaid equipment, software or appliances in order to prevent or remedy any such interruptions or malfunctions in the Building systems or Building Services provided thereby, Landlord will promptly undertake such repair or alteration at its sole cost and expense. Any repairs, improvements or replacements which are to be capitalized shall be included as Building Operating Expenses as expressly provided for in Section 3.02 (ESCALATION) hereof.

4.02. REPAIRS AND MAINTENANCE

Landlord shall pay for and make all structural and mechanical repairs and replacements to the Premises, the Common Area Facilities and the Building, including the Building structure (including but not limited to the roof, exterior walls, bearing walls, support beams, foundation, columns, exterior doors and windows), systems, electrical and mechanical lines, fixtures and equipment (including but not limited to the Building life safety equipment and systems), broken or damaged glass and damage by vandals, except however, repairs or replacements which Tenant shall make to the Premises due to the misuse or negligence of Tenant. Landlord shall make all repairs and replacements necessary to maintain the Building in a first-class condition.

Landlord may obtain reasonable access to the Premises to perform repairs to the Building, the Common Area Facilities and the Premises at reasonable times upon twenty-four (24) hours prior notice to Tenant. Landlord or Tenant may make emergency repairs without giving the other party prior notice. If Tenant makes emergency repairs without giving Landlord prior notice, Landlord shall be obligated to reimburse Tenant for the cost of such emergency repairs. Any repairs or replacements which Landlord is required to make shall be made within a reasonable period of time after receiving notice or having actual knowledge of the need for such repair or replacement. When making repairs, Landlord shall take all necessary actions to protect Tenant's property and personnel from loss, damage and injury and to avoid disrupting Tenant's use and occupancy of the Premises.

4.03. PARKING

Landlord shall provide to Tenant, adequately lit parking spaces based on the Parking Ratio as set forth in Article I (1.01)(N))(REFERENCE DATA), in the Eastowne Parking Garage as designated on Exhibit A-4 (PLAN OF PARKING AREA), for Tenant's non-exclusive use, on a first come, first serve basis, at all times, at the cost and expense described in such Article 1.01(N). The requisite number of parking spaces, based upon the Parking Ratio, shall always be available to Tenant in the Eastowne Parking Garage, except to the extent otherwise provided for herein. In addition, Landlord hereby agrees, that in the event that such is no longer prohibited under New York Laws, or local code or ordinances, the second (2nd) floor of the Eastowne Parking Garage shall be reserved for Tenant's exclusive use, and the balance of Tenant's parking spaces shall be then accommodated in other areas of the Eastowne Parking Garage, however, to be on a first come, first serve basis with other parties, provided that Tenant's requisite number of parking space, based upon the Parking Ratio, are provided to Tenant. The Eastowne Parking Garage shall be adequately striped, lighted and secured to provide for the safety of Tenant's employees and guests. Adequate lighting and security shall be made available for Tenant's second shift operation, if Tenant so requests, at no additional cost to Tenant. Landlord hereby agrees, at Landlord's sole cost and expense, to provide additional lighting in the Eastowne Parking Garage for Tenant's security, if so requested by Tenant. The parking spaces shall be available and accessible to Tenant for Tenant's use twenty-four (24) hours per day, seven (7) days per week. Landlord shall only allow parking for vehicles consistent with the

typical and reasonable tenant composition of an office building. Notwithstanding anything in this Lease to the contrary, the Landlord's obligation to provide lighting shall not constitute or be construed to be any representation or warranty by Landlord with respect to any person's personal safety and security while in the Eastowne Parking Garage.

As set forth in Article 1.01 (Certain Terms) hereof, the Parking Ratio shall apply to all expansion space (as provided for herein) and any extension of this Lease Term or Renewal Term, as hereafter defined.

In the event that the Landlord no longer has the ability to provide the requisite parking spaces in the Eastowne Parking Garage, it will provide Tenant with comparable alternate parking spaces within the Centertowne Garage. These parking spaces in the Centertowne Garage shall be provided on the upper floors of such garage, and subject to the same terms and conditions as contained in this Section 4.03. If Tenant's number of parking spaces, as identified above, shall be reduced subsequent to an occurrence, as set forth in Sections 7.01 (DAMAGE OR CASUALTY) or 7.02 (EMINENT DOMAIN), or any other reason, and Landlord is not able to provide Tenant with comparable spaces within a two (2) block radius of the Premises, Landlord shall provide Tenant with a reduction in the Base Rent of Two and 00/100 Dollars (\$1.00) per RSF.

4.04. LIFE SAFETY REQUIREMENTS

Landlord shall at all times during the Lease Term, at no additional cost to Tenant, except as expressly set forth herein, maintain the fire alarms, emergency lighting and other related life safety systems and equipment, to comply with the New York State Fire Prevention and Building Code, along with all requirements of Federal, State, County, and City governments and all other governmental authorities having or claiming jurisdiction over the Building, the Common Area Facilities and the Land.

(Tenant) ↙
Landlord shall provide Tenant with a written emergency evacuation plan in accordance with the Occupational Safety and Health Administration (OSHA) standards, or any comparable standard if OSHA shall be superseded. Landlord shall also, upon written request of the Tenant, conduct no more than two (2) evacuation drills each calendar year in accordance with the local fire code.

4.05 BUILDING RULES AND REGULATIONS

Landlord shall equally enforce the Building Rules and Regulations, attached to this Lease as Exhibit J (BUILDING RULES AND REGULATIONS), upon all tenants in the Building. The purpose of the Building Rules and Regulations shall be to ensure the safety, care, order or cleanliness of the Building and Common Area Facilities. If any of the Building Rules or Regulations conflicts with or is inconsistent with any provision of this Lease, the Lease provision shall control. If Landlord modifies or supplements the Building Rules and Regulations, Landlord shall provide Tenant

with advanced written notification of such modification or supplement.

ARTICLE V. TENANT'S RIGHTS AND OPTIONS

5.01. SUBLEASING AND ASSIGNMENT

Tenant may, upon notice to Landlord, sublease all or any part of the Premises, provided that such sublease (i) does not cause Landlord to become in default of any other lease within the Building, nor (ii) shall be for a use as an adult entertainment business, as defined in the City of Elmira Code of Ordinances. In addition, Tenant may assign the Lease, with the prior consent of Landlord, not to be unduly withheld or delayed, subject to the terms of subsections (i) and (ii) of this paragraph. Landlord hereby agrees to provide Tenant with a list of any restrictions or non compete clauses as contained in such other leases which would affect Tenant's subleasing or assigning, as of the date of this Lease.

Notwithstanding the foregoing, Tenant may sublease all or any portion of the Premises or assign this Lease to its subsidiaries, affiliates and/or independent contracted insurance agents without first notifying Landlord, and without necessity of obtaining Landlord's prior consent. For the purpose of this Article, an "affiliate" shall mean a general or limited partnership in which Tenant or its parent or successor owns a general partnership interest and has the right to manage the partnership business, or an entity in which Tenant owns at least twenty-five percent (25 %) of the equity interests, or owns or has the right to cast the votes attributable to a majority of the voting interests, or any entity with which Tenant may merge or consolidate, any entity that purchases or owns substantially all of the assets or stock of Tenant, or any parent of Tenant, or any parent or subsidiary of Tenant's parent.

Any assignment or subleasing shall not release Tenant from liability under this Lease, except, however, if Tenant requests such a release from Landlord, and the creditworthiness of the proposed sublessee or assignee is approved by Landlord to be sufficient, which approval shall not be unreasonably withheld or delayed, and the rent to be paid by the proposed sublessee or assignee is the same or greater than that set forth in this Lease, in such an event Landlord shall approve of the release of liability. In order for Landlord to make such determination, Tenant shall provide Landlord, within thirty (30) days of the anticipated sublease or assignment commencement date: (i) the name and address of the proposed subtenant or assignee; (ii) the nature of the proposed subtenant's or assignee's business; (iii) the terms of the proposed sublease or assignment; and (iv) reasonable financial information so that Landlord can evaluate the creditworthiness of the proposed subtenant or assignee. If Landlord and Tenant cannot agree as to the adequacy of such sublessee's or assignee's creditworthiness, such matter may be subject to arbitration in accordance with Section 9.04 (ARBITRATION).

5.02 ALTERATIONS

Tenant may make improvements, additions, installations, decorations and changes ("Alterations") of a non-structural nature without the Landlord's prior written approval. Tenant may not make any other Alterations to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. All Alterations shall become Landlord's property upon completion, unless otherwise agreed to in writing.

Systems furniture and Tenant trade fixtures, including moveable partitions, panels, screens, supplemental HVAC systems provided by Tenant and any UPS or emergency generator installed by Tenant are Tenant's property and are not included under this provision, and shall remain the property of Tenant at the expiration of the Lease Term, unless otherwise so elected by Tenant. In accordance with the foregoing, Tenant agrees to repair any damage caused by the removal of any UPS or emergency generator, and to restore the specific area which is affected by the same.

Tenant shall employ contractors who guarantee to use first-class materials and workmanship and who shall comply with all local building codes. Tenant shall not permit any lien to be placed on record with respect to any part of the Building or Premises for work or materials provided or obligations incurred by or for Tenant. Tenant shall discharge any such lien of record within thirty (30) days.

Prior to commencement of any work, Tenant shall provide Landlord with certificates of insurance indicating that each contractor employed by Tenant has in effect workers compensation insurance and general liability insurance with limits acceptable to the Landlord's Corporation Counsel and naming the Landlord, its officers and employees as additional insureds on a primary basis, for any claims arising out of the work which is performed by such Contractor. Landlord hereby agrees to provide Tenant, prior to the commencement date hereof, with a list of required limits for liability insurance, which Tenant shall require of its contractors.

5.03. TENANT SIGNAGE

Landlord shall provide Tenant with identification and signage, at Landlord's sole cost and expense, which shall include directory and suite entry signage, and monument signage or installing appropriate signage or logo on the Building exterior. In addition, Tenant shall be permitted (at Landlord's sole cost or expense) to install appropriate identification, either in logo form or signage form, on all entrance doors to areas leased by Tenant. All such signage shall be subject to Landlord's reasonable approval which shall not be unreasonably withheld, delayed or conditioned. As long as Tenant leases a majority of the Total Rentable Area of the Building, Tenant shall have the right to the most prominent Building or monument signage to be afforded to any tenant.

Landlord shall obtain Tenant's prior written consent, not to be unreasonably withheld or delayed by Tenant, if any insurance or financial services competitor of

Tenant requests approval to display any exterior sign. In addition, it is strictly understood and agreed that Landlord will not name the Building after any insurance company or other competitor of Tenant.

5.04. SURRENDER OF SPACE OPTION

During the initial Lease Term, Tenant shall have the option, at any time after the end of the third year of the Lease Term, upon providing Landlord six (6) months prior written notice, to surrender up to one hundred percent (100%) of Tenant's then existing Rentable Area of the Premises (the "Surrender of Space Option"). Tenant's notice to Landlord shall specify the date which the surrender shall occur (the "Surrender Date), and as of such Surrender Date, the Base Rent, any Additional Rent, and Tenant's Proportionate Share shall be proportionately reduced based upon the Rentable Area which is surrendered. In the event of surrender of a portion of the Premises, the portion of the premises being surrendered shall be of a reasonably leasable configuration, and accessible to another tenant.

In the event that Tenant exercises the Surrender of Space Option, Tenant shall pay to Landlord, on or before any surrender date, a sum equal to (i) the unamortized cost of the Tenant Improvement Allowance (exclusive of the cost of the Base Building Work, which was to be at Landlord's sole cost and expense) set forth in Exhibit D (calculated on a pro rata, per rentable square foot basis by comparing the rentable square footage of the Surrender Space to the rentable square footage of the entire Premises) plus (ii) the unamortized cost of the brokerage commission associated with the Surrender Space (also calculated on a pro rata, per rentable square foot basis), such sums to be amortized on a straight-line basis, with no interest, over the five (5) year initial term of this Lease (assuming level amortization over the five (5) year Lease Term), proportionately based upon the remaining Lease Term (the "Surrender Fee").

Notwithstanding the foregoing to the contrary, in the event that Tenant at any time surrenders space in response to a request by Landlord, the Base Rent and any Additional Rent paid on account hereunder, shall be proportionately reduced with respect to the surrendered portion of the Premises, and Tenant shall pay no Surrender Fee or additional amount to Landlord, in consideration of such surrender.

5.05. ADDITIONAL SPACE OPTION

Tenant shall have the following two (2) options, as further described below, to acquire additional space (Space A or Space B (collectively, the "Additional Space")), during the Lease Term, and during the following Option Periods (the "Additional Space Options", and individually, an "Additional Space Option"). Such Additional Space shall be contiguous to the Premises. In order to exercise an Additional Space Option (the "Exercise of an Additional Space Option"), Tenant must forward to Landlord written notice ("Tenant's Additional Space Notice"), during the respective Option Period, and at least one hundred twenty (120) days prior to the date which Tenant desires to commence the payment of Base Rent for the respective Additional

Space. Tenant's Additional Space Notice must be received by Landlord on or before the 14th day of a calendar month, and in such event, possession of the Additional Space shall be delivered to Tenant at the completion of the next full calendar month.

Additional Space Options

Space	Rentable Area	Option Period	Possession Delivery Date	Rent Commencement
A	Approx. 6,000 rsf	1/1/2000 - 12/31/2000	1 1/2 calendar months from date of Exercise of an Additional Space Option	Earlier of (i) 120 days from Possession Delivery Date; or (ii) the date which Tenant commences to conduct business within the Additional Space
B	Approx. 6,000 rsf	1/1/2001 - 12/31/2001	1 1/2 calendar months from date of Exercise of an Additional Space Option	Earlier of (i) 120 days from Possession Delivery Date; or (ii) the date which Tenant commences to conduct business within the Additional Space

Each parcel of Additional Space (i.e. Space A, which can only be acquired during the Option Period for Space A, and Space B, which can only be acquired during the Option Period for Space B), shall be subject to the same terms and conditions as the Premises, including without limitation, the Tenant Improvement Allowance (which for purposes of the Additional Space shall be pro-rated, based upon the remaining period of the Lease Term), the Base Building Improvements, the Base Building Work, the Parking Ratio, and any other concessions provided to Tenant in this Lease for the Premises; however, notwithstanding the same, the Base Year for Operating Expenses and the Base Tax Year for Real Estate Taxes (subject to the terms of Section 3.02(B) hereof), for the Additional Space, shall be the first full calendar year in which the Additional Space is leased by Tenant. In addition, any Additional Space acquired by Tenant hereunder, shall be co-terminous with the Lease Term for the Premises and shall expire as of the Lease Expiration Date, subject to any earlier termination, extension or renewal, set forth herein.

Upon Tenant's Exercise of an Additional Space Option, which Additional Space Options (for Space A and/or Space B) shall be independent of the other, Landlord shall deliver the respective Additional Space to Tenant in its "as is" condition, with

all of the Base Building Improvements, as described in Exhibit C (BASE BUILDING IMPROVEMENTS), included therewith, in their "as is" condition, subject to the Base Building Improvement Work to be performed by Tenant, at Landlord's sole cost and expense, as of the Possession Delivery Date set forth above for the Additional Space. Tenant shall commence the payment of Base Rent and any other sums due hereunder for the Additional Space, as of the Rent Commencement Date set forth above for the Additional Space, however subject to the terms of Sections 2.06 and 2.07 and Exhibit D hereof, which shall also apply to the Additional Space.

In the event that Tenant exercises an Additional Space Option, pursuant to the terms hereof, within thirty days thereafter, Landlord and Tenant shall enter into an amendment to this Lease, setting forth the terms of the Additional Space and amending, as necessary, the Rentable Area of the Premises, the Base Rent, and Tenant's Proportionate Share hereunder.

5.06. RIGHT OF FIRST OFFER

Commencing as of January 1, 2002 (hereafter the "Effective Date of this Right of First Offer Provision"), in the event that any space shall become available within the Building on or after the Effective Date of this Right of First Offer Provision, which Landlord intends to lease to a third party (subject to the rights of any existing tenants (which rights exist as of the date of this Lease)), Landlord shall notify Tenant in writing and offer (the "Offer") such available space to Tenant (hereafter the "Right of First Offer"). Landlord shall specify in such written Offer: (i) the location and rentable area of the space which has become available (the "Right of First Offer Space"); and (ii) the date upon which such Right of First Offer Space shall be available for occupancy. It is hereby understood and agreed that Landlord shall offer such Right of First Offer Space to Tenant upon all of the same terms and conditions as contained in this Lease, including, without limitation, (i) parking spaces, based on the Parking Ratio contained herein; (ii) the Base Rent, (iii) a prorated Tenant Improvement Allowance (prorated based upon the remaining Lease Term) and any other concessions (on a prorated basis) which are provided to Tenant hereunder; and (iv) the Lease Term for such Right of First Offer Space shall be co-terminous with the Lease Term, as described herein, and shall expire as of the Lease Expiration Date set forth herein, subject to any earlier termination or renewal, as further described in this Lease. Tenant may, within ten (10) days of receipt of the Offer notice, accept the terms of the Offer; and if Tenant accepts the Offer, within thirty (30) days thereafter enter into an amendment to this Lease for the Right of First Offer Space which is described in the Offer, under the terms and conditions specified in the Offer and herein.

Should Tenant fail to accept the Right of First Offer Space in writing within the ten (10) days of receipt of the Offer (with respect to such available space), then Landlord shall be free to lease such available space to any third party, but this Right of First Offer shall remain in effect with regard to any future available space which shall include the space which was set forth in the Offer notice, if a lease was not consummated for such space at such time and such space becomes available, or is to

become available.

Landlord shall tender the Right of First Offer Space, accepted by Tenant, as provided above, to Tenant in accordance with the terms of the Offer and this Lease, except that Landlord will tender such space to Tenant: (i) vacant; (ii) in compliance with all laws and governmental regulations including, without limitation, the Americans with Disabilities Act; (iii) broomclean and (iv) free from all claims and possessions of third parties.

5.07. RENEWAL OPTION

Tenant shall have the option to renew this Lease (the "Renewal Option") for two (2) additional terms of up to five (5) years each (each, hereafter, a "Renewal Term"), (without any additional option terms beyond the two (2) contained herein), upon the same terms and conditions as in the initial Lease Term, except that (i) the Base Rent for each Renewal Term shall be at a mutually agreed upon negotiated rate, which rate shall not exceed ninety percent (90%) of the Fair Market Rate (hereinafter defined) at that time, and (ii) the Base Year for Building Operating Expenses and the Base Tax Year for Real Estate Taxes shall also be updated for each Renewal Term to the calendar year or the Tax Year, as appropriate, which immediately follows the calendar year or Tax Year in which the respective Renewal Term commences. (In the event that Tenant does not exercise the Renewal Option for what would be the first Renewal Term, following the initial Lease Term, the second successive Renewal Option shall therefore be null and void and of no force or effect). "Fair Market Rate" shall mean the average of the annual rental rates then being charged in the office market sector of the area where the Building is situated, for comparable space for leases commencing on or about the time of the commencement of the lease term to which this definition applies, taking into consideration use, location and floor level of the applicable building, the location, quality and age of the building, leasehold improvements or allowances provided, rental concessions (such as abatements, lease assumptions or takeovers and moving expenses), the date that the particular rate under consideration became effective, the term of the lease under consideration, the extent of services provided thereunder, applicable distinctions between "gross" leases and "net" leases, base year figures for escalation purposes, brokerage fees saved due to the renewal, the period for which space would be vacant if Tenant were to vacate the space rather than to renew, the creditworthiness and quality of Tenant, and other adjustments to the base rental and any other relevant term or condition in making such evaluation, including bonafide written offers made to the Landlord by unrelated third parties at an arms-length basis to lease the same comparable space. For each renewal event, Tenant shall determine the amount of space that shall be subject to renewal and Tenant shall give Landlord at least six (6) months notice of Tenant's intent to exercise the respective Renewal Option, and Tenant's space requirements for such Renewal Term, prior to the expiration of the then Lease Term. Landlord shall notify Tenant of the proposed Base Rent for the Renewal Term within one (1) month(s) of receiving Tenant's notice each time. Landlord shall, within one (1) month of receiving Tenant's notice, notify Tenant, in writing, of its determination of the Fair Market Rent and/or the resulting Base Rent for the Renewal Term determined in

accordance with the formula provided in this Section 5.07 ("Landlord's Renewal Notice"). Landlord and Tenant shall agree upon the Base Rent for the respective Renewal Term and any other renewal terms within two (2) month(s) of Tenant's receipt of Landlord's Renewal Notice. If the parties cannot agree upon the Fair Market Rate and/or the resulting Base Rent for a Renewal Term, then the determination of the same shall be subject to Arbitration in accordance with Section 9.04 (ARBITRATION) hereof, otherwise this Lease shall automatically expire upon the Lease Expiration Date. In the event the determination of Fair Market Rent for a Renewal Term shall be submitted to Arbitration, notwithstanding the terms of Section 9.04, the arbitrators chosen to resolve the same shall be qualified MAI appraisers with a minimum of ten (10) years experience. If this Renewal Option is exercised, the Lease Expiration Date shall mean the last day of the renewed Lease Term, and the term "Lease Term" as used in this Lease, shall be deemed to mean any such Renewal Term of this Lease, as described in this Section 5.06, even if not expressly stated in this Lease.

5.08. HOLDING OVER

Tenant may continue to use the Premises, or any part of the Premises, after the Lease Expiration Date (or the Lease Expiration Date of any Renewal Term hereof), for a period of up to three (3) months, upon providing Landlord ninety (90) days prior written notice of Tenant's intention to do so prior to the expiration of the Lease term. Tenant's holdover tenancy shall be on a month-to-month basis, and shall not be construed as a tenancy at sufferance, and in no event shall Tenant be evicted or otherwise required to vacate the Premises, within such three (3) month period, unless Tenant has provided Landlord with written notice of its intention to vacate. Tenant shall pay Landlord monthly the Base Rent which is the same as the Base Rent for the last month of the Lease Term or any Renewal Term, together with the Additional Rent, applicable to the time which Tenant remains in possession. The Base Rent and Additional Rent shall be prorated on a per diem basis for the last month of the holdover period if such is less than one (1) full month. Tenant may holdover up to a maximum of three (3) months under this Section 5.07 (HOLDING OVER). In the event that Tenant shall remain in possession of the Premises beyond the period of three (3) months, Tenant shall be deemed a tenant-at-sufferance and Tenant shall pay Landlord monthly the Base Rent which is 125% of the Base Rent for the last month of the Lease Term or any Renewal Term, together with the Additional Rent, applicable to the time which Tenant remains in possession.

5.09. EARTH SATELLITE STATION

At any time during the Lease Term, at no additional rental cost, Tenant shall have the right to install, operate and maintain a satellite-earth communications station (antenna and associated equipment), microwave equipment and/or an FM antenna on the Building or the Land in an area designated by Landlord, which area shall be conducive to the operation of an earth satellite station. Tenant hereby acknowledges that Tenant currently maintains a satellite-earth communications station on the roof of the Building (pursuant to the terms of a separate lease which Tenant has at this Building with the Landlord, dated November 1, 1996 (hereafter

known as the "Prior Lease")), and Tenant hereby agrees not to maintain more than one (1) such satellite-earth communications station on the roof of the Building, at any one time, between the rights under this Lease and any rights which Tenant may have under the Prior Lease, during the Lease Terms of these respective leases (however, Tenant needs the option under this Lease in the event that the Prior Lease expires prior to the expiration of the Lease Term contained herein (the two leases are not co-terminous and are independent of each other)).

The satellite station or microwave equipment will be connected to communications equipment located within the Premises via cable. Adequate cable distribution and conduits will be made available to Tenant, at Tenant's expense.

Tenant agrees to comply with all applicable federal, state or local regulations, and shall obtain Landlord's approval for final equipment locations prior to its installation, which approval shall not be unreasonably withheld or delayed. Landlord will support Tenant's efforts to acquire local zoning permits, if such are required for this purpose.

The installation and required maintenance of this equipment shall be at Tenant's sole cost and expense and shall in no way deface or adversely alter the appearance of the Premises, the Building or the Land. Tenant will be responsible for removing the installation at the end of its tenancy, if Tenant so elects, or if Landlord so requires, and Tenant will repair any damage caused by such removal.

Landlord will cooperate with Tenant regarding the installation, maintenance, repair and removal of the satellite station by Tenant.

No other tenant may place a satellite station on the Building if Tenant's reception or transmittals will be adversely impaired.

ARTICLE VI. LIABILITY

6.01. INSURANCE

A. Landlord's Insurance

Landlord shall maintain in full force and effect during the Lease Term, and any renewal Lease Term, the insurance services office special property form of property damage insurance ("all risk") for the Building, the Common Area Facilities, the Land, including the Tenant Improvements described in Exhibit D (WORK LETTER AGREEMENT) and all improvements on the Land, in the amounts of the full replacement values thereof, as the values may exist from time to time; Boiler and Machinery Insurance; Commercial General Liability Form Insurance, including contractual liability, on an occurrence basis with limits of not less than \$1,000,000.00 per occurrence, and \$4,000,000.00 in excess coverage per occurrence; Worker's Compensation and Employer's Liability Insurance for all of Landlord's agents, employees

and contractors; Automobile Liability Insurance for any automobiles or vehicles operated by Landlord, its agents, employees and contractors in connection with the operation or maintenance of the Building, the Common Area Facilities and the Land, with limits of not less than \$1,000,000.00; and Earthquake or Flood Insurance if the Land is in an area where such hazards are a known risk. Landlord's insurance shall be issued by insurance companies licensed to do business in the state where the Building is situated, with a general policyholder surplus rating of at least A, and a financial rating of at least VIII in the most current Best's Insurance Report available at the time of execution of this Lease. If the Best's ratings are changed or discontinued, Landlord and Tenant shall agree to an equivalent method of rating insurance companies.

Landlord's insurance policies shall be primary in the event of a loss in the Common Area Facilities or on the Land, which is not due to the negligence of Tenant, its agents, contractors, employees or invitees.

Prior to the Lease Commencement Date, Landlord shall provide Tenant with certificate(s) of insurance evidencing the amounts and types of coverage described above.

B. Tenant's Insurance

Tenant shall maintain in full force and effect during the Lease Term and any renewal Lease Term: the special property form of property damage insurance (all risk") for Tenant's personal property and trade fixtures; Worker's Compensation Insurance for all of Tenant's employees working on the Premises; and Commercial General Liability Form Insurance, including contractual liability, with limits of not less than \$1,000,000.00 per occurrence, and \$4,000,000.00 in excess coverage per occurrence (including coverage for insured contracts), for injuries, losses, claims or damages to persons or property occurring on the Premises, and due to Tenant's use or occupancy of the Premises or to the negligence of Tenant, its agents, contractors, employees or invitees.

C. Right to Self Insure

Tenant and Landlord each reserve the right to self-insure or to insure with a blanket policy of insurance the liabilities and casualties specified in this Lease. In such case, the Tenant nor Landlord shall not be required to provide to each other any certificates or policies of insurance; however, the Tenant and/or Landlord shall provide to each other a letter confirming such insurance, if so requested.

D. Indemnification

Tenant hereby agrees to indemnify and hold Landlord harmless from and against any and all costs, damages, liabilities, and expenses (including

reasonable attorneys fees) suffered by or claimed against Landlord, based on, or arising out of, or resulting from: (i) Tenant's use and occupancy of the Premises or the business conducted by Tenant therein, (ii) any negligent act or omission by Tenant or its employees, agents or invitees, (iii) any liability imposed upon Landlord under Article 10 of the New York Labor Law arising as a result of any work performed by Tenant, or its contractors in or on the Premises, or (iv) any breach or default by Tenant in the performance or observance of its covenants or obligations under this Lease.

Landlord hereby agrees to indemnify and hold Tenant harmless from and against any and all costs, damages, claims, liabilities and expenses (including reasonable attorney fees) suffered by or claimed against Tenant, based on, or arising out of, or resulting from (i) any negligent act or omission by Landlord, or its employees, agents or invitees, or (ii) any breach or default by Landlord in the performance or observance of its covenants or obligations under this Lease.

E. Mechanics Liens

Notice is hereby given that Landlord shall not be liable for any labor or materials furnished or to be furnished to Tenant upon credit, and that no mechanics or other lien for any such labor or materials shall attach to affect the estate or interest of Landlord in and to the Premises. Whenever and as often as any mechanics lien shall have been filed against the Premises based upon any act or interest of Tenant, or of any one claiming through Tenant, or if any security interest conditional bill of sale, chattel mortgage or otherwise shall have been filed for or affecting any materials, machinery or fixtures which are part of the Premises and were installed by or at Tenant's expense, or with proceeds from the Tenant Improvement Allowance, or annexed thereto by Tenant, or its successors in interest, Tenant shall forthwith take such action by bonding, deposit or payment as will remove or satisfy the lien, security interest conditional bill of sale or chattel mortgage, and on default thereof for thirty (30) days after notice to Tenant, Landlord may pay the amount of such mechanics lien, conditional bill of sale or chattel mortgage, or discharge the same by payment or a deposit in the amount so paid or deposited, with interest thereon, shall be deemed additional rent reserved under this Lease and shall be payable forthwith with interest at the rate of nine percent (9%) per annum from the date of such advance and with the same remedies to Landlord as in case of default in the payment of rent or additional rent.

6.02 REQUIREMENTS OF LAW AND ENVIRONMENTAL COMPLIANCE

A. Landlord's Responsibilities, Covenants, Representations and Warranties:

(i) Landlord shall, at its own expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directions,

rules and regulations of federal, state, county and city governments and of all other governmental authorities having or claiming jurisdiction, directly or indirectly, over the Property (excluding Tenant's specific use of the Premises) or appurtenances or any part thereof (including environmental rules and regulations, and such regulations or standards as are or may be promulgated under the Federal Occupational Safety and Health Act of 1970 or similar federal state or local requirements), whether the same are in force at the commencement of the Term or may in the future be passed, enacted or directed (hereafter the "Laws"). Without limiting the generality of the foregoing, Landlord shall also procure each and every permit, license, certificate or other authorization now or hereafter required in connection with the lawful and proper use of the Property.

(ii) Landlord represents and warrants that the Property and its existing and to the best of Landlord's knowledge, its prior uses comply with, and Landlord is not in violation of, and has not violated, and will not violate in the future, in connection with the ownership, use, maintenance or operation of the Property and the conduct of the business related thereto, any applicable federal, state, county or local statutes, laws, regulations, rules, ordinances, codes, standards, orders, licenses and permits of any governmental authorities relating to environmental matters (being hereinafter collectively referred to as the "Environmental Laws"), including, without limitation (i) the Clean Air Act, the Federal Water Pollution Control Act of 1972, the Resource Conservation and Recovery Act of 1976, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and the Toxic Substances Control Act (including any amendments or extensions thereof and any rules, regulations, standards or guidelines issued pursuant to act of said Environmental Laws), and (ii) all other applicable environmental standards or requirements.

(iii) The indoor air quality of the workplace shall conform to and/or fall within the regulatory standards of ASHRAE 62-1989, "Ventilation for Acceptable Indoor Air Quality"; and ASHRAE 55-1992, "Thermal Environmental Conditions for Human Occupancy", subject to any "grandfather" clauses of such standards.

(iv) Without limiting the generality of this Section 6.02, Landlord represents and warrants that Landlord, its agents, contractors and employees have operated the Property and have at all times received, handled, used, stored, treated, transported and disposed of all petroleum products and all other toxic, dangerous or hazardous chemicals, materials, substances, pollutants and wastes, and any chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which even if not so prohibited, limited or regulated, pose a hazard to the health and safety of the occupants of the Property or the occupants or owners of property near the Property (all of the foregoing being hereinafter collectively referred to as "Hazardous Materials") in strict compliance with all applicable Environmental Laws, as defined

above, governing the same..

(v) To the best of Landlord's knowledge, Landlord represents and warrants that there are no existing statutes, orders, standards, rules or regulations relating to environmental matters requiring any remedial actions.

(vi) During the period in which Landlord has owned the Property, to the best of Landlord's knowledge, Landlord represents and warrants that no Hazardous Materials have been released into the environment, or deposited, spilled, discharged, placed or disposed of at, on or near the Property, nor has the Property been used at such time by any person as a landfill or a disposal site for Hazardous Materials or for garbage, waste or refuse of any kind.

(vii) Landlord represents and warrants that there are no electrical transformers or other equipment containing dielectric fluid containing polychlorinated biphenyls (PCB's) in excess of 50 parts per million nor is there any asbestos contained in, on or under the Property.

(viii) To the best of Landlord's knowledge, Landlord represents and warrants that there are no locations off the Property where Hazardous Materials generated by or on the Property have been treated, stored, deposited or disposed of.

(ix) To the best of Landlord's knowledge, Landlord represents that there is no fact pertaining to the physical condition of the Property or the area in the Property (i) which Landlord has not disclosed to Tenant in writing prior to the date of this Lease, and (ii) which materially adversely affects or will materially adversely affect the Property, or the use or enjoyment or the value thereof, or Landlord's ability to perform the obligations contemplated by this Lease.

(x) Landlord represents and warrants that no notices of any violation of any of the matters referred to in this Section 6.02 relating to the Property or its use have been received by Landlord and there are no writs, injunctions, decrees orders or judgments outstanding, no lawsuits, claims, proceedings or investigations pending or threatened, relating to the ownership, use, maintenance or operation of the Property, nor is there any basis for such lawsuits, claims, proceedings or investigations being instituted or filed.

(xi) In the event Landlord or Tenant confirms any environmental hazard on the Land or affecting the Land, or in the Premises, the Building or the Common Area Facilities, or if any of the foregoing situations or violations of any Environmental Laws are found to exist or come into existence, including the existence of friable asbestos containing materials or PCB's as aforementioned, or if any Hazardous Materials exist in the Building, in violation of any Environmental Laws, and the same have not been caused by Tenant, its employees, agents, contractors or invitees (an "Environmental

Condition") and such Environmental Condition, in Tenant's reasonable judgment, threatens the health or safety of Tenant's agents, contractors, employees or invitees, or requires that Tenant be closed for business or access be denied for greater than a twenty-four (24) hour period, then Base Rent and any other sums due hereunder will be abated during the period beyond twenty-four (24) hours. If Landlord has not commenced with diligence to cure such Environmental Condition and completed such cure within thirty (30) days following receipt of written notice of the same from Tenant to Tenant's satisfaction, Tenant may terminate this Lease by written notice to Landlord and vacate the Premises, whereupon Tenant shall have no further obligation under the Lease (including no further obligation to pay Base Rent, the Operating Cost Escalation or the Real Estate Tax Escalation) after the date Tenant vacates the Premises.

In addition, if at any time during the term of the Lease, non-friable asbestos containing material is found to be present in the Premises, the Building, or the Common Area Facilities, and such is not due to an act of Tenant, Landlord hereby agrees to implement and maintain throughout the Lease Term, as renewed or extended, or until the sooner of the termination of the Lease, or one (1) year after all asbestos containing material has been removed from the Premises, the Building, or the Common Area Facilities, and such removal properly documented, at Landlord's sole cost and expense, without cost to Tenant, an ongoing Operations and Maintenance Program, in accordance with any guidelines established by the EPA (the "O&M Program").

(xii) (1) Landlord agrees to indemnify, defend and hold Tenant harmless from any and all claims, damages, costs and expenses, including attorney fees, incurred by or imposed upon Tenant, due to (i) any liability arising from any environmental claims, as described in Section 6.02, or from the presence of Hazardous Materials in the Building, or on the Land, as described in Section 6.02, or (ii) Landlord's failure to comply with any Laws or Environmental Laws (as described in this Section 6.02) relating to the Building, the Premises or the Property, which Landlord is required to comply with hereunder.

(2) Notwithstanding the foregoing, the Tenant agrees to indemnify, defend and hold Landlord harmless from any and all claims, damages, costs and expenses, including attorney fees, incurred by or imposed upon the Landlord, due to (i) any liability arising from any environmental claims, as described in Section 6.02, resulting from any act or omission of the Tenant or Tenant's agent, or from the presence of Hazardous Materials in the Building, the presence of which were caused by Tenant or Tenant's agents, or on the Land, as described in Section 6.02, which Hazardous Materials were placed upon the Land by the Tenant or Tenant's agents, or (ii) Tenant's failure to comply with any Laws or Environmental Laws (as described in this Section 6.02) relating to the Building, the Premises or the Property, which Tenant is required to comply with hereunder.

B. Tenant's Responsibilities

Tenant shall be responsible for compliance with all the Laws which are applicable to the Tenant's particular use and manner of use of the Premises and the Common Area Facilities.

In the event that Tenant's particular use of the Premises and the Common Area Facilities violates any provision of the Laws, including but not limited to the ADA, Tenant shall bear all expense, cost and liability for compliance with such Laws. Tenant hereby agrees to indemnify, defend and hold Landlord harmless from any and all loss, cost, liability or expense, including without limitation reasonable attorney fees, resulting from Tenant's failure to comply with all the Laws relating to its particular use and manner of use of the Premises and the Common Area Facilities.

ARTICLE VII. LOSS OF PREMISES

7.01 DAMAGE OR CASUALTY

If the Premises or the Building are totally destroyed by fire or any other casualty, this Lease shall automatically terminate as of the date of such destruction. If the Premises, Building, Common Area Facilities, or any portion thereof is partially damaged or destroyed by fire or other casualty, then, except as provided below, the damage shall be promptly repaired and the Premises, the Building, or the Common Area Facilities restored or replaced by and at the sole cost and expense of Landlord (including any Tenant Improvements and betterments in the Premises made and installed by Landlord, or at Landlord's sole cost and expense). The Premises, Building, Common Area Facilities, or any portion thereof, shall be restored, replaced or rebuilt to a condition comparable to their condition immediately prior to the damage or destruction and to the standard of "substantial completion", as defined in Exhibit D, within ninety (90) days after the occurrence of such damage or casualty.

Within thirty (30) days after the date of the damage or casualty, Landlord shall deliver to Tenant a statement, prepared by a reputable independent contractor, setting forth such contractor's estimate as to the time required to repair such damage or casualty. In the event such damage or casualty is not susceptible of complete repair and restoration, to the standard of "substantial completion", within sixty (60) days after the date of such statement (or within ninety (90) days from the date of the occurrence of such damage or casualty), then either Landlord or Tenant may, by written notice to the other, terminate this Lease as of the date of such damage, provided such notice is given within twenty (20) days after the date which Tenant receives the contractor's statement. If either Landlord or Tenant elects to terminate the Lease, then Tenant shall vacate the Premises, as applicable, and the Lease Term shall expire. If both Landlord or Tenant shall not elect to terminate the

Lease pursuant to this Section 7.01, the damage or casualty shall be repaired by Landlord as set forth herein.

Until such repairs and restoration are completed, the Base Rent, and the Additional Rent (including the Additional Rent Paid on Account) shall be abated in proportion to the portion of the Premises or the Common Area Facilities which are unusable or inaccessible by Tenant in the conduct of its business by virtue of such casualty. If such damage can be repaired within ninety (90) days and Landlord fails to repair or restore such damage within such period, Tenant may, upon thirty (30) days written notice to Landlord, in addition to all other remedies Tenant may have under this Lease, at law or in equity, terminate this Lease. If any such damage causes any portion of the Premises or the Common Area Facilities to become unusable or inaccessible by Tenant in the conduct of its business during the last nine (9) months of the Lease Term, Tenant may, upon thirty (30) days written notice to Landlord, terminate this Lease.

7.02 EMINENT DOMAIN

- A. If all of the Land, the Building, the Common Area Facilities, or the Premises are taken by eminent domain or condemnation (a "Taking"), this Lease shall terminate immediately upon the effective date of the Taking.
- B. If there is a partial Taking of the Land, the Building, the Common Area Facilities or the Premises, Tenant may terminate this Lease by written notice to Landlord if the remaining Premises, the Building, the Land or the Common Area Facilities are not, in Tenant's reasonable judgment, adequate for the conduct of Tenant's business.

If Tenant does not terminate this Lease, Landlord shall proceed with due diligence to make all necessary repairs to the Land, the Building, the Common Area Facilities, or the Premises in order to render and restore the same to the condition that they were prior to the Taking. Tenant shall remain in possession of the portion of the Premises not taken, upon the same terms and conditions of this Lease, except that the Base Rent, the Additional Rent (including the Additional Rent Paid on Account) shall be reduced in direct proportion to the area of the Premises and the Common Area Facilities subject to the Taking. Tenant's Base Rent, Additional Rent (including the Additional Rent Paid on Account) shall also be reduced during any period of time which Tenant is not able to occupy the remaining Premises or any portion thereof not taken, while Landlord is making the required repairs.

- C. Damages awarded to Landlord for any Taking shall belong to Landlord, whether or not the damages are awarded as compensation for loss or reduction in value of the Land, the Building, the Common Area Facilities, or the Premises; however, nothing shall restrict or limit Tenant from asserting a claim for any additional damages resulting from the Taking for any unamortized leasehold improvements paid for by Tenant, the interruption of Tenant's business, Tenant's moving expenses, or Tenant's trade fixtures and

equipment, provided such claim does not reduce Landlord's award.

**ARTICLE VIII.
NON-DISTURBANCE**

8.01 SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE

This Lease shall be subordinate and subject to any future fee or leasehold mortgages, ground leases and deeds of trust covering the Land, the Building, or the Common Area Facilities. In the event that any of the foregoing shall exist as of the date of this Lease, simultaneously with the execution of this Lease, Landlord shall obtain, have executed and delivered to Tenant, a Subordination, Attornment and Non-disturbance Agreement by and between Tenant and Mortgagee or other encumbrancer which exists, in substantially the form attached hereto as Exhibit I (SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT).

- (1) This Lease shall be subordinate and subject to any future fee or leasehold mortgages, ground leases and deeds of trust covering the Land, the Building, or the Common Area Facilities, provided that:
 - (a) This Lease shall continue in full force and effect; and
 - (b) Tenant's quiet enjoyment shall not be disturbed if Tenant is not in default of this Lease beyond any applicable grace and notice periods provided in this Lease for the cure thereof; and
 - (c) Tenant shall attorn to and recognize the mortgagee, purchaser at a foreclosure sale or ground or other lessor ("Successor Landlord") as Tenant's landlord for the remaining Lease Term; and
 - (d) Successor Landlord shall not be bound by:
 - (i) any payment of the Base Rent or Additional Rent for more than one month in advance, except for any rent abatement expressly specified in this Lease, or as otherwise provided in Section 3.02, or
 - (ii) any amendment, modification, or termination of the Lease without Successor Landlord's consent, after Successor Landlord's name is given to Tenant in accordance with the notice provision contained herein, unless the amendment, modification, or ending is specifically provided for by this Lease and shall therefore not require Successor Landlord's prior agreement or consent.
- (2) This section is self-operating; however, Landlord or Tenant shall cause a Subordination, Attornment and Non-Disturbance Agreement substantially in the form of Exhibit I (SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT) to be executed and delivered if either party

so requests and if this Lease shall become subordinate and subject to any future fee or leasehold mortgages.

- (3) Landlord expressly authorizes Tenant to rely on any notice from Successor Landlord, made in accordance with the notice provision contained herein, which appears on its face to be genuine, and Tenant shall have no duty to make any inquiry into the existence of a default or the genuineness or validity of any such notice as a condition to acting and relying on such notice. This shall include any notice from Successor Landlord notifying Tenant of a default under the mortgage and instructing Tenant to pay all rent and other sums due under the Lease to such Successor Landlord. All such payments made in good faith and in reliance on such notice shall be deemed to have been made to or on behalf of Landlord and shall not be a breach under the Lease.

8.02. ESTOPPEL CERTIFICATE

Each party hereby agrees, from time to time, upon not less than thirty (30) days prior written notice, to execute and deliver an estoppel certificate (the "Estoppel Certificate"). The Estoppel Certificate may be relied upon by Landlord or Tenant, as appropriate, and any third party with whom Landlord or Tenant is dealing, and shall certify the following, as of the date thereof:

- A. The accuracy of this Lease;
- B. The Lease Commencement Date and the Lease Expiration Date;
- C. That this Lease is unmodified and in full force and effect or in full force and effect as modified, stating the date and nature of all modifications;
- D. Whether to the executing party's knowledge the other party is in default or whether the executing party has any claims or demands against the other party and, if so, specifying the claim or demand; and
- E. To other correct and reasonably ascertainable facts that are covered by the terms of this Lease.

8.03. RECORDING OF LEASE

At the request of either party, the parties shall promptly execute and record, at the cost of the requesting party, a short form memorandum setting forth the names of the parties to this Lease, the date of execution, the Lease Term, the Lease Commencement Date, the Lease Expiration Date, a description of the Premises, any outstanding options and any other information the parties agree to include or is required by statute governing such short form memoranda. A form of short form memorandum is attached hereto as Exhibit K (SHORT FORM MEMORANDUM).

8.04. QUIET ENJOYMENT

Tenant shall have the peaceful and quiet enjoyment and possession of the Premises without any interference from Landlord or any person claiming by, through or under Landlord.

ARTICLE IX. DISPUTES

9.01. DEFAULT BY TENANT

Tenant shall be considered in default of this Lease ("Default") if: (i) Tenant fails to pay the Base Rent within fifteen (15) days after Tenant receives notice from Landlord that the Base Rent was not received;; or (ii) Tenant fails to perform any of its other obligations under this Lease within thirty (30) days, or within a reasonable period of time thereafter if a cure cannot be accomplished within thirty (30) days, and Tenant is diligently pursuing a cure, after receiving written notice from Landlord specifying that such Default exists, setting forth in reasonable detail the nature and extent of the Default and identifying the applicable Lease section(s) and/or subsections.

If Tenant is in Default, as stated above, Landlord may: (i) end this Lease after giving Tenant thirty (30) days written notice of its intention to do so and in accordance with any laws governing such termination, and Tenant shall then surrender the Premises to Landlord; or (ii) Landlord may enter and take possession of the Premises, in accordance with any laws governing such repossession, and remove Tenant, with or without having terminated the Lease. Landlord's exercise of any of its remedies or its receipt of Tenant's keys shall not be considered an acceptance or surrender of the Premises by Tenant. A surrender must be agreed to in writing and signed by both parties.

If Landlord terminates this Lease or terminates Tenant's right to possess the Premises because of a Tenant Default, Landlord may hold Tenant liable for: (i) the Base Rent, Additional Base Rent, and other indebtedness that otherwise would have been payable by Tenant to Landlord pursuant to this Lease prior to the Lease Expiration Date, less any amount which Landlord receives from reletting the Premises after all of Landlord's cost and expenses incurred in such reletting have been subtracted; (ii) any amounts Landlord incurs in reletting the Premises during the remainder of the Lease Term; and (iii) other necessary and reasonable expenses incurred by Landlord in enforcing its remedies. Tenant shall be liable to only those actual damages suffered by Landlord. Tenant shall pay any such sums due within thirty (30) days of receiving Landlord's invoice for the amounts.

If the Landlord terminates this Lease or terminates Tenant's right to possess the Premises because of the Tenant's Default as above provided for, the Tenant shall continue to pay on a monthly basis the Base Rent, Additional Base Rent, and other indebtedness that otherwise would be payable by Tenant to Landlord pursuant to this Lease. In the event, and only in the event, that the Tenant then fails to make

such monthly payments will the Landlord be authorized to accelerate the entire amounts due and owing under this Lease to the Landlord by the Tenant.

If after such acceleration and payment of the acceleration balance due by Tenant to Landlord, the Landlord relets the Premises during the unexpired term of the Lease, the Landlord shall pay to Tenant any and all rents, including any Additional Rent paid on account, the Landlord receives from reletting the Premises or any portion thereof, less the expenses incurred to relet the premises, up to a maximum amount equal to the accelerated amount paid by the Tenant.

9.02. DEFAULT BY LANDLORD

Landlord shall be considered in default of this Lease (a "Landlord Default"), if Landlord fails to perform any of its obligations under this Lease, within thirty (30) days after receiving notice from Tenant, specifying such Landlord Default and setting forth in reasonable detail the nature and extent of the Landlord Default, and identifying the applicable Lease section(s) and/or subsections. If a cure is not accomplished within thirty (30) days after receiving notice from Tenant, or if the Landlord Default cannot be cured within thirty (30) days, or within a reasonable period of time thereafter (not to exceed an additional forty-five (45) days) if Landlord is diligently pursuing a cure, then, in addition to all rights, powers or remedies permitted by law or in equity, Tenant may:

- A. Upon the first occurrence of any Landlord Default, correct the Landlord Default and deduct the cost from the Base Rent and other sums payable;
- B. Upon the second and any subsequent occurrence of any Landlord Default, withhold payment of the Base Rent and any other sums payable to Landlord until Landlord has corrected the specified Landlord Default; or
- C. Upon the third occurrence of any Landlord Default or upon the failure of Landlord to cure any Landlord Default within ninety (90) days after Landlord's receipt of written notice from Tenant, notifying Landlord of the occurrence of the Landlord Default, Tenant shall have the right to seek the judicial remedy of specific performance or to terminate this Lease by providing Landlord with written notice of such termination.

Tenant agrees to simultaneously give Landlord's mortgagee or deed of trust holders (the "Holder") a copy of any notice of a Landlord Default which Tenant serves upon Landlord to the address shown as the Mortgagee Notice Address in Article I, or to such other address which Landlord may provide the Tenant. The Holder shall have the right to cure a Landlord Default within the period provided to Landlord, herein.

9.03. REDUCTION OF SERVICES

The Base Rent is based in part upon services which Landlord shall provide to Tenant as described in Section 4.01 (Services Provided By Landlord) hereof. If for

any reason, Landlord does not provide any or all of these services in the manner described therein for more than five (5) consecutive days following written notice from Tenant of such failure, interruption or reduction, in addition to any other remedies provided to Tenant under this Lease, the Base Rent, and the Additional Rent (including the Additional Rent Paid on Account) shall be abated on a per diem basis for the period of interruption beginning with the date the failure, interruption or reduction in services began and ending when the services are fully restored.

Except for reason of force majeure, upon (i) the third occurrence, within a twelve (12) month period, of any failure, interruption or reduction in a particular service, or (ii) Landlord's failure to correct any failure, interruption or reduction of a particular service within a period of ninety (90) days after receipt of notice from Tenant of such failure, interruption or reduction (unless Landlord is diligently pursuing a cure, in which event Landlord shall have an additional thirty (30) days in order to correct such failure, interruption or reduction of the particular service), Tenant may, in addition to any other remedies permitted by law or in equity, seek the judicial remedy of specific performance or terminate this Lease by written notice to Landlord.

9.04. ARBITRATION

If Landlord and Tenant cannot reach agreement upon the interpretation of any of the following described terms or conditions of this Lease, if the parties mutually agree, the dispute may be subject to arbitration as provided in this Lease. Should the parties agree to submit the dispute to arbitration, each party shall choose an impartial arbitrator within thirty (30) days of the date of written agreement to arbitrate, and the two arbitrators shall choose a third impartial arbitrator. The decision of the arbitrators shall be binding upon the parties and final. In the event that any party fails to timely designate an arbitrator, such dispute or disagreement shall automatically be deemed resolved against such party. The arbitrators will have a minimum of ten (10) years experience in a profession related to the subject matter of the dispute and the then prevailing Commercial Arbitration Rules of the American Arbitration Association shall govern the proceeding. Both parties shall continue performing their Lease obligations pending the determination of the arbitration proceeding, except as otherwise provided for in this Lease. The arbitrators shall have no power to change the Lease provisions and the arbitrators shall base their decisions upon the provisions of this Lease and, as appropriate, shall apply the law stated in Section 9.05 (Governing Law) of this Lease.

The arbitrators shall submit their findings in writing, signed by each of them, within thirty (30) days of the last arbitrator appointment. The findings of the arbitrators shall be binding on both Landlord and Tenant and the expense of the arbitration shall be shared equally by Landlord and Tenant.

In accordance with the foregoing, the following disputes only may be subject to arbitration:

- a. any dispute which the parties mutually agree to submit to arbitration;

- b. the date when the Premises was Substantially Complete, or any other disputes concerning the terms of Exhibit D (WORK LETTER AGREEMENT);
- c. the amount of any abatement of Base Rent, Additional Rent and Additional Rent Paid on Account, because of damages or eminent domain;
- d. the amount of any Additional Rent or any component part of the calculation;
- e. which party must comply with any applicable laws;
- f. whether the services furnished by Landlord are being provided in the manner described in this Lease;
- g. whether Tenant is entitled to an abatement of Base Rent, Additional Rent and Additional Rent Paid on Account as provided in this Lease;
- h. whether Landlord's withholding of consent is unreasonable or unduly delayed;
- i. whether either party has the right to terminate this Lease as provided in this Lease;
- j. whether or not a proposed assignee or sublessee has adequate creditworthiness and whether Tenant's continued liability under this Lease would be required in light of such assignment or sublease;
- k. or determination of Fair Market Rent.

9.05 GOVERNING LAW

This lease, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of New York.

9.06 WAIVER OF CONSEQUENTIAL DAMAGES

Neither Landlord nor Tenant shall be liable to the other under or in connection with this Lease for any consequential damages and both Landlord and Tenant waive, to the full extent permitted by law, any claim for consequential damages.

ARTICLE X. MISCELLANEOUS

10.01 FORCE MAJEURE

After the Lease Commencement Date, neither party shall be responsible to the other for any losses resulting from the failure to perform any terms or provisions of this Lease if the party's failure to perform is attributable to war, riot, acts of God or the elements, labor disputes or strikes (other than those caused by the direct act or omission of Landlord or Tenant), or any other unavoidable act not within the control of the party whose performance is interfered with and which by reasonable diligence such party is unable to prevent. However, neither party shall be excused from the timely performance of its obligations under this Lease for a period of time greater than ninety (90) days on account of force majeure.

10.02 END OF TERM

Upon the termination of this Lease, Tenant shall return the Premises in reasonably good condition as when Tenant took possession (including all Tenant Improvements), excluding: ordinary wear and tear; loss from fire or other casualty and any other damage that Landlord is required to repair or restore pursuant to the provisions of this Lease, removal of communications cabling or signage; and the restoration of the Premises to its condition prior to any Tenant Improvements or Alterations made to it during the Lease Term. The Premises shall be returned in broom clean condition.

10.03 ENTIRE AGREEMENT

This Lease and all of its written and attached Exhibits, riders, addenda, modifications, and amendments constitutes the entire agreement between Landlord and Tenant with respect to the Premises, the Building, the Land and the Common Area Facilities and may be amended or altered only by written agreement executed by both parties and supersedes all prior agreements, whether written or oral, between the parties. Landlord warrants that it owns the Building and the Land as described herein, and each party warrants that it is authorized to enter into this Lease.

10.04 NON-DISCRIMINATION

Landlord and Tenant shall not discriminate on the basis of race, age, color, religion, sex, national origin, disability or veteran's status in the use of occupancy of the Premises or the Building, or in their employment or choice of contractors, subcontractors, or suppliers of materials for or to be used for the installation of any improvements in the Premises, the Common Area Facilities or the Building.

10.05 BINDING ON SUCCESSORS

This Lease shall bind the parties, their heirs, successors, representatives and permitted assigns.

10.06 AMBIGUITIES

Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Lease or an amendments or exhibits hereto.

10.07 BROKER'S WARRANTY

Landlord and Tenant warrant and represent that they have dealt with no real estate broker in connection with this Lease other than the Broker listed in Article I, and that no other broker is entitled to any commission on account of this Lease. The party who breaches this warranty, shall defend, hold harmless and indemnify the other from any loss, cost, damage or expense, including reasonable attorney fees, arising from the breach. Tenant is solely responsible for paying the commission of said broker in accordance with a separate agreement.

10.08 FIRST CLASS BUILDING

Whenever in this Lease the phrases "first-class building", "first class manner", "first class condition" or phrases of similar import are used, said phrases mean that the Building, Common Area Facilities, the Land and the Premises are to be maintained, repaired, operated and generally treated in the same manner and custom consistent with that used for other buildings which are substantially similar to the Building in Chemung County in geographic location, use, size, type, age, and amenities and services provided.

10.09 PARTIAL INVALIDITY

If any part, term or provision of the Lease is held by the final judgment of any court of competent jurisdiction to be illegal, invalid or unenforceable, the validity of the remaining portions or provisions shall not be impaired or affected, and the rights and obligations of the parties shall be construed and enforced as if the Lease did not contain that certain part, term or provision held to be illegal, invalid or unenforceable.

10.10 CAPTIONS

The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of the Lease nor in any way affect the Lease.

10.11 WAIVER

The failure of either party to exercise any of its rights is not a waiver of those rights. A party waives only those rights specified in writing and signed by the party waiving its rights.

10.12 PREVAILING PARTY

In any litigation between the parties regarding this Lease, the losing party shall pay to the prevailing party all reasonable expenses and court costs, including attorneys' fees incurred by the prevailing party.

10.13 REASONABLENESS

If the consent, authorization or approval of either party hereto is required for the other party to take any action under this Lease (a "Required Consent"), such approval, consent or authorization shall not be unreasonably withheld, conditioned or delayed. Additionally, if any matter is required to be determined by a party in exercising its discretion, judgment, or opinion, then the same will be exercised reasonably and in good-faith by the party required to make such determination. If a party delivers a written request for the other party's Required Consent, and the other party fails to respond within the time period specifically provided by the terms of this Lease or, if no specific time period is so provided, within thirty (30) business days thereafter, then the other party's Reasonable Consent shall be deemed to be given.

10.14 SURVIVAL

The following provisions, Articles or Sections, as appropriate, of this Lease and Landlord's and Tenant's obligations thereunder shall survive the Lease Expiration Date or any earlier termination of this Lease by either Landlord or Tenant:

- A. Provided that Landlord forwards to Tenant an invoice, for a period of one (1) year, Tenant's obligation to pay the Additional Rent for the Lease Term, subject to any termination of this Lease by Tenant;
- B. Landlord's obligation to refund to Tenant any excess payment of Additional Rent Paid on Account;
- C. All indemnifications, hold harmless agreements, representations, warranties and covenants made by Landlord, or Tenant;
- D. Any representation or warranty regarding either Landlord's or Tenant's use of a broker or agent and any fee or commission which may be due or owing to said broker or agent;
- E. Any remedy of Landlord or Tenant pursuant to any provision of this Lease.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease, as of the date first above written.

WITNESSES:

Maria J. Heisenfluh
Cheryl Schneider

Rhonda W. Dubs
Medial Sign

LANDLORD:

The City of Elmira, New York

Stephen M. Hughes
By: Stephen M. Hughes, Mayor
Pursuant to Council Res. # 99-108
Federal Tax I.D. # 16-6002542

TENANT:

The Travelers Indemnity Company

By: Andy F. Bessette
Title: Vice President

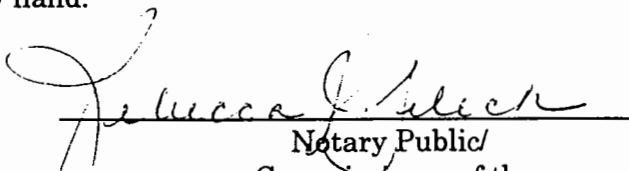
KMP
4/16/49

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

On this 12th day of April, 1999, before me, a Notary Public, came STEPHEN M. HUGHES, to me known, who being by me duly sworn did depose and say: That he resides in the City of Elmira, County of Chemung, State of New York; that he is Mayor of the City of Elmira, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it is so affixed by order of the Council of the City of Elmira, and that he signed his name thereto by like order.

In Witness Whereof I hereunto set my hand.

REBECCA J. TELECH
Notary Public, State of New York
Chemung County, No. 4791839
Commission Expires Nov. 30, 1999



Notary Public/
Commissioner of the
Superior Court

STATE OF CONNECTICUT)
)ss:
COUNTY OF HARTFORD)

On this _____ day of _____, 1999, before me, a Notary Public, came Andy F. Bessette, to me known, who being by me duly sworn did depose and say: That he resides in Hartford, County of Hartford, State of Connecticut; that he is the Vice President of Travelers Indemnity Company, the corporation described in and which executed the foregoing instrument, and acknowledged that he executed the same by order of the Board of Directors of such corporation.

In Witness Whereof I hereunto set my hand.

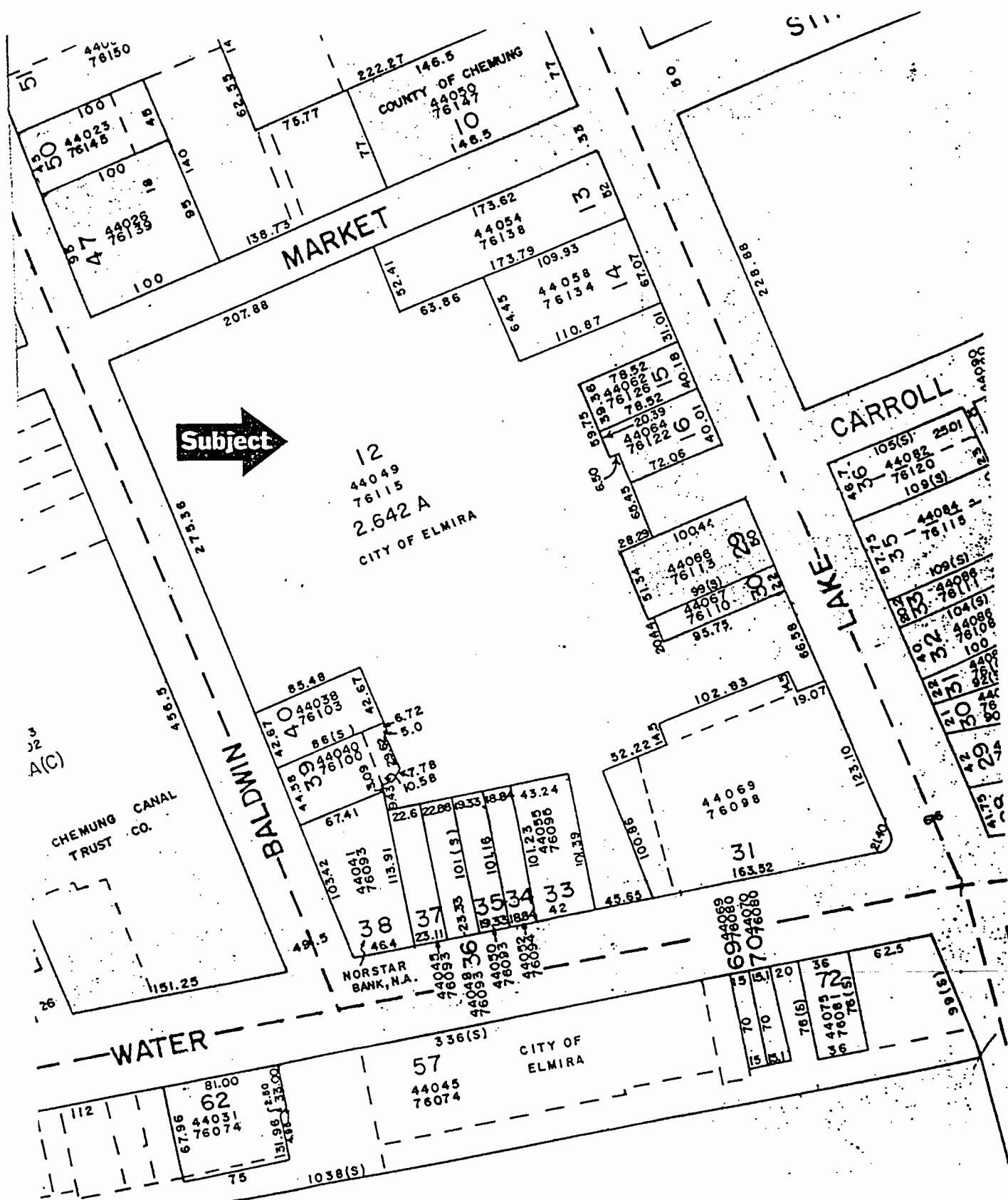
Notary Public/
Commissioner of the
Superior Court

EXHIBIT A-1
DESCRIPTION OF LAND

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Elmira, County of Chemung, and State of New York, and more particularly bounded and described as follows:

Beginning at the intersection of the southerly boundary of East Market Street with the easterly boundary of Baldwin Street; thence S. 20°38'46" E., along the last mentioned boundary a distance of 226.43 feet to a point on the former northerly boundary of Carroll Street; thence S. 20°37'01" E., continuing along the said easterly boundary of Baldwin Street, a distance of 48.94 feet to a point on the former southerly boundary of said Carroll Street; thence N. 68° 25'21" E., along the last mentioned former southerly boundary of said Carroll Street, a distance of 85.48 feet to a point; thence S. 20°43'38" E., a distance of 42.67 feet to a point; thence S. 68°25'21" W., a distance of 20.39 feet to a point; thence S. 20°44'21" E., a distance of 60.92 feet to a point; thence N. 79°58'27" E., a distance of 22.61 feet to a point; thence N. 80°08'11" E., a distance of 22.88 feet to a point; thence N. 80°31'37" E., a distance of 81.41 feet to a point thence; S. 08°57'20" E., a distance of 101.39 feet to a point on the northerly boundary of East Water Street; thence N. 80°44'13" E., along the last mentioned boundary, a distance of 45.65 feet to a point, said point being the southeasterly corner of Disposition Parcel 5-A; Thence N. 21°16'00" W., along the westerly line of said Disposition Parcel 5-A, a distance of 100.86 feet to a point; thence N. 68°44'00" E., along the northerly line of said Disposition Parcel 5-A, a distance of 174.12 feet to a point on the westerly boundary of Lake Street; thence N. 21°24'59" W., along the last mentioned boundary a distance of 66.58 feet to a point; thence S. 68°33'19" W., a distance of 95.75 feet to a point; thence N. 22°22'38" W., a distance of 20.44 feet to a point; thence S. 68°21'11" W., a distance of 3.44 feet to a point; thence N. 22°25'08" W., a distance of 51.34 feet to a point on the former southerly boundary of Carroll Street; thence N. 68°25'21" E., along the last mentioned former boundary of said Carroll Street, a distance of 28.29 feet to a point; thence N. 21°17'44" W., a distance of 65.45 feet to a point; thence S. 68°42'16" W., a distance of 6.50 feet to a point; thence N. 21°23'56" W., a distance of 59.75 feet to a point; thence N. 70°03'29" E., a distance of 78.52 feet to a point on the said westerly boundary of Lake Street; thence N. 21°24'59" W., along the last mentioned boundary a distance of 31.01 feet to a point, said point being the southeasterly corner of Disposition Parcel 64; thence S. 70°03'29" W., along the southerly line of said Disposition Parcel 64 a distance of 110.87 feet to a point; thence N. 20°37'01" W., along the westerly line of said Disposition Parcel 64 a distance of 64.45 feet to a point; thence S. 68°42'11" W., a distance of 63.86 feet to a point; thence N. 21°13'59" W., a distance of 52.41 feet to a point on the said southerly boundary of East Market Street; thence S. 68°42'06" W., along the last mentioned boundary a distance of 207.88 feet to the place or point of beginning, being 116,557.083 square feet or 2.676 acres of land, more or less.

EXHIBIT A-2
TAX ASSESSOR'S PLAN



Subject →

12
44049
76115
2.642 A
CITY OF ELMIRA

3
J2
A(C)

CHEMUNG CANAL
TRUST CO.

HORSTAR
BANK, N.A.

WATER

CITY OF
ELMIRA

CARROLL

LAKE

112

62
44031
76074

57
44045
76074

72
44075
76081

75

1038(S)

625

99(S)

EXHIBIT A-3
PLAN OF PREMISES



Rhonda M. Smith
Corporate Real Estate, Hartford, CT
Tel: 860-277-3242
Fax: 860-954-2819

Fax Cover Sheet

Date: March 25, 1999

To: Cheryl Schneider
City of Elmira

Phone: 607-737-5607
Fax: 607-737-5824

copy

From: Rhonda M. Smith
Senior Legal Analyst/CRE
Travelers

RE: Elmira Lease

Number of pages including cover sheet: 2

Comments: Cheryl, attached please find a copy of the Plan of the Premises for the latest lease. I had overnighted the documents to you yesterday, but had not yet received the Plan. Please insert this Plan as Exhibit A-3 of the Lease (PLAN OF THE PREMISES). Jung Brannen has faxed me this Plan directly, and Mike is out of the office for the rest of the week. If you feel there is any error, please contact me. Thank you. Rhonda Smith

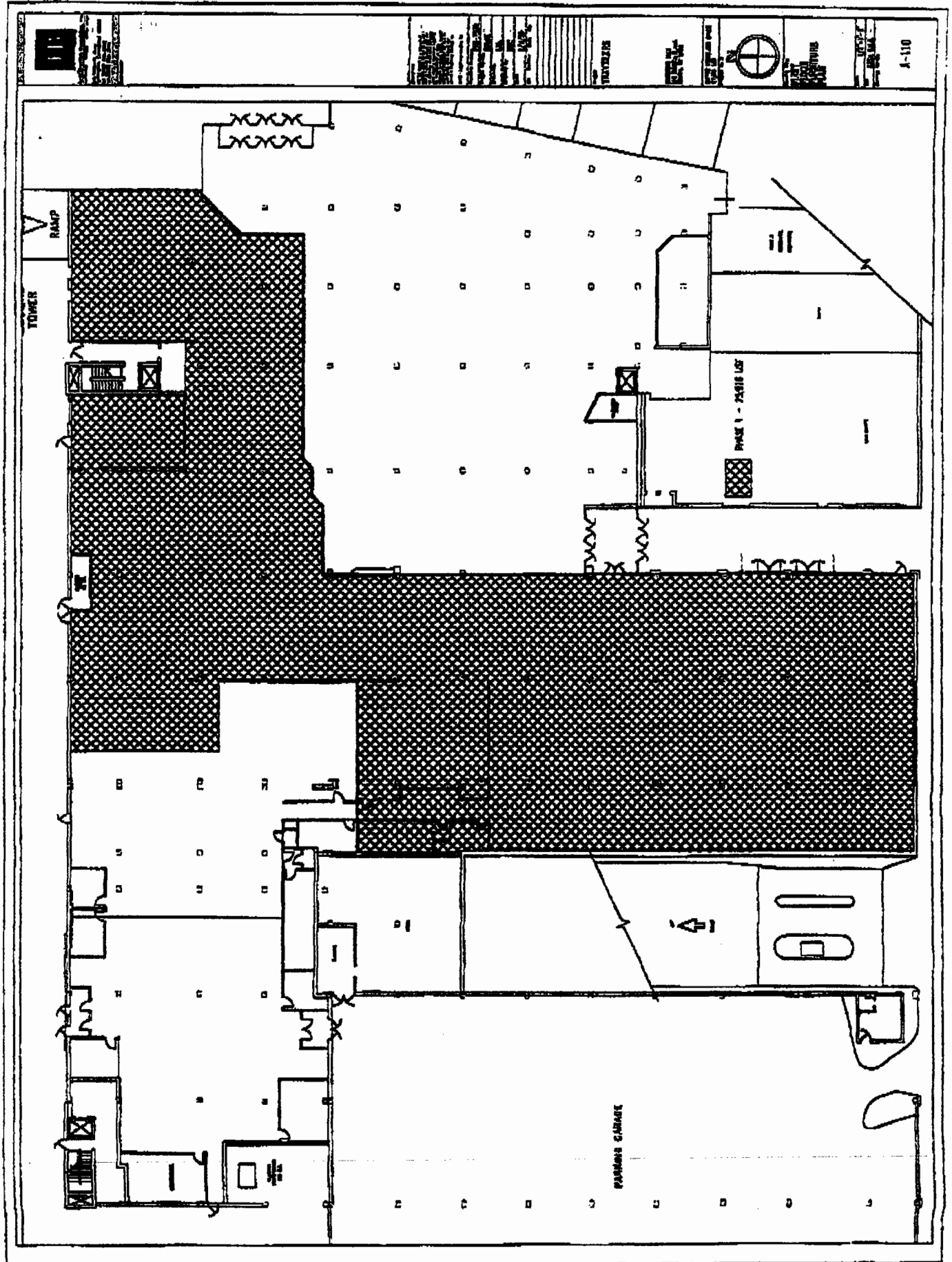


EXHIBIT A-4

EASTOWNE PARKING GARAGE

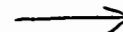
EASTOWN PARKING GARAGE

Lake St. Ramp

MONTHLY SPACES AVAILABLE
372 total on 2nd & 3rd floor & Inside Ramp:

Inside Ramp	36
2nd Floor	168
3rd Floor	168

RAMP TO 2nd FLOOR



DAILY PARKING ONLY
Lower Area
60 spaces

MARKET ST.

EXHIBIT B-1

OPERATING COST INFORMATION FORM

A. CATEGORY

	BASE YEAR Year 19 X 1	CURRENT Year 19 X 2	EXPENSES SUBJECT TO GROSS - UP
Cleaning Expenses	_____	_____	_____
Repairs & Maintenance	_____	_____	_____
Roads/Grounds/Security	_____	_____	_____
Heating/Ventilating/Air Cond.	_____	_____	_____
Insurance	_____	_____	_____
Salaries/Management Fees	_____	_____	_____
Utilities	=====	=====	=====
Total	_____	_____	

B. CALCULATION OF CAP

Prior Year Building Operating Costs = _____
 Current Year Building Operating Costs = _____

Cap = 104% x Prior Year Building Operating Costs = \$ _____ ("CAP Amount")

CURRENT Year Building Operating Costs = _____

CAP Amount Building Operating Costs = _____

Total Allowable Expenses (lesser of (i) Current Year or (ii) CAP Amount Building Operating Costs) = _____

C. CALCULATION OF TENANT'S PROPORTIONATE SHARE:

Rentable Area of the Premises	_____	
	= _____ %	
Total Rentable Area of the Building		(Tenant's Proportionate Share)

D. CALCULATION OF ESCALATION DUE:

Step 1

Total Allowable Expenses (section B)	\$ _____	
Less: BASE YEAR Total Operating Expenses		(_____)
Increase Over BASE YEAR	\$ _____	

Step 2

Increase over BASE YEAR	\$ _____		
Multiplied:	Tenant's Proportionate Share		X
(Section C)	=====		
TOTAL AMOUNT DUE			

E. "OPERATING COSTS ESCALATION PAID ON ACCOUNT" (OCEPOA):

Year 19 X 3

Total Allowable Expenses (section B)	\$ _____
Less: BASE YEAR Expenses	(_____)
Total Expenses	_____
Tenant's Proportionate Share	_____
Tenant's OCEPOA Expenses	\$ _____
Monthly OCEPOA Amount Due	\$ _____

EXHIBIT B-2

REAL ESTATE TAX INFORMATION FORM

A. CALCULATION OF REAL ESTATE TAX ESCALATION

Current Tax Year Real Estate Taxes \$ _____

Base Real Estate Taxes (\$ _____)

Increase Over Base Year Real Estate Taxes \$ _____

Multiplied: Tenant's Proportionate Share
(Section B of this Exhibit B-2)

CURRENT AMOUNT DUE

B. CALCULATION OF TENANT'S PROPORTIONATE SHARE:

Rentable Area of the Premises _____ = _____ %

Tenant's
Proportionate
Share

Total Rentable Area of the Building

C. COPIES OF REAL ESTATE TAX RECEIPTS ARE ATTACHED

EXHIBIT C
BASE BUILDING IMPROVEMENTS

The Building is an existing Building. The Tenant is accepting the Premises as-is. The following Base Building Improvements and systems, as described below (the Base Building Improvements") are currently available (or will be made available pursuant to the Base Building Improvement Work which is to be performed by Tenant under this Lease) at the premises and shall be maintained by the Landlord, at Landlord's sole cost and expense, subject to the terms of Section 3.02 (ESCALATION) of the Lease. These include:

1. The Building structure will be designed for a minimum floor load of 80 lb. live load plus a 20 lb. partition dead load.
2. The Building shell will include a built out and finished interior core, stairwell enclosures and exterior perimeter walls and all building columns. The interior core on each floor will include men's and women's rest room facilities, electrical, telephone, janitorial and mechanical closets, stairways and an elevator lobby. All walls adjacent to public traffic areas will be finished. The restroom facilities on each floor of the Premises will be based on the applicable standards of the New York State Fire Prevention and Building Code and will conform to the American with Disabilities Act.
3. A Concrete Floor is installed with a smooth trowel finish for installation of glued-down carpet. The floor has been poured level and finished in accordance with ACI Standard Specifications 117. A topping of Gyp-Crete 2000 or an approved equivalent was used to level the floor to within 1/4" overall. Perimeter walls may be utilized for grounded electrical, data communications and telephone wiring installations in the Premises, at locations to be mutually agreed upon by the Tenant and the City.
4. The Ground-level building lobby is completely finished.
5. A Life Safety System is installed in accordance with the New York State Fire Prevention and Building Code.
6. Tenant's lighting shall be installed in accordance with Tenant's specifications. Building standard lighting and general receptacles to be provided. All electrical equipment to be Underwriter's Laboratories, Inc. listed. Electrical distribution will be provided to the main panel boxes in the electrical closets on each floor. The electrical system is sized for 5.5 watts per usable square foot for Tenant's consumption, over and above base building electrical (including lighting) requirements. All panel boards are currently provided with typewritten identification labels identifying what each breaker feeds. If existing transformers are K rated, the rating is 750 KVA. All new transformers shall be K rated.

7. The Building ground system is in accordance with the N.E.C. All existing metal conduits, cabinets, raceways, wireways and non-current carrying metal components of the electrical system are grounded to the equipment grounding system and building steel.
8. A suspended ceiling system will be installed in accordance with the New York State Fire Prevention and Building Code, and in accordance with Tenant's specifications. It shall be listed by Underwriter's Laboratories, Inc. (Materials List) as to Fire Hazard Classification and will have a minimum thickness of 3/4". The ceiling height is eight feet (8'). Fissured acoustical tile is (shall be) installed on 2'x4' mechanically suspended grid system and has a minimum combustibility rating of Class I or equal to that of local code requirements, whichever is greater.
9. Modern fluorescent lighting will be installed at the Premises to provide a minimum of 60 foot candles to be furnished at desk height and arranged so as to provide an even distribution of light. Lamps are to be of the "warm white" energy saving type. Ballasts shall also be energy efficient, high power factor U.L. listed, class P, and have a sound rating of 'A'. All fixtures have two-level switching.
10. The Building is equipped with a Heat Pump (Boiler and Cooling Tower; water to air) heating, ventilation and air conditioning system. The fan system shall run continuously during business hours, no duty cycling. All ducts shall be separately zoned by zone valves with individual controls provided within Tenant's Premises. These individual zones, thermostatically controlled, shall be preset and tamper proof. There is one (1) thermostat (and VAV box) per 1,000 square feet of usable area, and a minimum of one (1) diffuser for each 500 square feet of usable area. The location of these thermostats and diffusers will be configured according to Tenant's final space plan. The system will be designed to maintain temperature and humidity levels specified in accordance with ASHRAE (American Society of Heating, Refrigeration and Air Conditioning Engineers) standard 55-1981, Thermal Environmental Conditions for Human Occupancy, for employees in typical business attire. Ventilation shall comply with the most current ASHRAE Ventilation standard with the conditions set forth in ASHRAE 62-1989 as a minimum requirement.
11. Telephone service, as provided by the local utility, will be brought to the Tenant's main telephone room. If conduit or sleeves are required by local code, Base Building will include necessary conduit/sleeves to distribute data and telephone cables between floors.
12. Blinds are installed on all windows, consisting of horizontal one inch (1") mini blinds or vertical blinds.
13. Three (3) automatic passenger elevators and no (0) freight elevators are provided. If no freight elevator is provided, one passenger elevator shall be designed to serve both as a passenger elevator and a freight elevator, and will be equipped to carry supplies and furniture when necessary. Elevator cabs are equipped with an emergency communications/alarm system, including a bell annunciator, connected to the parking garage's office during hours of operation. The elevator controls has

Braille lettering for eyesight impaired persons. The elevators and elevator controls shall conform with ADA and be in strict compliance with local, state, and national codes and regulations governing the same.

14. A loading dock shall be available for Tenant's exclusive use.
15. Demising walls, including common corridor walls and walls between tenant suites will be provided. These walls will include tenant entry doors for public corridors. Demising walls will be soundproofed/insulated to the floor deck above.
16. Tenant shall be allowed space on the Building directory in proportion to the total rentable area which Tenant occupies in the Building.

EXHIBIT D

WORK LETTER AGREEMENT

THIS WORK LETTER AGREEMENT ("Work Letter Agreement") is made and entered into as of the _____ day of _____, 19__ by and between **THE CITY OF ELMIRA, NEW YORK**, a municipal corporation organized and existing under the laws of the state of New York ("Landlord") and **THE TRAVELERS INDEMNITY COMPANY**, a Connecticut corporation ("Tenant").

ARTICLE I RECITALS:

- 1.01 Concurrently with the execution of this Work Letter Agreement, Landlord and Tenant have entered into a lease (the "Lease") covering certain premises ("Premises") which is more specifically described and defined in the Lease.
- 1.02 This Work Letter Agreement has been executed for the purpose of describing and providing the requirements, standards, and specifications for the completion of the Premises to render it suitable for the use and occupancy of Tenant.
- 1.03 In order to induce Tenant to enter into the Lease (which is hereby incorporated by reference) and in consideration of the mutual covenants hereinafter contained, Landlord and Tenant hereby agree as follows:

ARTICLE II PLANS AND SPECIFICATIONS:

2.01 BASE BUILDING IMPROVEMENTS

Pursuant to the terms of Section 2.08 (IMPROVEMENTS) of the Lease, Landlord shall deliver the Premises to Tenant in its "as is" condition, with all of the Base Building Improvements included therewith, in their "as-is" condition, however, excluding the Base Building Improvement Work, which is described below, subject to the terms thereof. Landlord and Tenant hereby acknowledge that there are certain modifications which need to be made to the existing Base Building Improvements in order for Tenant to conduct its business within the Building, therefore, Landlord hereby agrees to permit Tenant to perform these certain modifications to the Base Building Improvements, in a good and workman like manner, as part of the performance of the Tenant Improvements (hereafter known as the "Base Building Improvement Work"), and such Base Building Improvement Work shall be substantially completed by Tenant on or before the Scheduled Lease Commencement Date, subject to the terms of the Lease. However, the cost of such Base Building Improvement Work shall be at the sole cost and expense of Landlord, and not to be drawn from the Tenant Improvement Allowance (as hereafter described), and

Landlord shall reimburse Tenant for the cost of the Base Building Improvement Work, within twenty (20) days after receipt of an itemized invoice from Tenant evidencing the same. The itemized invoice which Tenant submits to Landlord for reimbursement of the Base Building Improvement Work shall be separate from the invoices which Tenant shall submit to Landlord for the Tenant Improvement Allowance. Upon completion of the Base Building Improvement Work, these modifications shall be considered part of the Base Building Improvements and are to be maintained by Landlord, in accordance with the terms of Exhibit C and the Lease.

2.02 TENANT IMPROVEMENTS

References to "Tenant Improvements" or "Work" shall include all work to be done in the Premises pursuant to the Plans, as described below.

Tenant shall prepare or have prepared for Tenant and submit to Landlord for approval, on or before March 31, 1999, final plans and specifications prepared by a registered architect covering Tenant's Work (the "Plans"). Landlord shall, within five (5) days after receipt of said Plans, notify Tenant of any objections to such Plans, and Tenant shall make any reasonable revisions and resubmit the Plans for Landlord's approval. Landlord shall provide Tenant with its approval within five (5) days thereafter. In addition to the foregoing, Landlord's objections shall include identifying to Tenant, based on Tenant's layout, the location of any floor areas in the Premises which may require extra load capacity and/or penetration of floor slab, which the Landlord shall, at its own cost, have reviewed by an independent engineering firm, if necessary, for adequacy of the existing load-bearing capacity of the space so located. In the event such load-bearing capacity is not adequate, the Tenant shall revise the Plans, on a timely basis, so that the load does not exceed the capacity, or revise the Plans in order to perform the necessary additional structural work required to provide the adequate load-bearing capacity in such locations as part of the Tenant Improvements and the Tenant Improvement Allowance, as hereinafter defined. Failure of Landlord to serve any objection to the floor loading within the specified time period shall be conclusively presumed to be acceptance of the Plans, as to floor loading, and any structural work thereafter found to be necessary to provide adequate load-bearing capacity in such locations shall be at the sole cost and expense of Landlord.

2.03 COMPLIANCE WITH APPLICABLE LAW

Tenant, at its sole cost and expense, shall comply with and shall be solely responsible for compliance with all applicable Laws (as defined in the Lease) concerning, the build-out of the Premises, the filing of any construction or engineering documents with, and obtaining any required approvals or permits from any applicable Federal, state, county or local governmental body or agency. If Landlord supplies any Building standard materials to be used in the construction of the Tenant Improvements, Landlord hereby covenants that any such Building standard materials shall comply with all applicable Laws.

2.04 PAYMENT FOR THE TENANT IMPROVEMENTS

The Tenant Improvements shall be completed by Tenant. Landlord shall provide Tenant with an allowance for such Tenant Improvements in the amount of Twenty and 00/100 Dollars (\$20.00) per square foot of Rentable Area of the Premises, as further described in the Lease (the "Tenant Improvement Allowance"), which Tenant may allocate, as Tenant chooses, for costs relating to the Tenant Improvements, including, but not limited to, the construction of the Tenant Improvements, space planning and design, permits and approvals, moving expenses, internal/external telecommunications costs and data cabling, project management fees, carpeting, shipping and installation of furniture and any other internal or external costs or expenses incurred by Tenant in preparing the Premises for its occupancy.

Landlord shall provide the Tenant Improvement Allowance to Tenant, upon full and final completion of the construction of the Tenant Improvements, as referenced above, and within thirty (30) days of receipt of an invoice from Tenant, evidencing Tenant's costs, provided that Tenant has furnished Landlord with contractor's affidavits and lien waivers, otherwise, the Tenant Improvement Allowance shall be provided to Tenant within thirty (30) days of Landlord's receipt of the contractor's affidavits and lien waivers. In the event that Tenant does not expend the entire Tenant Improvement Allowance, any unused portion shall be credited to Tenant in the form of a reduction of the monthly installments of annual Base Rent, until such unused portion is exhausted.

Tenant shall pay Tenant's costs directly to Tenant's contractors entitled thereto. Landlord shall not be responsible for reimbursing Tenant for any costs which exceed the Tenant Improvement Allowance.

2.05 HIRING OF CONTRACTORS

Before the commencement of any Work, Tenant shall obtain and deliver to Landlord waivers of liens from all contractors, subcontractors, and materialmen performing such Work or furnishing materials to or for Tenant. Tenant's contractors shall be required in all contracts to maintain insurance as may be reasonably required by Landlord and naming Landlord as an additional insured. Such insurance shall include workers compensation, employer's liability, commercial general liability, owner's protective liability and comprehensive automobile liability. All insurance shall be required to remain in effect until the Tenant Improvements are completed. All Tenant's Work shall be performed in a first-class and workmanlike manner. To the end that there shall be no labor dispute which would interfere with the construction or operation of the Building, Tenant shall engage the services of only such contractors and subcontractors as will work in harmony with each other and with those contractors and subcontractors working for Landlord.

2.06 INDEMNIFICATION

Tenant hereby agrees to indemnify and hold Landlord harmless against any actions, claims or expenses (including without limitation reasonable attorney fees) which

Landlord may incur or have imposed upon due to Tenant not obtaining all lien waivers, as set forth in Section 2.05 (HIRING OF CONTRACTORS) hereof.

ARTICLE III OCCUPANCY

3.01 POSSESSION OF PREMISES

Landlord hereby agrees to deliver possession of the Premises to Tenant (or a material portion thereof), such that Tenant may commence the Tenant Improvements and Base Building Improvement Work, on or before March 22, 1999 (the "Possession Delivery Date"), provided that Landlord has rendered final approval of the Plans. In the event that only a portion of the Premises is delivered to Tenant as of April 1, 1999, Tenant hereby agrees, as Tenant is commencing its Tenant Improvement work, to reasonably protect any areas of the Premises which are not delivered to Tenant as of April 1, 1999, and to separate such areas from the portion of the Premises which is delivered to Tenant, at Landlord's sole cost and expense, in a manner reasonably acceptable to Landlord, until possession of the entire Premises is actually delivered to Tenant. Tenant's entry onto the Premises prior to the Scheduled Lease Commencement Date (as defined in the Lease), shall not be deemed to be occupancy of the Premises by Tenant for the purpose of conducting its business. During such times as Tenant shall perform any Work in the Premises prior to the Lease Commencement Date, as set forth herein, Landlord and Tenant shall comply with all of the terms and conditions of the Lease, other than those relating to the payment of Base Rent or any other sums due thereunder.

3.02 SUBSTANTIAL COMPLETION

Tenant shall substantially complete the Premises by the Scheduled Lease Commencement Date; however, if the Premises are not Substantially Complete (as hereinafter defined) as of the Scheduled Lease Commencement Date and such is due to reasons of Force Majeure or a Landlord Delay (as hereafter defined), the Lease Commencement Date (and the Rent Commencement Date) shall occur when the Premises are Substantially Complete and the Lease Expiration Date shall occur on the fifth (5th) anniversary date thereafter. In such event, the monthly rent payments shall not commence until the Lease Commencement Date. A Landlord Delay shall mean any delay arising from (i) Landlord not delivering the possession of the Premises to Tenant in accordance with Section 3.01 hereof, or (ii) Landlord not providing its approval of the Plans in accordance with Section 2.01 hereof, and/or (iii) the negligence or willful misconduct of Landlord, its agents, employees or contractors which halts or interrupts Tenant's completion of the Tenant Improvements (hereafter a "Landlord Delay"). For purposes hereof, "Substantially Complete" means:

- (1) The Tenant Improvements and Base Building Work described in this Work Letter Agreement have been completed so that Tenant can use the Premises for its intended purposes without material interference to conducting its ordinary business activities;

- (2) The only incomplete items are minor or insubstantial details of construction, mechanical adjustments or finishing touches like touch-up plastering or painting; and
- (3) Any building systems, lobby, entranceways, elevators or hallways to be installed or maintained by Landlord, are installed, clean and free of construction equipment and in good working order.

3.03 EARLY OCCUPANCY

If the Premises are Substantially Complete prior to the Scheduled Lease Commencement Date, Tenant may request that the Lease Commencement Date occur. If the Lease Commencement Date shall be a date prior to the Scheduled Lease Commencement Date, Tenant shall not be obligated to pay Landlord Base Rent or any other sum due hereunder, until the Scheduled Lease Commencement Date. This credit shall be in addition to any other rental concessions which Tenant may receive under this Lease. Tenant shall have no obligation to occupy the Premises prior to the Scheduled Lease Commencement Date.

IN WITNESS WHEREOF, this Work Letter Agreement is executed as of the date first above written.

LANDLORD:

The City of Elmira, New York

By: Joseph M. Hughes

Title: Mayor

TENANT:

The Travelers Indemnity Company

By: Andy F. Bessette

Title: Andy F. Bessette
Vice President

copy
4/10/11

EXHIBIT E
JANITORIAL SERVICE AND SUPPLIES

A. COMMON AREA

This area includes the mall area facing all commercial businesses on the interior. Also includes the foyers on Baldwin Street and Water Street, including the exterior of those particular doors.

DAILY:

- § Remove all trash from mall area, including containers and loose debris.
- § Sweep and mop floor, inclusive of foyers Clean entranceways (foyers).
- § Clean all benches

WEEKLY:

- § Clean all windows, including exterior windows of all businesses and shops facing the interior of the mall and both sides of foyer glass.
- § Replace all lights as needed. This includes the ceiling, exit, fire, and overhead facade business lights.

MONTHLY:

- § Submit supply order to mall manager
- § Submit report on any deficiencies noted (floor tiles loose, facade light covers broken, etc.) to mall manager
- § Check for cobwebs and remove

B. THE TRAVELERS INDEMNITY COMPANY

Office Areas:

- § Empty waste baskets
- § Vacuum all carpeting
- § Dust all desks, tables, file cabinets and other office furniture
- § Remove all staples from carpets
- § Replace florescent lights, as needed

Rest Rooms:

- § Clean sinks, bowls, urinals, mirrors
- § Wipe chrome dry
- § Empty trash
- § Refill dispensers, as needed
- § Dust mop floors
- § Damp mop floors

Lunch Room:

- § Empty trash, clean tops of trash cans
- § Dust mop floors
- § Damp mop floors
- § Damp wipe tables and chairs
- § Clean vending machine glass
- § Clean sink & refrigerator

Computer Room:

- § Empty trash
- § Dust mop floors
- § Damp mop floors
- § Dust all flat surfaces

Mail/Supply Room:

- § Dust mop floors
- § Damp mop floors
- § Empty and clean trash containers
- § Dust all flat surfaces

WEEKLY:

Office Areas:

- § Dust lower areas of furniture
- § Remove unsightly dirt in "out of the way" areas
- § Clean fingerprints from doors and door jambs
- § Vacuum all heat/cool diffusers to remove dust accumulation
- § Dust pictures, thermostats, fire extinguishers

Rest Rooms:

- § Wash doors and partitions
- § Attention to floor, as necessary

Mail/Supply Room:

- § Attention to floor, as necessary

MONTHLY:

- § Wash all interior windows
- § Submit supply order
- § Check for cobwebs

QUARTERLY:

Strip and wax all tiled surfaces

Strip and wax lunch room

Wash all trash containers and waste baskets

Clean cove bases

EXHIBIT F

DIRECT DEPOSIT FORM

Please type or print all requested information in the spaces provided at the bottom of this form.

1. Enter current monthly rent amount.
2. Check box for either Checking or Savings Account. If checking account, attach a copy of your deposit slip. If savings account, enter number here: _____.
3. Enter Bank Name, Address, Branch and City.
4. Enter name account is under, and the Federal Taxpayer Identification number or Social Security number for the account. Date and sign the authorization.
5. Return both copies of authorization to us, the "Depositor's" copy will be returned to you.

AUTHORIZATION AGREEMENT FOR AUTOMATIC DEPOSITS (CREDITS)

I (We) Hereby Authorize The Travelers, Hereinafter Called COMPANY, To Make Payment of _____ Owing To Me (Either Of Us) For Installment Payments And The Bank Indicated Below, Hereinafter Called BANK, To Credit With The Amounts Thereof My (Our) < > Checking < > Savings Account Indicated Below.

BANK NAME:	ADDRESS:
BRANCH:	CITY:

This Authority Is To Remain In Full Effect Until COMPANY Or BANK Has Received Written Notification From Me (Or Either Of Us) Of Its Termination In Such Time And Manner As To Afford COMPANY Or BANK A Reasonable Opportunity To Act On It, Or Until COMPANY Or BANK Has Sent Me (Either Of Us) Ten (10) Day Written Notice Of COMPANY Or BANK'S Termination Of This Arrangement.

NAME:	IDENTIFICATION NUMBER:
DATE:	SIGNED:

SECTION BELOW TO BE COMPLETED BY COMPANY

COMPANY NAME: THE TRAVELERS	COMPANY ID NUMBER: 06-0566090
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TRANSIT ROUTING NUMBERS	TRANSIT ABA CHECK DIGIT	ACCOUNT NUMBER INFORMATION
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DESIGNATED FOR FEDERAL RESERVE

EXHIBIT G

BASE RENT SCHEDULE

Period	Rentable Area	Rental Rate	Monthly Rent	Annual Rent
7/1/99 - 6/30/2004	25,926	\$14.00	\$30,247.00	\$362,964.00

EXHIBIT H
COMMENCEMENT DATE AGREEMENT
LEASE DATED _____, BY AND
BETWEEN _____ ("LANDLORD")
AND THE TRAVELERS INDEMNITY COMPANY ("TENANT")

THIS COMMENCEMENT DATE AGREEMENT (the "Agreement") is made this _____ day of _____, 19__ by and between Landlord and Tenant pertaining to certain space (the "Premises") as further described in the Lease, situated in the Building located at _____ (the "Building").

WITNESSETH:

WHEREAS, by Lease executed the _____ day of _____ 19__, which Lease is hereby incorporated herein by reference, Landlord leased to Tenant the Premises known as Suite/Floor _____, located in the Building; and the Scheduled Lease Commencement Date was _____.

WHEREAS, Landlord and Tenant now desire to establish the Lease Commencement Date and Lease Expiration Date of the Lease.

NOW, THEREFORE, Landlord and Tenant hereby agree as follows:

1. The Lease Commencement Date shall be _____, 19__ and the Lease Expiration Date shall by _____, 19__, unless sooner terminated or extended as provided by the Lease.
2. By execution hereof, Tenant hereby acknowledges that all improvements required to be completed of Landlord have been satisfactorily performed and Tenant does hereby accept the Premises delivered by Landlord as being in full compliance with the terms of the Lease except for the items contained in the punch list, or otherwise as provided in the Lease.
3. Except as hereby amended, the Lease shall continue in full force and effect.
4. This Agreement shall be binding upon the parties hereto, their heirs, executors, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

LANDLORD:

TENANT:

**THE TRAVELERS INDEMNITY
COMPANY**

By: _____
Title: _____

By: _____
Title: _____

EXHIBIT I

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, 19____, by and between _____ ("Lender"), a _____ corporation having an office at _____ and THE TRAVELERS INDEMNITY COMPANY ("Tenant"), a Connecticut corporation having an office at One Tower Square, Hartford, Connecticut, 06183, on the basis that:

- A. Tenant and _____, ("Landlord") entered into a Lease dated _____, 19____ (the "Lease"), for premises described in that Lease as _____ (the "Premises").
- B. Lender holds a mortgage which encumbers the Premises and other property (the "Mortgage").
- C. Tenant has agreed that the Lease shall be subject and subordinate to the Mortgage.
- D. Lender and Tenant wish to recognize Tenant's right to occupy the Premises according to the terms and conditions of the Lease.

IT IS HEREBY AGREED, in consideration of the promises and covenants contained herein, that during the term of the Lease and any extension thereof:

1. So long as Tenant is not in default in the performance of the terms, covenants or conditions of the Lease, Lender shall not terminate Tenant's interest in the Premises under the Lease because of any default under the Mortgage and Lender shall not disturb Tenant's possession or any other right of Tenant under the Lease.
2. Tenant agrees that if the interests of Landlord shall be transferred to and owned by Lender by reason of foreclosure or by any other legal manner, then Tenant shall attorn to Lender or the then owner and recognize Lender or the then owner (the "Successor Landlord") as the Landlord under the Lease.
3. If the Mortgage is foreclosed, the Lease shall continue in full force and effect, except that the Successor Landlord shall not:
 - a. be bound by any prepayment of more than one month's rent (except for any free rent or other rent abatement which shall have accrued);
 - b. be bound by any amendment, modification or termination of the Lease made

without the Successor Landlord's consent, after the foreclosure, unless the amendment, modification or ending is specifically authorized by this Lease and does not require prior agreement or consent by Landlord.

4. Lender agrees no property owned or removable by Tenant shall be subject to the lien of the Mortgage held by Lender or any mortgage made paramount to the Lease by means of this Agreement.
5. The terms of this Agreement shall not be affected by the renewal, modification, amendment, replacement or extension of the Lease.
6. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

LENDER:

TENANT:

THE TRAVELERS INDEMNITY COMPANY

By: _____

By: _____

Its _____

Its _____

EXHIBIT J RULES AND REGULATIONS

The following Rules and Regulations shall be and are hereby made a part of this Lease, and Tenant's employees and agents, or any others permitted by Tenant to occupy or enter the Premises, will at all times abide by said Rules and Regulations unless otherwise specified or provided for in the lease:

1. The sidewalks, entries, passages, corridors, stairways and elevators of the Building shall not be obstructed by Tenant, or Tenant's agents or employees, or used for any purpose other than ingress and egress to and from the Premises.
 - (a) Furniture, equipment or supplies will be moved in or out of the Building only upon the elevators designated by Landlord and then only during such hours and in such manner as may be reasonably prescribed by Landlord. Tenant shall cause its movers to use only the loading facilities, common entrances and elevators designated by Landlord. In the event Tenant's movers damage the elevators or any part of the Building, Tenant shall pay to Landlord the amount required to repair said damage.
 - (b) No safe or article, the weight of which may in the opinion of Landlord constitute hazard or damage to the Building or the Building's equipment, shall be moved into the Premises without Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed.
 - (c) Safes and other equipment, the weight of which is not excessive, shall be moved into, from or about the Building only during such hours and in such manner as shall be reasonably prescribed by Landlord, and landlord and Tenant shall mutually agree to the location of such articles in the Premises.
2. Except as otherwise provided for in this Lease, no sign, advertisement or notice shall be inscribed, painted or affixed on any part of the inside or outside of the Building unless the color, size, style and location are approved by landlord, which approval shall not be unreasonably withheld, conditioned or delayed. No furniture shall be placed in front of the Building or in any lobby or corridor without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Landlord shall have the right to remove all nonpermitted signs and furniture without notice of Tenant.
3. Tenant shall not employ any person or persons other than the janitor or cleaning contractor of landlord for the purpose of cleaning or taking care of the Premises without the prior written consent of landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Except as otherwise provided in this lease, landlord shall not be responsible to Tenant for any loss of property from the Premises, however occurring. The janitor of the Building may at all times keep a pass key, and other agents of landlord shall at all times be allowed admittance to the Premises in accordance with the provisions set forth in this Lease.
4. Water closets and other water fixtures shall not be used for any purpose other than that for which the same are intended, and any damage "resulting to the same from misuse on the part of Tenant or Tenant's agents and employees shall be paid for by Tenant. No person shall waste water by tying back or wedging the faucets or in any other manner.

5. No animals except seeing-eye dogs or other animals necessary to the functioning of disabled persons shall be allowed in the offices, halls, corridors and elevators of the Building. No persons shall disturb the occupants of this or adjoining buildings or premises by the use of any radio, sound equipment or musical instrument or by the making of loud or improper noises.
6. Bicycles or other vehicles, other than wheelchairs, shall not be permitted in the offices, halls, corridors and elevators in the Building nor shall any obstruction of sidewalks or entrances of the Building by such vehicles be permitted.
7. Tenant shall not allow anything to be placed on the outside of the Building, nor shall anything be thrown by Tenant or Tenant's agents or employees out of the windows or doors, or down the corridors, elevator shafts, or ventilating ducts or shafts of the Building. Tenant, except in case of fire or other emergency, shall not open any outside window.
8. No awnings shall be placed over any window.
9. Tenant shall not install or operate any steam or gas engine or boiler, or carry on any mechanical business, other than such mechanical business as normally is identified with general office use of the Premises. Explosives or other articles of an extra hazardous nature shall not be brought into the Building.
10. Any painting or decorating as may be agreed to be done by and at the expense of Landlord shall be done during regular weekday working hours. Should Tenant desire such work on Saturdays, Sundays, holidays or outside of regular working hours, Tenant shall pay for the extra cost thereof, if any.
11. Landlord may reasonably amend, modify, delete or add new and additional rules and regulations to the use and care of the Property provided Landlord receives the prior written approval of Tenant. Such approval by Tenant shall not be unreasonably withheld, conditioned or delayed, and all requests shall be responded to in a timely manner. Tenant shall comply with all such rules and regulations upon notice to Tenant from Landlord thereof. In the event of any breach of any rules and regulations herein set forth or any reasonable amendments, modifications or additions thereto, Landlord shall have all remedies provided for in this Lease in the event of default by Tenant.

EXHIBIT K

SHORT FORM MEMORANDUM

THIS SHORT FORM MEMORANDUM (this "Agreement") is made and entered into this _____ day of _____, 19____, by and between **THE CITY OF ELMIRA NEW YORK**, a municipal corporation organized and existing under the laws of New York, having its principal offices at City of Elmira, City Hall, Third Floor, 317 E. Church Street, Elmira, New York 14901, Attn: Law Department ("Landlord") and **THE TRAVELERS INDEMNITY COMPANY**, a Connecticut corporation, having its principal offices at One Tower Square, Hartford, Connecticut, 06183-7130 ("Tenant").

WITNESSETH:

That Landlord, in consideration of the rents reserved and the covenants, agreements and conditions in a certain lease between the same parties dated the _____ day of _____, 19____, has leased to, and Tenant has leased from Landlord premises consisting of approximately 25,926 rentable square feet, located in the Town/City of Elmira, County of _____ and State of New York, and as further described in the description attached hereto as Exhibit A, in a certain building located at 116 Baldwin Street, Elmira, New York 14901, for a term commencing on the 1st day of July, 1999, and expiring on June 30, 2004, under the terms, covenants and conditions contained in said Lease.

Tenant has the right to extend the term of the Lease for two (2) additional successive period(s) of up to five (5) year(s) each.

A copy of said Lease is on file at the office of the Tenant.

Nothing in this Agreement shall be deemed to have changed any of the terms or conditions of the Lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals.

WITNESSES:

LANDLORD:

THE CITY OF ELMIRA

By _____

TENANT:

THE TRAVELERS INDEMNITY COMPANY

By _____
Its

STATE OF _____)
) SS. at _____
COUNTY OF _____)

On this, the _____ day of _____, 19____, before me, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, on behalf of the corporation, by signing the name of the corporation by himself/herself as _____.

In Witness Whereof I hereunto set my hand.

Notary Public/
Commissioner of the
Superior Court

STATE OF _____)
) SS. at _____
COUNTY OF _____)

On this, the _____ day of _____, 19____, before me, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, on behalf of the corporation, by signing the name of the corporation by himself/herself as _____.

In Witness Whereof I hereunto set my hand.

Notary Public/
Commissioner of the
Superior Court

EXHIBIT L
PRESENT LEASE HOLDOVER PROVISION

(See Attached)

1.02 EXHIBITS

These Exhibits, attached hereto, are incorporated herein as part of this Lease:

EXHIBITS:	A-1	Description of Land
	A-2	Tax Assessor's Plan
	A-3	Plan of Premises
	A-4	Plan of Parking Area
	B-1	Operating Cost Information Form
	B-2	Real Estate Tax Information Form
	C	Base Building Improvements
	D	Work Letter Agreement
	E	Janitorial Service and Supplies
	F	Direct Deposit Form
	G	Base Rent Schedule
	H	Commencement Date Agreement (Intentionally Deleted)
	I	Subordination, Attornment and Non-Disturbance Agreement
	J	Building Rules and Regulations
	K	Short Form Memorandum
	L	Specifications for Environmental Site Assessment (Intentionally Deleted)

In each instance in which the provisions of this Article I shall contradict or be inconsistent with the specific and detailed provisions of Articles II through X herein, the provisions of Articles II through X shall prevail.

**ARTICLE II.
BASIC LEASE PROVISIONS**

2.01 PARTIES

This Lease is entered into by and between the Landlord and the Tenant identified in Article I.

2.02 NOTICES

All notices and notifications required or permitted under this Lease to be sent from one party to the other shall be in writing and sent by a nationally recognized private carrier of overnight mail (e.g., Federal Express) or by United States certified mail, return receipt requested and postage prepaid, to either Landlord or Tenant, as the case may be, at the addresses identified in Article I, or at such other addresses as the parties may designate by written notice from time to time.

All notices shall be deemed effective three (3) days after the date of mailing or on the date of actual receipt or refusal, if sooner.

2.03 PREMISES, BUILDING AND LAND

Landlord leases to Tenant upon the terms and conditions contained in this Lease, the Premises as defined in Article I, together with the right, in common with others, to use the Common Area Facilities (as hereinafter defined) of the Building and of the Land on which the Building is located.

As used in this Lease, the "Common Area Facilities" shall include all loading docks, freight and passenger elevators, sidewalks, parking areas, driveways, hallways, stairways, public restrooms, common entrances, lobby, emergency systems and other similar public areas and access ways of the Building and the Land.

Tenant may increase or decrease the Rentable Area of the Premises and the corresponding Tenant's Proportionate Share and Base Rent (as hereinafter defined), by up to ten percent (10%) based upon Tenant's final "design intent" drawings referred to in Exhibit C (WORK LETTER AGREEMENT).

Landlord shall make no change to the Building configuration that increases Tenant's Proportionate Share (as identified in Article I), by more than five percent (5%), or that materially effects Tenant's use of or access to the Premises without Tenant's prior written consent.

2.04 AREA VERIFICATION AND MEASUREMENT

It is hereby understood and agreed by both parties hereto, that the Rentable Area of the Premises and the Usable Area of the Premises, as stated in Article I hereof, is an estimate, and the final Rentable Area of the Premises and the final Usable Area of the Premises shall be determined upon the completion of the Tenant Improvements, as further described in Exhibit D (WORKLETTER AGREEMENT), attached hereto and made a part hereof.

For purposes of this Lease, the Premises and the Building shall be measured in accordance with the Building Owners and Management Association (BOMA) Method, American National Standard (ANSI Z65.1-1996). All references to rentable area and usable area as used in this Lease shall refer to rentable and usable area calculations derived by the application of BOMA. Landlord shall provide, upon Tenant's request, the calculations which show how the Total Rentable Area of the Building and Rentable Area of the Premises were derived.

For purposes of this Lease, it is hereby understood and acknowledged by both parties hereto, that Tenant is currently a tenant in the Building pursuant to a certain lease dated April 22, 1991, as thereafter modified and amended, by and between the Landlord and The Aetna Casualty and Surety Company (an affiliated company of Tenant) (the "Existing Lease"). Tenant's current premises consist of approximately 32,080 rentable square feet (the "Existing Premises"). Tenant shall be reducing the rentable area of the Existing Premises and reconfiguring the same to form the Premises which shall be a part of this Lease.

Tenant shall reconfigure its Existing Premises and adjust the rentable area of the same no later than the earlier of:

- (i) ninety (90) days from the Scheduled Lease Commencement Date, or
- (ii) upon substantial completion of the Tenant Improvements (as defined in Exhibit D (WORKLETTER AGREEMENT), attached hereto) and the reconfiguration of the Existing Premises.

Upon completion of the Tenant Improvements, Landlord hereby agrees, at its sole cost and expense, to provide Tenant with an architect's certification of the Rentable Area of the Premises and the Usable Area of the Premises, and the Total Rentable Area of the Building (the "Certification"). It is hereby agreed by both parties hereto that in no event shall the Total Rentable Area of the Premises be less

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE ("First Amendment") is made and entered into this 26th day of July, 1999, by and between THE CITY OF ELMIRA, NEW YORK, a municipal corporation organized and existing under the laws of the state of New York (the "Landlord") and THE TRAVELERS INDEMNITY COMPANY, a Connecticut corporation (the "Tenant").

WITNESSETH:

WHEREAS, pursuant to a certain lease, dated as of April 15, 1999 (the "Lease"), by and between Landlord and Tenant, Landlord leased to Tenant certain premises, consisting of 25,926 square feet of Rentable Area, situated on the first floor (the "Premises") of the Building known as Eastowne Mall, located at 116 Baldwin Street, Elmira, New York 14901 (the "Building"); and

WHEREAS, Tenant hereby desires to exercise its option under the Lease, pursuant to Section 5.05 (ADDITIONAL SPACE OPTION), to acquire such Additional Space, as described therein, and Landlord hereby agrees to lease such Additional Space to Tenant; and

WHEREAS, accordingly, the parties desire to amend the Lease in order to provide for the expansion of the Premises, among other things, as hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, the parties, intending to be legally bound, hereby agree as follows:

1. **PREMISES.** Subsection 1.01(E) (CERTAIN TERMS/PREMISES) and Section 2.03 (PREMISES, BUILDING AND LAND) of the Lease shall be amended as follows:
 - (A) Effective as of December 1, 1999 (the "Scheduled Additional Space Effective Date"), such Sections 1.01 and 2.03 of the Lease shall be amended such that the total Rentable Area of the Premises shall be increased by 9,000 square feet of Rentable Area (9,000 square feet of Usable Area) (hereafter the "Additional Space"), as identified by cross hatching on Exhibit A-3 (PLAN OF PREMISES) attached hereto and made a part hereof. It is hereby understood and agreed that, notwithstanding the foregoing, the actual Additional Space Effective Date shall be the date which is the first business day following a total period of three (3) months after the date which Landlord delivers possession of the Premises to Tenant, such that Tenant may commence its Tenant Improvement Work (and the Base Building Improvement Work, as described in Exhibit D and modified herein) for the Additional Space, in order to prepare the same for its occupancy, provided that: (i) Landlord delivers possession of the Additional Space to Tenant on the Additional Space Possession Delivery Date, as hereafter defined; (ii) an event of Force Majeure (as defined in the Lease) has not occurred which would prevent Tenant from commencing or substantially completing the Tenant Improvement Work and the Base Building Improvement Work for the Additional Space within a period of three (3) months from the date of receipt of possession of the Additional Space from Landlord; (iii) a Landlord Delay (as defined in Exhibit D) has not occurred which would prevent Tenant from commencing or substantially completing the Tenant Improvement Work and the Base Building Improvement Work, for the Additional Space within a period of three (3) months from the date of receipt of possession of the Additional Space from Landlord; (iv) in addition to the Additional Space, access to those certain areas of the Building, as provided in Section 2.06(iv) of the Lease, have been provided to Tenant for the Additional Space; and (v) provided that Tenant has applied for the same, in an expeditious manner, and Landlord has in no way unduly delayed Tenant's receipt of the same, Tenant has secured a temporary or permanent certificate of occupancy in order to occupy the Additional Space. However, it is hereby agreed and acknowledged, that Tenant's obtaining of a temporary or permanent certificate of occupancy shall only be a determination of the Additional Space Effective Date in the event that Tenant is not able to obtain one due to (x) any acts or omissions of Landlord (or its agents, contractors or employees), or (y) Tenant has expeditiously applied for the same, however, the applicable governmental authority has not yet issued it, due

to no act or omission of Tenant, or its agents, employees or contractors. Therefore, it is hereby understood and agreed that, subject to the terms of Article 3.03 of Exhibit D (WORK LETTER AGREEMENT), the Additional Space Effective Date shall occur as of the later of the (A) Scheduled Additional Space Effective Date, or (B) the first business day following a period of three (3) months after the date which Landlord delivers possession of the Premises to Tenant, subject to the foregoing provisions (i) - (v) of this Section 1 (the "Additional Space Effective Date"). Landlord and Tenant hereby agree to confirm the actual Additional Space Effective Date in writing, within thirty (30) days of the occurrence of the same.

(B) It is hereby understood and agreed that the total Rentable Area of the Additional Space has been verified, in accordance with Section 2.04 (AREA VERIFICATION AND MEASUREMENT) of the Lease, and is certified to be 9,000 square feet of Rentable Area (and 9,000 square feet of Usable Area) (hereafter the "Certification for the Additional Space").

(C) As of the Additional Space Effective Date (which date shall be confirmed in writing, as described in Subsection A above), the total Rentable Area of the Premises shall consist of 34,926 square feet, and the total Usable Area of the Premises shall consist of 34,926 square feet.

(D) Pursuant to the terms of Section 2.04 (AREA VERIFICATION AND MEASUREMENT) of the Lease, Tenant has completed the physical measurement of the Premises, and it is hereby acknowledged that the Rentable Area of the Premises (not including the Additional Space) is confirmed to be the 25,926 square feet, and the Total Rentable Area of the Building is confirmed to be 53,466 square feet, based upon such Certification.

(E) EXHIBIT A-3. As of the Additional Space Effective Date, Exhibit A-3 (PLAN OF PREMISES), attached to the Lease and made a part thereof, shall be replaced with the Exhibit A-3, attached hereto and made a part hereof.

2. IMPROVEMENTS. Tenant shall accept the Additional Space in its "as is" condition, with all of the Base Building Improvements, as described in Exhibit C (BASE BUILDING IMPROVEMENTS), included therewith, in their "as is" condition, and provided to the Additional Space on a pro-rata basis, based upon the respective total Rentable Area of the Additional Space, in relation to the total Rentable Area of the original Premises, subject to the Base Building Improvement Work to be performed by Tenant, at Landlord's sole cost and expense. In addition, Landlord shall provide Tenant with an allowance, as hereafter described, in order for Tenant to prepare the Additional Space for its use and occupancy.

The Tenant Improvements for the Additional Space (hereafter the "Additional Space Tenant Improvements") shall be performed and completed by Tenant in accordance the terms of Exhibit D (WORK LETTER AGREEMENT), as modified herein. Any Additional Space Tenant Improvements completed by Tenant, shall immediately become the property of Landlord, upon completion, unless otherwise agreed to in writing.

In accordance with the foregoing, (i) Article 2.02 (TENANT IMPROVEMENTS) of such Exhibit D shall be amended such that Tenant shall submit it Plans for the Additional Space, prepared by a registered architect, to Landlord for approval, on or before _____, 1999; (ii) Article 2.03 (PAYMENT OF THE TENANT IMPROVEMENTS) of Exhibit D shall be amended such that the Tenant Improvement Allowance for the Additional Space Tenant Improvements shall be Eighteen and 33/100 Dollars (\$18.33) per square foot of Rentable Area of Additional Space (the "Additional Space Tenant Improvement Allowance") and such Base Building Improvement Work shall be completed by Tenant, pursuant to the terms of Article 2.01 of Exhibit D, at the sole cost and expense of Landlord, as set forth therein; and (iii) Landlord shall deliver possession of the Additional Space to Tenant on or before September 1, 1999 (hereafter the Additional Space Possession Delivery Date"), provided that Landlord has received the Plans for the Additional Space from Tenant and approved the same in the manner set forth for approval in Article 2.02 of Exhibit D; and (iv) all other terms of such Exhibit D shall apply to the Additional Space (to the extent they are applicable to the same), by substituting the term "Additional Space" for the Premises, the "Scheduled Additional Space Effective Date" for the Scheduled Lease Commencement Date, and "Additional Space Effective Date" for the Lease Commencement Date.

3. **RENT.** As of the Additional Space Effective Date, Exhibit G (BASE RENT SCHEDULE) of the Lease, and as referenced in Section 3.01 (RENT) of the Lease and any other provision of the Lease, shall be amended, as set forth in the "Exhibit G", attached hereto and made a part hereof.
4. **ESCALATION.** In accordance with the terms of Section 5.05 (ADDITIONAL SPACE OPTION) of the Lease, the Base Year for purposes of Operating Cost Escalation for the Additional Space shall be calendar year 2000, and the Base Tax Year for purposes of Real Estate Tax Escalation for the Additional Space shall be the later to occur of (i) calendar year 2000, or (ii) the first Tax Year in which the Building no longer carries a tax exempt status and is 100% fully assessed and 100% fully taxed, as a 100% fully completed structure.

In addition, as of the Additional Space Effective Date, based on a Total Rentable Area of the Building of 53,466 square feet, Tenant's Proportionate Share, as defined in Section 1.01(H) (CERTAIN TERMS) and Section 3.02 (ESCALATION) of the Lease, shall be amended (based on the new total Rentable Area of the Premises) such that Tenant's Proportionate Share of the Total Rentable Area of the Building shall be 65.32%. For purposes of calculating the Operating Cost Escalation and the Real Estate Tax Escalation for the Additional Space, the Additional Space shall have a proportionate share of the Total Rentable Area of the Building of 34.71% (hereafter the "Additional Space Proportionate Share").

5. **PARKING.** In accordance with Section 4.03 (PARKING) and Subsection N of Section 1.01 (CERTAIN TERMS) of the Lease, as of the Additional Space Effective Date, Tenant shall also acquire an additional fifty-nine (59) parking spaces in the Eastowne Parking Garage, for a total of 228 parking spaces. Of the 228 parking spaces, the first four (4) parking spaces for every 1,000 square feet of Rentable Area of the Premises (or one hundred-forty (140) parking spaces) are to be provided at no additional cost to Tenant, and the balance of parking spaces (based on 2.5 parking spaces for every 1,000 square feet of Rentable Area of the Premises, or eighty-eight (88) parking spaces), shall be provided to Tenant at the cost of \$10.53 per parking space, per month.
6. **ADDITIONAL SPACE OPTION.** It is hereby acknowledged that, by this First Amendment to Lease, Tenant has simultaneously exercised both of its Additional Space Options pursuant to Section 5.05 of the Lease. Therefore, as of the date hereof, Section 5.05 of the Lease shall be of no further force or effect and shall be deemed exercised.
7. **BROKERS.** Pursuant to the terms of Section 10.07 (BROKER'S WARRANTY) of the Lease, Landlord and Tenant hereby represent and warrant that they have dealt with no real estate broker in connection with this First Amendment, and that no broker is entitled to any commission on account of this First Amendment.
8. **BINDING EFFECT.** The terms of this First Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
9. **CAPITALIZED TERMS.** Capitalized terms herein shall have the same meaning as set forth in the Lease, except as otherwise specifically defined herein.
10. **RATIFICATION.** All provisions, covenants and conditions of the Lease are hereby ratified, confirmed and incorporated herein in their entirety by this reference, and the Lease shall remain in full force and effect and the terms of this First Amendment shall control over any conflicts between the terms of the Lease and the terms of this First Amendment.

IN WITNESS WHEREOF, Landlord and Tenant have executed this First Amendment as of the day and year first above written.

WITNESSES:

Maria J. Steinlauf
Rebecca J. Jelen

LANDLORD:

The City of Elmira, New York

Stephen M. Hughes
By: Stephen M. Hughes, Mayor
Pursuant to Council Res. # 99-285

TENANT:

The Travelers Indemnity Company

Ronald M. Davis
Glenn L.

By: Andy F. Bessette
Title: Andy F. Bessette
Vice President

KMS
7/23/99

"EXHIBIT G"

BASE RENT SCHEDULE

<u>Period</u>	<u>Rentable Area</u>	<u>Rental Rate</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
7/1/99 - 11/30/99	25,926 →	\$14.00	\$30,247.00	\$362,964.00
12/1/99 - 6/30/2004	34,926	\$14.00	\$40,747.00	\$488,964.00

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE ("Second Amendment") is made and entered into this 5th day of NOVEMBER, 2002, by and between

THE CITY OF ELMIRA, NEW YORK, a municipal corporation organized and existing under the laws of the State of New York (the "Landlord")

and

THE TRAVELERS INDEMNITY COMPANY, a Connecticut corporation (the "Tenant").

WITNESSETH:

WHEREAS, pursuant to a certain Lease dated as of April 15, 1999 (the "Lease") by and between Landlord and Tenant, Landlord leased to Tenant certain premises consisting of 25,926 square feet of Rentable Area situated on the first floor (the "Premises") of the Building known as Eastowne Mall located at 116 Baldwin Street, Elmira, NY 14901 (the "Building"); and

WHEREAS, the parties amended the Lease pursuant to the terms set forth in the First Amendment To Lease dated as of July 26, 1999 (the "First Amendment") in order to provide for the expansion of the Premises; and

WHEREAS, in addition to the Premises leased under the Lease and the First Amendment, the Landlord had previously leased to Tenant an area consisting of 10,621 square feet within the Building pursuant to a certain lease dated November 1, 1996 ("Earlier Lease") by and between the Landlord and Tenant, which Earlier Lease expired on October 31, 2001; and

WHEREAS, Tenant has remained in a portion of the area covered by the Earlier Lease following the expiration date of such Earlier Lease; and

WHEREAS, the parties desire to amend the Lease in order to provide for the expansion of the Premises in order to include such space in which Tenant has remained and which Tenant previously leased under the Earlier Lease; and

WHEREAS, in accordance with Section 2.04 (AREA, VERIFICATION AND MEASUREMENT) of the Lease, the total area presently occupied by the Tenant has been measured in accordance with the Building Owners and Management Association ("BOMA") Method, American National Standard (ANSI Z65.1-1996); and

WHEREAS, the parties desire to amend the Lease to establish the total Rentable Area of the Premises; and

WHEREAS, the effective date of the modifications, hereafter set forth, shall be November 1, 2001 (the "Effective Date"), except to the extent otherwise expressly noted;

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, the parties, intending to be legally bound, hereby agree as follows:

1. **PREMISES.** As of the Effective Date, the Rentable Area of the Premises shall be increased by an additional 5,962 square feet of Rentable Area (hereafter the "Additional Space"). Subsection 1.01(E) (CERTAIN TERMS/PREMISES) and Section 2.03 (PREMISES, BUILDING AND LAND) of the Lease shall be amended as follows:

(A) Sections 1.01 and 2.03 of the Lease are amended such that the total Rentable Area of the Premises shall consist of 40,888 square feet; as identified by the areas in orange, purple and dark green colors on Exhibit A-3 (PLAN OF PREMISES) attached hereto and made a part hereof.

(B) Pursuant to the terms of Section 2.04 (AREA VERIFICATION AND MEASUREMENT) of the Lease, the Landlord and Tenant agree that the physical measurement of the Premises using the BOMA method has been completed and the parties acknowledge that the Rentable Area of the Premises is confirmed to be 40,888 square feet and the Total Rentable Area of the Building is confirmed to be 55,354 square feet; and no further measurement of the Premises shall be required in order to comply with such terms of Section 2.04, and the terms of the first, second and third grammatical paragraphs of such Section 2.04 are hereby deemed to be satisfied.

(C) EXHIBIT A-3. As of the Effective Date, EXHIBIT A-3 (PLAN OF PREMISES) attached to the Lease as previously amended by the First Amendment, shall be replaced with the Exhibit A-3 attached hereto and made a part hereof.

2. **RENT.** As of the Effective Date, EXHIBIT G (BASE RENT SCHEDULE) of the Lease and as referenced in Section 3.01 (RENT) of the Lease and any other provision of the Lease, all as amended by the First Amendment, is further amended, as set forth in the "Exhibit G" attached hereto and made a part hereof.

3. **ESCALATION.** For purposes of Section 3.02 (ESCALATION) of the Lease, the Base Year for the Additional Space, for purposes of Operating Cost Escalation, shall be calendar year 2000;

and the Base Tax Year for purposes of Real Estate Tax Escalation for the Additional Space shall be calendar year 2000, provided that the Building is 100% fully assessed and 100% fully taxed, as a 100% fully completed structure for the same. In the event that the Building was not 100% fully assessed and 100% fully taxed, as a 100% fully completed structure as of calendar year 2000, the Base Tax Year for Real Estate Tax Escalation purposes shall be adjusted as provided in Section 3.02(B) of the Lease.

In addition, as of the Effective Date, based on a Total Rentable Area of the Building of 55,354 square feet, Tenant's Proportionate Share, as defined in Section 1.01(H) (CERTAIN TERMS) and Section 3.02 (ESCALATION) of the Lease, as previously amended by the First Amendment, is further amended (based on the new Total Rentable Area of the Premises) such that Tenant's Proportionate Share of the Total Rentable Area of the Building is 73.87 percent (73.87%).

4. **IMPROVEMENTS.** For purposes hereof, Tenant shall accept the Additional Space in its "as is" condition, and Landlord shall have no obligation to improve, alter or remodel the same for or on behalf of Tenant.

The parties acknowledge and agree that all of the improvements provided for and all tenant improvement allowances pursuant to Section 2.08 (IMPROVEMENTS) and Exhibit D (WORK LETTER) of the Lease, and as amended by the First Amendment, have been completed, and Tenant acknowledges that Landlord has paid to Tenant or Tenant has received a credit to its rent the total of which payments and credits equals the total of all tenant improvement allowances due to Tenant pursuant to the Lease and the First Amendment.

5. **PARKING.** In accordance with the terms of Section 4.03 (PARKING) and Subsection N of Section 1.01 (CERTAIN TERMS) of the Lease as of the Effective Date, Tenant shall have a total of 265 parking spaces in the Eastowne Parking Garage. Of the 265 parking spaces, the first four (4) parking spaces for every 1,000 square feet of Rentable Area of the Premises (or one hundred sixty-three (163) parking spaces) are to be provided at no additional cost to Tenant, and the balance of parking spaces (based on 2.5 parking spaces for every 1,000 square feet of Rentable Area of the Premises, or one hundred two (102) parking spaces), shall be provided to Tenant at the cost of \$10.53 per parking space per month.

6. **BROKERS.** Pursuant to the terms of Section 10.07 (BROKER'S WARRANTY) OF THE Lease, Landlord and Tenant hereby represent and warrant that they have dealt with no real estate broker in connection with this Second Amendment, and that no broker is entitled to any commission on account of this Second Amendment.

7. **BINDING EFFECT.** The terms of this Second Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

8. **CAPITALIZED TERMS.** Capitalized terms herein shall have the same meaning as set forth in the Lease, except as otherwise specifically defined herein.

9. **RATIFICATION.** All provisions, covenants and conditions of the Lease are hereby ratified, confirmed and incorporated herein in their entirety by this reference, and the Lease shall remain in full force and effect and the terms of this Second Amendment shall control over any conflicts between the terms of the Lease and the First Amendment and the terms of this Second Amendment.

10. **EXHIBITS.** The following exhibits (the "Exhibits") were attached to this Second Amendment and made a part hereof prior to the execution of this Second Amendment:

Exhibit A-3

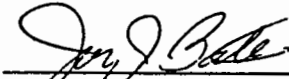
Plan of Premises


Revised Exhibit G

Base Rent Schedule

IN WITNESS WHEREOF, Landlord and Tenant have executed this Second Amendment as of the day and year first above written.

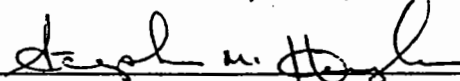
WITNESSES:





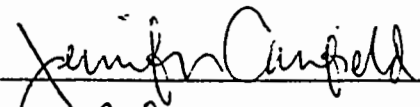
LANDLORD:


THE CITY OF ELMIRA, NEW YORK

By 

Stephen M. Hughes, Mayor
Resolution No. 2002-408

TENANT:





**THE TRAVELERS INDEMNITY
COMPANY**

By 

Title _____

**FRANKLIN L. HILL
VICE PRESIDENT**

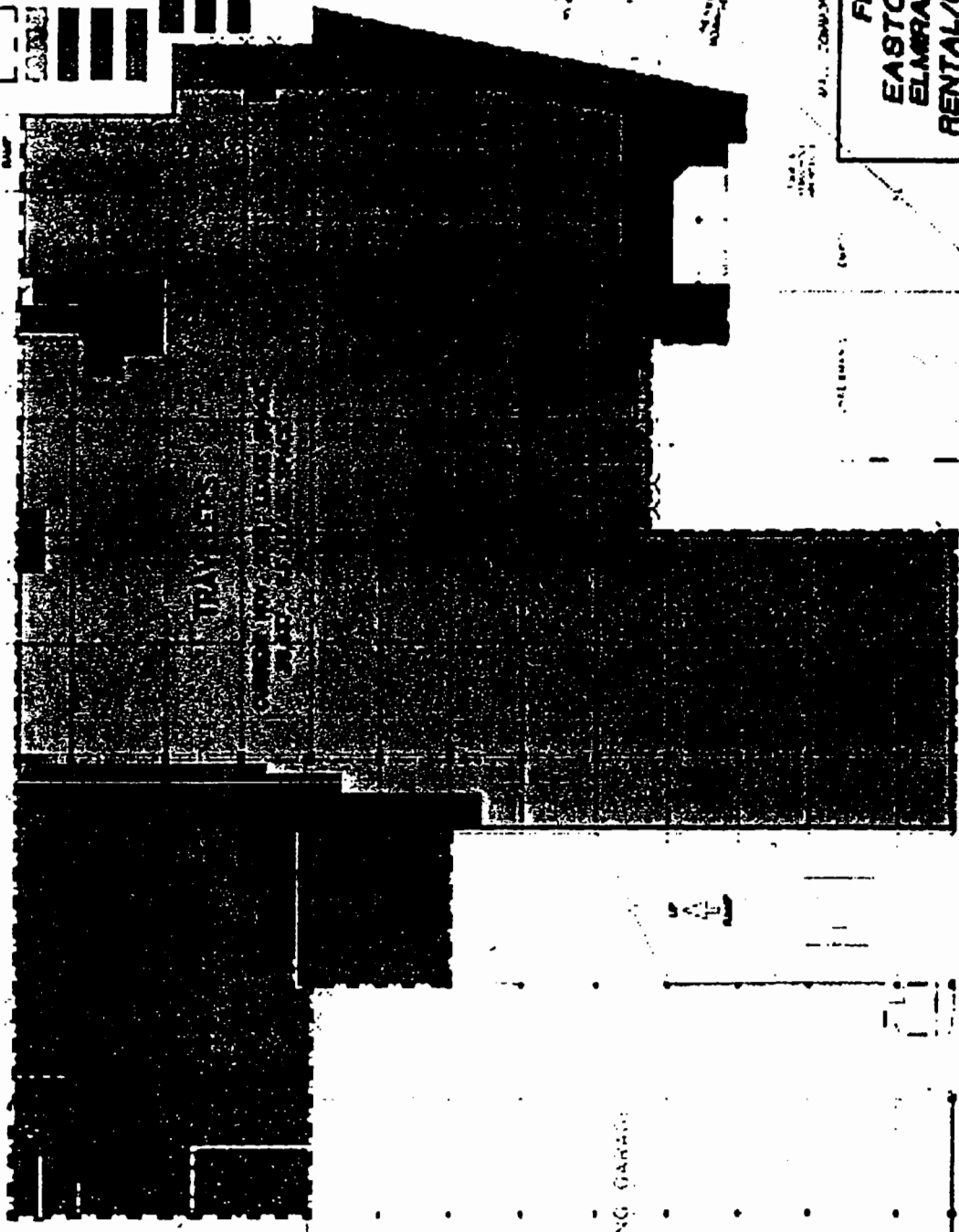
Handwritten initials and date: KLL 10/11/02

EXHIBIT A-3
PLAN OF PREMISES

(See attached map)

LEGEND

- [] GROSS BUILDING AREA (S.F.)
- [] TRUCKING/CRANE/LOADING AREA (S.F.)
- [] RENTAL SPACE (S.F.)
- [] COMMON MALL SPACE (S.F.)
- [] MAJOR VERTICAL PENETRATIONS (S.F.)
- [] WALL COMMON AREAS (S.F.)
- [] COMMON RESTROOMS (S.F.)
- [] NON-RENTABLE WALL AREAS (S.F.)



EAST WATER STREET

BALDWIN STREET

FIGURE 1
EASTOWNE MALL
ELMIRA, NEW YORK
RENTAL/USABLE SPACE

CF FAGAN ENGINEERS
 Environmental Consultants
 P.O. BOX 2000
 ELMIRA, NY 14902

AMENDED EXHIBIT "G"
BASE RENT SCHEDULE

<u>Period</u>	<u>Rentable Area</u>	<u>Rentable Rate (prsf)</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
1/99 - 12/30/99	25,926 sq. ft.	\$14.00	\$30,247.00	\$362,964.00
1/1/99 - 12/31/2001	34,926 sq. ft.	\$14.00	\$40,747.00	\$488,964.00
1/1/01 - 12/30/04	40,888 sq. ft.	\$14.00	\$47,702.67	\$572,432.00

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE ("Third Amendment") is made and entered into this 8th day of DECEMBER, 2003, by and between

THE CITY OF ELMIRA, NEW YORK, a municipal corporation organized and existing under the laws of the State of New York (the "Landlord")

and

THE TRAVELERS INDEMNITY COMPANY, a Connecticut corporation (the "Tenant").

WITNESSETH:

WHEREAS, pursuant to a certain Lease dated as of April 15, 1999 (the "Lease") by and between Landlord and Tenant, Landlord leased to Tenant certain premises consisting of 25,926 square feet of Rentable Area situated on the first floor (the "Premises") of the Building known as Eastowne Mall located at 150 Baldwin Street, Suite A (previously referred to as 116 Baldwin Street), Elmira, NY 14901 (the "Building"); and

WHEREAS, the parties amended the Lease pursuant to the terms set forth in the First Amendment to Lease dated as of July 26, 1999 (the "First Amendment") in order to provide for the expansion of the Premises; and

WHEREAS, the parties further amended the Lease pursuant to the terms set forth in the Second Amendment to Lease dated as of November 5, 2002 (the "Second Amendment") in order to establish the total Rentable Area of the Premises; and

WHEREAS, said Lease expires on June 30, 2004; and

WHEREAS, Tenant desires to extend the Lease Term and to provide for such other related matters as set forth herein; and

WHEREAS, Landlord is in agreement with the same, and therefore, Landlord and Tenant desire to amend the Lease in order to extend the Lease Term and to provide for such other matters, as set forth herein.

WHEREAS, the effective date of the modifications, hereafter set forth, shall be July 1, 2004, except to the extent otherwise expressly noted, and subject to the terms and conditions hereinafter set forth (the "Effective Date").

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, the parties, intending to be legally bound, hereby agree as follows:

1. **CAPITALIZED TERMS**. All capitalized terms used in this Third Amendment without definition shall have the definitions ascribed to such terms in the Lease.

2. **PREMISES**. For the Lease Term of the Lease provided for in this Third Amendment, Landlord and Tenant hereby agree that the Premises shall remain as described in the Lease, consisting of 40,888 square feet of Rentable Area, situated on the first (1st) floor of the Building, and Tenant shall accept the same in its "as is" condition, and Landlord shall have no obligation to improve or alter the Premises, except to the extent hereafter set forth.

3. **LEASE TERM**. For purposes of this Third Amendment, Section 2.06 (LEASE TERM) of the Lease shall be amended such that, as of the Effective Date, the Lease Term shall hereby be extended for a period of five (5) years (hereafter the "Lease Term") and shall therefore expire on June 30, 2009, unless sooner terminated, extended or renewed, as provided for herein or in the Lease (hereafter the "Lease Expiration Date"). It is hereby agreed by Landlord and Tenant that none of the other terms and conditions of such Section 2.06 with respect to the determination of the Effective Date shall apply to the Lease Term set forth in this Third Amendment, and shall be deemed of no force and effect with respect to this Third Amendment.

4. **IMPROVEMENTS**. Section 2.08 (IMPROVEMENTS) of the Lease shall be amended such that for purposes of this Third Amendment and the Lease Term provided for herein, such Section 2.08 shall mean the following:

"Tenant shall accept the Premises (for the Lease Term provided for in this Third Amendment) in an "as is" condition, and Landlord shall have no obligation to improve, alter or remodel the same. However, Landlord and Tenant hereby acknowledge that, in addition to certain work which must be done to the Premises in order to update the same for Tenant's continued occupancy, certain other improvements, which are capital in nature, should be made to the Building and the Premises in order to refurbish the same for the Lease Term provided for herein (hereafter collectively known as the "**Capital/Tenant Improvements**"). These Capital/Tenant Improvements consist of; HVAC upgrades, demising restroom walls, ladies restroom work and other miscellaneous work which must be completed in order to upgrade and refurbish the Building and Premises for Tenant's continued occupancy. Landlord and Tenant hereby acknowledge and agree that Tenant shall perform such Capital/Tenant Improvements on its own behalf and Landlord shall provide Tenant with an allowance of Four Hundred Thirty-Four Thousand Four Hundred Ninety-Two and 00/100 Dollars (\$434,492.00) (hereafter the "**Allowance**"). Landlord hereby agrees that the Allowance may also be used by Tenant to pay any broker commissions related to this Third Amendment, and the sum of \$114,486.00 has been included therewith for such purpose. Tenant may allocate the Allowance as Tenant chooses, and there shall be no Landlord construction management supervision or other supervision or administrative fees associated with the Capital/Tenant Improvements; however, Landlord may

hire a consultant or use it's own staff to coordinate/review the design and construction with Tenant's contractor, however, at Landlord's sole cost and expense. All Capital/Tenant Improvements shall be performed and completed in accordance with the terms of Section 5.02 (ALTERATIONS) of the Lease, and Exhibit D (WORK LETTER AGREEMENT) to the extent applicable. Tenant may select, at its discretion (and Landlord agrees not to specify the same), all consultants, vendors, architects, engineers, contractors and subcontractors for the performance of the Capital/Tenant Improvements . The Capital/Tenant Improvements shall be performed in a good and workmanlike manner by Tenant or its contractors or subcontractors, and shall comply at the time of completion with all applicable Laws, as described in Section 6.02(B) (REQUIREMENTS OF LAW) of the Lease. Tenant shall be responsible for procuring all necessary permits for the Capital/Tenant Improvements and Landlord shall cooperate with Tenant, or Tenant's agents or contractor's in the procurement of such permits. Tenant shall provide Landlord with copies of as-built drawings of all structural, mechanical, electrical or plumbing Alterations, or any Alterations which involve the demolition, relocation or construction of demising partitions, completed by Tenant. Tenant hereby agrees to commence the Capital/Tenant Improvements prior to the Effective Date of this Third Amendment.

It is hereby agreed that the Allowance shall be paid by Landlord to Tenant in the form of a monthly rent credit against the monthly installments of Base Rent, commencing as of January 1, 2004, notwithstanding the actual Effective Date of this Third Amendment, and continuing for a period of nineteen (19) months (therefore ending as of July 31, 2005), until Tenant is paid in full. Tenant shall be permitted to retain any unused portion of the Allowance. Such monthly credit of the Base Rent shall equal Twenty-Two Thousand Eight Hundred Sixty-Eight and 00/100 Dollars (\$22,868.00)."

5. **RENT.** As of the Effective Date, Section 3.01 (RENT) of the Lease shall be amended for purposes of the Lease Term set forth in this Third Amendment, such that Exhibit G (BASE RENT SCHEDULE) of the Lease shall be deleted in its entirety and replaced with the "Exhibit G" (BASE RENT SCHEDULE), attached hereto and made a part hereof. For purposes thereof, Landlord and Tenant hereby agree that notwithstanding anything contain in the Lease to the contrary, the Base Rent for the Lease Term provided for in this Third Amendment, shall be calculated on a gross basis and shall include all utilities, building services, operating expenses (excluding Real Estate Taxes, as defined in the Lease), exterior grounds maintenance, management fees and any other charges which were formerly passed through as Building Operating Costs for the Premises, Building and Land, and no additional amounts shall be due from Tenant to Landlord for the same. It is hereby agreed that the "stepped" Base Rental Rate provided in Exhibit G accounts for such costs and charges.

6. **ESCALATION.**

A. As of the date of this Third Amendment (notwithstanding the Effective Date thereof to the contrary), Landlord and Tenant hereby agree that Subsection A (OPERATING COST ESCALATION) of Section 3.02 (ESCALATION) shall be deleted from the Lease in its entirety and shall be of no further force or effect. Accordingly, any references in the Lease to "Building Operating Costs" or "Operating Cost Escalation", and other related matters shall be of no force and effect and shall be deemed not applicable to the terms of the Lease. However, with respect to those certain payment and reimbursement obligations of Landlord and Tenant, under such Section 3.02(A) of the Lease, which remain outstanding and presently in dispute for the period of July 1, 1999 – June 30, 2004, Landlord and Tenant hereby agree that Tenant shall owe to Landlord a total amount of **\$17,978.04** (the "Agreed Upon Reconciliation"), to be paid to Landlord in two (2) separate payments. The first payment shall be in the amount of **\$11,231.50** and shall be made by Tenant to Landlord on or before January 1, 2004; and the second payment shall be in the amount of **\$6,746.54**, and shall be made by Tenant to Landlord on or before June 30, 2004. Landlord and Tenant hereby agree that the Agreed Upon Reconciliation shall resolve all disputes between the parties with respect to Building Operating Costs and/or Operating Cost Escalation for the period of July 1, 1999 – June 30, 2004, and no further amounts shall be due, owing or claimed against either party with respect to the same for that period of time and each party hereby releases and forever discharges the other, and their employees, subsidiaries, affiliates and parent, from any and all actions, causes of action, claims and demands whatsoever, which heretofore has been or which may hereafter be sustained by a party with respect to the Building Operating Costs, Operating Cost Escalation or the Agreed Upon Reconciliation.

B. Notwithstanding the foregoing to the contrary, Section 3.02(B) of the Lease shall remain in full force and effect for the Lease Term provided for in this Third Amendment, and as of the Effective Date, shall be amended such that the Base Tax Year, for purposes of Real Estate Tax Escalation, shall mean the "first Tax Year in which the Building no longer carries a tax exempt status, provided that, at such time, the Building is 100% fully assessed and 100% fully taxed, as a 100% fully completed structure." In the event that the Building is not 100% fully assessed and 100% fully taxed, as a 100% fully completed structure as of the first Tax Year in which the Building no longer carries a tax exempt status, the Base Tax Year for Real Estate Tax Escalation purposes shall be adjusted as provided in the seventh (7th) grammatical paragraph of such Section 3.02(B) of the Lease.

7. **REPAIRS AND MAINTENANCE.** Pursuant to the terms of Section 4.02 (REPAIRS AND MAINTENANCE) of the Lease, Landlord is and shall remain responsible for all structural and mechanical repairs and replacements to the Premises, Common Area Facilities and the Building, which includes, without limitation, the Building structure and the roof. Accordingly, Landlord hereby acknowledges that it is presently completing repairs to the roof of the Building and shall complete the same in a good faith and diligent manner.

8. **SERVICES PROVIDED BY LANDLORD.** Section 4.01 (SERVICES PROVIDED BY LANDLORD) shall be amended such that, (i) Within thirty (30) days of the date of this Third Amendment (which shall be dated by the last party to execute the same), notwithstanding the Effective Date of this Third Amendment to the contrary, Landlord shall hire and retain a professional property management company to perform managerial and maintenance services for the Building, as further described in Schedule 1 (PROPERTY MANAGEMENT SCOPE OF SERVICES) (the "Scope of Services"), attached hereto and made a part hereof, which management company will have expertise in the management of office and commercial buildings with national tenants as occupants. In the event the Building shall be sold or the current Landlord's interest otherwise transferred or assigned, any new owner or successor-in-interest to Landlord must provide the same level of property management services for the Building as described herein, and shall be responsible for the provision of such services to the same extent as set forth in Schedule 1, attached hereto. Without restricting its right to change the management company in the future, Landlord hereby acknowledges that it intends to contract with "Arnot Realty Company, 100 West Church Street, Elmira, New York" to provide the property management services described in this Paragraph 8. In the event of a future change in the management company, the level of services to be provided by a substituted or successor company shall not be less than those set forth in the Scope of Services attached hereto. For purposes hereof, in the event that Landlord does not perform its obligations hereunder with respect to obtaining a property manager for the Building, such shall be deemed a Default by Landlord pursuant to the terms of Section 9.02 of the Lease, and Tenant shall have all rights and remedies provided to Tenant thereunder in such an event; and (ii) As per Section 4.01(C) of the Lease, Landlord is to provide janitorial services, in accordance with the terms of Exhibit E (JANITORIAL SERVICES), attached to the Lease and made a part thereof; however, in addition to Tenant's rights and remedies provided under Section 9.03 (REDUCTION OF SERVICES) of the Lease, commencing as of the Effective Date, in the event that Tenant notifies Landlord four (4) or more times in any sixty (60) day period (hereafter "Tenant's Janitorial Notice") that the janitorial services are not being provided in accordance with the specifications set forth in such Exhibit E of the Lease, and setting forth in such Tenant's Janitorial Notice, in reasonable detail, the nature and extent of the non-performance, then in such event, Tenant shall have the right, if it so elects (but not the obligation), upon sixty (60) days prior written notice to Landlord, to contract independently with a cleaning contractor of Tenant's choice for the cleaning of the Premises. In the event that Tenant elects to exercise this right, then beginning with the effective date of the institution of such services by Tenant, the Base Rental Rate (as provided in Exhibit G of the Lease, attached hereto) for that particular period of time and for each subsequent year thereafter, shall be reduced by \$1.25 per rentable square foot, which is the agreed upon dollar amount with respect to the costs of janitorial services, described herein

9. **PARKING.** As of the Effective Date, Section 4.03 (PARKING) and the parking ratios provided in Subsection N of Section 1.01 (CERTAIN TERMS) of the Lease shall be amended such that Landlord shall provide Tenant with 6.5 parking spaces for every 1,000 square feet of Rentable Area of the Premises, at the Eastowne Parking Garage, for a total of two hundred sixty-five (265) parking spaces; however, such Sections 4.3 and 1.01(N) shall be amended such

that the first 6 parking spaces for every 1,000 square feet of Rentable Area shall be provided to Tenant at no cost or expense, and the balance of the parking spaces, or .5 parking spaces for every 1,000 square feet of Rentable Area of the Premises, shall be provided to Tenant at the cost of \$10.53 per parking space, per month. Accordingly, of the two hundred sixty-five (265) parking spaces, two hundred forty-five (245) parking spaces shall be provided at no additional cost to Tenant, and the balance of the parking spaces (twenty (20)) shall be provided to Tenant at the cost of \$10.53 per parking space, per month. Tenant hereby agrees that the parking spaces provided to Tenant hereunder are for the use by Tenant and its employees and invitees only, and Tenant will not sell, assign or transfer the right to use all or any of the parking spaces to any other person or entity, except pursuant to a sublease of all or a portion of the Premises, or an assignment of the Lease, as provided for by the terms of the Lease, or to a successor to Tenant by way of merger, consolidation, corporate reorganization or the purchase of all or substantially all of the assets or stock of Tenant.

In addition, Landlord hereby agrees that, in order to accommodate oversized vehicles of Tenant's employees, which are unable to be parked on the second and third floors of the Eastowne Parking Garage, Landlord will permit the parking of said vehicles on the ground level parking area of the garage. At no time shall the number of first floor parking spaces for Tenant's employees exceed fifteen (15) spaces. Tenant will furnish to Landlord a list containing the names of its employees' who have such oversized vehicles and their license plate numbers. Tenant shall periodically furnish a revised list to Landlord, when revisions are required. No parking spaces in the ground level area will be available to Tenant's employees for any vehicle other than a vehicle which because of its size cannot access the second and third floor parking areas. The first floor spaces, if any, constitute a portion of the total parking spaces required by this paragraph.

10. **SURRENDER OF SPACE OPTION.** Section 5.04 (SURRENDER OF SPACE OPTION) of the Lease shall hereby be ratified and confirmed, and therefore Tenant shall have the option, at any time after the end of the third year of the Lease Term provided for herein, upon providing Landlord with six (6) months prior written notice, to surrender **up to** one hundred percent (100%) of Tenant's then existing Rentable Area of the Premises (the "Surrender of Space Option"). Furthermore, in restating and amending the terms and conditions provided in such Section 5.04, Tenant's notice to Landlord shall specify the Surrender Date (as described therein) and that certain portion of the Premises which Tenant shall be surrendering in the event that it does not consist of the entire Premises (the "Surrender Space"). In the event that Tenant is surrendering only a portion of the Premises, the portion of the Premises which is being surrendered shall be of a reasonably leasable configuration, and accessible to another tenant. Any costs in order to demise the Surrender Space in order to render it leasable and accessible to another tenant shall be at the sole cost and expense of Tenant. As of the Surrender Date, (a) Tenant shall vacate the Surrender Space and return the same to Landlord in the condition required pursuant to Section 10.02 (END OF TERM) of the Lease; (b) the annual Base Rent, and any other sums being paid hereunder, shall be reduced by the same proportion that the rentable area of the Surrender Space bears to the total rentable area of the Premises prior to the surrender; (c) Tenant shall be relieved of any further obligations under the Lease pertaining to the Surrender

Space; and (d) Tenant's right to parking spaces stated in Section 4.03 of the Lease (as amended herein) shall be proportionately reduced.

In the event that Tenant exercises this Surrender of Space Option, Tenant shall pay to Landlord, on or before any Surrender Date, a sum equal to the unamortized Allowance (as described herein) amortized (on a straight-line basis) over the Lease Term described in this Third Amendment, proportionately based upon the remaining Lease Term (the "Surrender Fee").

This Surrender of Space Option for all or a portion of the Premises shall be self-operative and no additional agreement between Landlord and Tenant will be necessary to effectuate such release; provided, however, Landlord and Tenant shall for their mutual convenience, execute an amendment to the Lease within sixty (60) days following Tenant's notice to Landlord exercising this Surrender of Space Option, either terminating the Lease, or stating the reduced Rentable Area of the Premises (if the entire Premises is not surrendered), the annual Base Rent, and the monthly rent installments.

11. **RIGHT OF FIRST OFFER.** Section 5.06 (RIGHT OF FIRST OFFER) of the Lease shall hereby be ratified and confirmed, and shall remain in full force and effect for the Term of the Lease provided for in this Third Amendment, in accordance with the terms set forth therein, except to the extent hereinafter amended (hereafter, the "Right of First Offer"). Accordingly, notwithstanding the terms of Section 5.06 to the contrary, in the event that Tenant acquires Right of First Offer Space, in accordance with the terms of such Section 5.06, Tenant shall receive an Allowance (as described in Paragraph 4 of this Third Amendment) with respect to such Right of First Offer Space on the basis of Two and 13/100 Dollars (\$2.13) per square foot of Rentable Area of the Right of First Offer Space (the "Right of First Offer Space Allowance"), provided that Tenant commences the Capital/Tenant Improvements for such space within ninety (90) days of Landlord delivering possession of the Right of First Offer Space to Tenant. As provided for in Paragraph 4 hereof, Tenant shall be responsible for any Capital/Tenant Improvements with respect to the Right of First Offer Space, and the costs for the same shall be paid by Tenant directly to its contractors; however, Landlord shall then reimburse Tenant for Tenant's costs associated any such Capital/Tenant Improvements for such Right of First Offer Space, up to a maximum amount of the Right of First Offer Space Allowance described above. Landlord shall reimburse Tenant for the same in the form of a monthly rent credit equal to the total amount of the Right of First Offer Space Allowance, divided by the lesser of (i) nine (9) months, or (ii) the actual number of months remaining in the Lease Term provided for by this Third Amendment.

12. **RENEWAL OPTION.** As of the Effective Date, Section 5.07 (RENEWAL OPTION) of the Lease, is hereby ratified and confirmed; however, only with respect to the second Renewal Option provided for therein. Accordingly, Tenant shall have one (1) option to renew the Lease beyond the end of the Lease Term provided for in this Third Amendment, for one (1) additional period of five (5) years, in accordance with the terms and conditions set forth in such Section 5.07.

13. **REQUIREMENTS OF LAW AND ENVIRONMENTAL COMPLIANCE.**

Pursuant to the terms of Section 6.02 (REQUIREMENTS OF LAW AND ENVIRONMENTAL COMPLIANCE), Landlord hereby covenants to Tenant that Landlord has not received any written violation notice or complaint from any federal, state or local government body, on account of a claimed violation or violations of any Laws or Environmental Laws which Landlord is responsible for complying with under such Section 6.02 of the Lease, as such pertain to the Building, the Premises, the Common Area Facilities, or the Land, and to the best of Landlord's knowledge, Landlord remains in compliance of its obligations under such Section 6.02.

Furthermore, such Section 6.02(iv) shall be amended such that, (i) the definition of Hazardous Materials shall also include, without limitation, "any substance that is or contains lead, mercury or any other chemical, substance, material or waste which is now or is hereafter classified or considered to be dangerous, explosive, corrosive, infectious, or radioactive under any Environmental Laws, or Legionnaires Disease, mold or micotoxins. Hazardous Materials shall not include incidental quantities of any otherwise Hazardous Materials which are commonly used in offices, such as copier fluid, typewriter correction fluids and ordinary cleaning solvents, provided that such are at all times used, kept and stored in a manner which complies with all Environmental Laws.

14. **BROKERS.** Pursuant to the terms of Section 1.01(Q) and Section 10.07 (BROKER'S WARRANTY) of the Lease, Landlord and Tenant hereby represent and warrant that they have dealt with no real estate broker in connection with this Third Amendment other than Jones Lang LaSalle Americas, Inc. and Constitution Plaza, Inc. (acting on a co-broker basis with Jones Lang LaSalle Americas, Inc.) (the "Broker"), and that no other broker is entitled to any commission on account of this Third Amendment. For purposes of Section 1.01(Q), the name of the Broker for purposes of this Third Amendment shall be "Jones Lang LaSalle Americas, Inc. with Constitution Plaza, Inc. as its Co-Broker", replacing in its entirety any other broker. It is hereby understood and agreed that, as per the terms of Paragraph 4 (Improvements) of this Third Amendment, Tenant shall pay the commission due to the Broker, in accordance with the terms of such Paragraph 4 hereof.

15. **BINDING EFFECT.** The terms of this Third Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

16. **RATIFICATION.** Except as expressly amended herein, all provisions, covenants and conditions of the Lease are hereby ratified, confirmed and incorporated herein in their entirety by this reference, and the Lease shall remain in full force and effect and the terms of this Third Amendment shall control over any conflicts between the terms of the Lease and the terms of this Third Amendment.

17. **AUTHORITY.** Each person executing this Third Amendment on behalf of

Tenant and Landlord, respectively, hereby covenants, warrants and represents that the Tenant and Landlord named herein are duly qualified to do business in the state which the Building is located; that Tenant and Landlord have full right and authority to enter into this Third Amendment; that each person signing on behalf of Tenant and Landlord respectively are duly authorized to do so; and that no other signatures or approvals are necessary. Upon either party's request, Tenant or Landlord shall provide to the requesting party reasonably satisfactory evidence confirming the foregoing covenants, warranties and representations.

18. **EXHIBITS.** The following exhibits (the "Exhibits") were attached to this Third Amendment and made a part hereof prior to the execution of this Third Amendment:

Exhibit "G"
Schedule 1

Base Rent Schedule
Property Management Scope of Services

(Remainder of page left intentionally blank.)

(Signatures follow on next page.)

IN WITNESS WHEREOF, Landlord and Tenant have executed this Third Amendment as of the day and year first above written.

WITNESSES:

[Signature]

[Signature]

[Signature]

[Signature]

LANDLORD:

THE CITY OF ELMIRA, NEW YORK

By *[Signature]*
Stephen M. Hughes, Mayor
Resolution No. 2003-374

TENANT:

THE TRAVELERS INDEMNITY COMPANY

By *[Signature]*
Title FRANKLIN L. HILL
VICE PRESIDENT

KMS
11/17/03

EXHIBIT "G"
BASE RENT SCHEDULE

<u>Period</u>	<u>Rentable Area</u>	<u>Rental Rate (psf)</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
1/1/2004– 6/30/2004	40,888 sq. ft.	\$14.00	\$47,702.67 - <u>(\$22,868.00) *</u> \$24,834.67	\$298,016.04
7/1/2004 - 6/30/2005	40,888 sq. ft.	\$14.00	\$47,702.67 - <u>(\$22,868.00) *</u> \$24,834.67	\$572,432.00 \$298,016.04
7/1/2005 - 7/31/2005	40,888 sq. ft.	\$14.18	\$48,315.99 - <u>(\$22,868.00) *</u> \$25,447.99	\$305,375.88
8/1/2005 – 6/30/2006	40,888 sq. ft.	\$14.18	\$48,315.99	\$579,791.84
7/1/2006 - 6/30/2007	40,888 sq.ft.	\$14.37	\$48,963.38	\$587,560.56
7/1/2007 - 6/30/2008	40,888 sq.ft.	\$14.56	\$49,610.77	\$595,329.28
7/1/2008 - 6/30/2009	40,888 sq.ft.	\$14.75	\$50,258.17	\$603,098.00

* Tenant is to commence a rent credit for reimbursement of the Allowance as of January 1, 2004, notwithstanding the actual Effective Date of the same. Reimbursement of the Allowance is to continue for 19 months, until Tenant is fully reimbursed for the total amount of the Allowance, which is \$434,486.00.

Schedule 1

Property Management Scope of Services

(See Attached)

Schedule 1

Property Management Scope of Services

The Property Management Company shall perform certain services in order to manage, operate and maintain the Building, tenant premises' and Common Area Facilities (collectively known herein as the "Facility"), in a manner consistent with that used for other similar buildings (i.e. geographic location, use, size, type, age and amenities and services provided) in the Chemung County location. The Property Management Company will assign a key contact person who will become the primary liaison between the tenant and the City. All tenant Facility maintenance requests, questions, and concerns will be addressed by the Property Manager in a timely, professional manner. Such Property Manager shall have a minimum of three years of prior Property Management experience serving corporate tenants.

The Property Management Company will be available to respond to tenant requests during normal office hours. Emergency numbers will be provided to the tenant for after hour emergency needs. The parties agree that the response time for non-emergencies will be no more than 24 hours and the response time for emergencies will be no longer than 2 hours. The process for dealing with emergencies shall be provided to tenant by the Property Management Company.

The Property Management Company will supervise or cause to be made, all ordinary and extraordinary repairs, decorations, cleaning and alterations to the Facility. All maintenance service contracts and required maintenance projects for the Facility shall be in accordance with the guidelines established for the Facility. The Property Management Company shall present recommendations to the owner of the Facility (the City) relative to budget items in a written narrative form.

The Property Management Company will perform monthly Facility inspections and report any problems or concerns to the Owner.

The Property Management Company will consult with the owner of the Facility (the City) and make recommendations relating to short-term and long-term maintenance requirements relating to this Facility. Furthermore, the Property Management Company will engage in a formal Preventive Maintenance program for the Facility.

The Property Management Company will conduct quarterly tenant meetings that will allow for an open dialogue of issues between the tenant and the Property Manager.

FOURTH AMENDMENT TO LEASE

THIS FOURTH AMENDMENT TO LEASE (“**Fourth Amendment**”) is made and entered into this 27th day of February, 2009, by and between ELMIRA EASTOWNE MALL, LLC, a New York limited partnership (successor-in-interest to The City of Elmira, New York), as Landlord (the “**Landlord**”) and THE TRAVELERS INDEMNITY COMPANY, a Connecticut corporation, as Tenant (the “**Tenant**”).

WITNESSETH:

WHEREAS, pursuant to a certain Lease dated as of April 15, 1999 (the “**Original Lease**”) by and between Landlord and Tenant, Landlord leased to Tenant certain premises consisting of 25,926 square feet of Rentable Area situated on the first floor (the “**Premises**”) of the Building known as Eastowne Mall located at 150 Baldwin Street, Suite A (previously referred to as 116 Baldwin Street), Elmira, NY 14901 (the “**Building**”); and

WHEREAS, the parties amended the Lease pursuant to the terms set forth in the First Amendment to Lease dated as of July 26, 1999 (the “**First Amendment**”) in order to provide for the expansion of the Premises; and

WHEREAS, the parties further amended the Lease pursuant to the terms set forth in the Second Amendment to Lease dated as of November 5, 2002 (the “**Second Amendment**”) in order to establish the total Rentable Area of the Premises; and

WHEREAS, the parties further amended the Lease pursuant to the terms set forth in the Third Amendment to Lease dated as of December 8, 2003 (the “**Third Amendment**”) in order to extend the Lease Term and provide for such other related matters. Hereafter, the Original Lease, together with the First Amendment, the Second Amendment, and the Third Amendment are collectively known as the “**Lease**”; and

WHEREAS, said Lease expires on June 30, 2009; and

WHEREAS, Tenant desires to extend the Lease Term and to provide for such other related matters as set forth herein; and

WHEREAS, Landlord is in agreement with the same, and therefore, Landlord and Tenant desire to amend the Lease in order to extend the Lease Term and to provide for such other matters, as set forth herein.

WHEREAS, the changes and modifications, as hereafter set forth, shall be binding as of the

date hereof, and effective on and after July 1, 2009, unless otherwise expressly provided for herein (the "**Effective Date**"). Until the Effective Date, the parties hereto shall continue to operate under the current terms and provision of the Lease.

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, the parties, intending to be legally bound, hereby agree as follows:

1. **CAPITALIZED TERMS**. All capitalized terms used in this Fourth Amendment without definition shall have the definitions ascribed to such terms in the Lease.

2. **NOTICES**. Section 2.02 (NOTICES) of the Lease shall be amended such that all notices and notifications, required or permitted under this Lease, to be sent to Landlord or Tenant, shall be sent to the following addresses, in the manner set forth in such Section 2.02, or such other addresses as may be designated by Landlord or Tenant, by notice to the other, as set forth in such Section 2.02:

Landlord: Elmira Eastowne Mall, LLC
Attn: Lance L. Moore
5360 North Franklin Street
Denver, Colorado 80216

With a copy to:

Arnall Golden Gregory LLP
171 17th Street, NW
Suite 2100
Atlanta, Georgia 30363
Attn: Jonathan L. Neville, Esquire

Tenant: The Travelers Indemnity Company
One Tower Square
Hartford, Connecticut 06183-7130
Attn: Corporate Real Estate, 1 MS

With a copy to:

The Travelers Indemnity Company
1000 Windward Concourse
Alpharetta, GA 30005
Attn: Corporate Real Estate
Regional Vice President

3. **PREMISES.** For the Lease Term of the Lease provided for in this Fourth Amendment, Landlord and Tenant hereby agree that the Premises shall remain as described in the Lease, consisting of 40,888 square feet of Rentable Area, situated on the first (1st) floor of the Building, and Tenant shall accept the same in its "as is" condition; however, subject to Landlord's Work, as hereinafter defined, and Landlord shall have no further obligation to improve or alter the Premises for the Lease Term described herein.

4. **LEASE TERM.** For purposes of this Fourth Amendment, Section 2.06 (LEASE TERM) of the Lease shall be amended such that, as of the Effective Date, the Lease Term shall hereby be extended for a period of five (5) years (hereafter the "**Lease Term**") and shall therefore expire on June 30, 2014, unless sooner terminated, extended or renewed, as provided for in this Fourth Amendment or in the Lease (hereafter the "**Lease Expiration Date**"). It is hereby agreed by Landlord and Tenant that none of the other terms and conditions of such Section 2.06 with respect to the determination of the Effective Date shall apply to the Lease Term set forth in this Fourth Amendment, and shall be deemed of no force and effect with respect to this Fourth Amendment.

5. **IMPROVEMENTS.** Section 2.08 (IMPROVEMENTS) of the Lease shall be amended such that for purposes of this Fourth Amendment and the Lease Term provided for herein, such Section 2.08 shall mean the following:

(i) For purposes of this Fourth Amendment, Landlord hereby agrees to use reasonably diligent efforts to perform and complete the following construction work for Tenant, at Landlord's sole cost and expense, on or before the Effective Date or within the time period otherwise set forth herein, using materials of similar or equal quality than what presently exists at the Building, and in a good and workman like manner, using good construction practices, and in accordance with any applicable Laws governing the same (hereafter, "**Landlord's Work**"). Landlord's Work shall consist of the following:

- In accordance with Tenant's final concept and design drawings, Landlord shall relocate and construct a new Building entrance with a glass front and an overhang/canopy, so that Tenant, at Tenant's expense, may complete the additional interior and exterior signage work associated with such new Building entrance.
- At the time of any failure or need to repair, during the Lease Term set forth herein, Landlord shall repair, improve and/or replace the current HVAC system(s)/units or major components thereof to meet Tenant's temperature, fresh air and humidity requirements, which are set forth in Exhibit C (BASE BUILDING IMPROVEMENTS) of the Lease.
- In addition to the foregoing, Landlord, within ninety (90) days after completion of any improvement work performed by Tenant in order to prepare the Premises for Tenant's

continued occupancy, as further described herein, will retain a mutually agreeable, third party mechanical-electrical-plumbing engineer (“MEP”) to test, balance, inspect and assess the HVAC system. Landlord, at Landlord’s expense shall implement any reasonable improvements suggested or recommended by the MEP, in order to meet Travelers’ current temperature, ventilation, fresh-air and humidity standards, as provided for in Exhibit C (BASE BUILDING IMPROVEMENTS) of the Lease.

- Add a door in the back of the Building accessing Tenant’s training room area.
- Renovate, prior to the Effective Date, the common area bathrooms, which shall include new fixtures; the installation of new tile surfaces & flooring, hardware and paint.
- Install new energy efficient lighting throughout the Premises, as reasonably specified by Tenant and approved by the Landlord (which approval shall not be unreasonably withheld or delayed). However, notwithstanding anything else herein to the contrary, Tenant and Landlord shall equally share the cost of such lighting; however, Landlord’s share shall not exceed \$25,000.00.

Landlord hereby agrees to promptly commence Landlord’s Work following full execution of this Fourth Amendment. Landlord further agrees that Landlord’s Work will not unreasonably or materially interfere with Tenant’s business operations within the Premises. Landlord shall obtain and pay for, as part of the Landlord’s Work, the building permit and all other permits, licenses and inspections necessary for the proper execution and completion of the Landlord’s Work. For purposes hereof, the Landlord’s Work shall be deemed to be “**substantially completed**” on the date that all of the Landlord’s Work has been completed in accordance with the Landlord’s Work plans (and any plans or specifications provided by Tenant and approved by Landlord, which approval shall be delivered as hereinafter required) and all applicable Laws, other than any minor details of construction, mechanical adjustment or any other minor matter (hereafter “**substantially completed**” or “**substantial completion**”). To the extent that the issuance of any certificate of occupancy or the equivalent is required by the appropriate governmental authority having jurisdiction over the Building, such shall be obtained prior to and in order for Landlord’s Work to be deemed “substantially completed”. Any such minor details, mechanical adjustments and other minor matters, the noncompletion of which do not materially interfere with Tenant’s use of the Premises shall be known as the “**Landlord’s Work Punch List Items**”. Within ten (10) days after the date of substantial completion of the Landlord’s Work, Tenant may furnish Landlord with one or more written notices identifying the Landlord’s Work Punch List Items. Within thirty (30) days of receipt of the same from Tenant, Landlord shall commence and shall diligently prosecute to completion, the installation, completion, repair or remedy of all such items listed thereon. Furthermore, Landlord’s Work consists solely of Base Building Improvements, as further described in Exhibit C (BASE BUILDING IMPROVEMENTS) of the Lease, and shall therefore be maintained and repaired by

Landlord, at Landlord's sole cost and expense, in accordance with the terms of the Lease, subject to the terms of Section 3.02 (ESCALATION) thereof; and

(ii) With the exception of the Landlord's Work, it is hereby understood and agreed that Tenant shall accept the Premises in an "as is" condition, and Landlord shall have no further obligation to improve, alter or remodel the same. However, Tenant, subject to Landlord's prior approval, which shall be delivered as required herein, may perform any Alterations to the Premises which Tenant desires in order to update and refurbish the Premises for the Lease Term set forth in this Fourth Amendment (hereafter the "**Tenant Improvement Work**"). For purposes of this Fourth Amendment, all work, other than Landlord's Work, required by Tenant to render the Premises suitable for Tenant's continued occupancy shall collectively be referred to as the Tenant Improvement Work. All Tenant Improvement Work shall be done in accordance with the terms of Section 5.02 (ALTERATIONS) of the Lease, and in a good and workmanlike manner by Tenant or its contractors or subcontractors, and shall comply at the time of completion with all applicable Laws and insurance requirements, in accordance with the terms of the Lease. Tenant acknowledges and agrees that all Tenant Improvement Work shall be subject to Landlord's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed. Inasmuch, within five (5) business days after receipt by Landlord of any Tenant plans, with respect to the Tenant Improvement Work, Landlord shall (i) give its written approval thereto, or (ii) notify Tenant of any objections to such Tenant plans, and Tenant shall make any reasonable revisions and resubmit the Tenant plans for Landlord's approval. The preceding two sentences shall be implemented repeatedly until Landlord gives its written approval to the Tenant's plans. If Landlord shall fail to respond to Tenant's plans (or any revisions or modifications thereto) with its approval or request for revisions/modification within the time period(s) provided above, such failure shall be deemed Landlord's approval of Tenant's plans (including all revisions and modifications approved or deemed approved by Landlord).

6. **RENT.** As of the Effective Date, Section 3.01 (RENT) of the Lease shall be amended for purposes of the Lease Term set forth in this Fourth Amendment, such that Exhibit G (BASE RENT SCHEDULE) of the Lease shall be deleted in its entirety and replaced with the "Exhibit G" (BASE RENT SCHEDULE), attached to this Fourth Amendment and made a part hereof. Landlord and Tenant hereby agree that notwithstanding anything contained in the Lease to the contrary, the Base Rent for the Lease Term provided for in this Fourth Amendment, shall be calculated on a gross basis and shall include all utilities, building services, operating expenses (excluding Real Estate Taxes, as defined in the Lease), exterior grounds maintenance, management fees and any other charges which were formerly passed through as Building Operating Costs for the Premises, Building and Land, and no additional amounts shall be due from Tenant to Landlord for the same. It is hereby agreed that the Base Rental Rate provided in Exhibit G, and the increases provided for in Section 3.02 of the Lease, as amended in Paragraph 7 below of this Fourth Amendment, shall account for such costs and charges.

It is hereby agreed that for purposes of the stepped Base Rental Rate, as further described below, the "**First Lease Year**" shall be the twelve (12) month period commencing on the Effective Date of July 1, 2009 and continuing through the last day of the twelfth full calendar month thereafter. Each "**Lease Year**" after the First Lease Year shall be a consecutive twelve (12) month period commencing on the first day of the calendar month immediately following the preceding Lease Year.

Further, it is hereby agreed that Section 3.01 shall be amended such that the monthly installments of Base Rent shall be payable in advance, without set-off or reduction, except to the extent expressly provided for by the terms of the Lease, as amended, to Landlord on or before the third (3rd) business day of each month during the Lease Term provided for herein, otherwise in the manner set forth in such Section 3.01. If any Base Rent is unpaid more than seven (7) days after notice from Landlord to Tenant that such was not originally received, Landlord may charge Tenant a late fee equal to five percent (5%) of any Base Rent not paid when due.

7. **CPI BASE RENT INCREASE.** Landlord and Tenant hereby agree that the annual Base Rent shall increase each Lease Year following the First Lease Year, on the anniversary of the Effective Date, by an amount equal to the percentage increase in the CPI (as hereafter defined) for the current year over the previous year (hereafter, the "**CPI Base Rent Increase**"); however, notwithstanding the foregoing to the contrary, in no event shall the percentage increase from Lease Year to Lease Year in Tenant's Base Rent, be greater than three percent (3%) (hereafter, the "**CPI Base Rent Increase Cap**"). For purposes of calculating the CPI Base Rent Increase the CPI for the month of May of the prior Lease Year shall be determined and compared to that of the month of May of the Lease Year in question. Once the percentage increase in the indices is calculated such percentage increase is compared to the CPI Base Rent Increase Cap, and the lesser of the two shall be used to determine the increase in Tenant's Base Rent for the upcoming Lease Year. For example, in determining the CPI Base Rent Increase for the Lease Year commencing July 1, 2010, the CPI of May 2009 is to be compared to the CPI for May 2010. The percentage increase in such indices is then compared to the 3% CPI Base Rent Increase Cap, and the lesser of the two shall be used in order to calculate the increase in Base Rent and the then current Base Rent shall be increased by an amount equal to the determined CPI Base Rent Increase percentage. For purposes hereof, "**CPI**" shall be determined in accordance with the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U): (U.S. City Average: All items) issued by the Bureau of Labor Statistics of the U.S. Department of Labor (hereinafter, the "**Index**") using the calendar year 2009 as a base, but in no event shall such increase exceed three (3%) per annum, nor shall the gross annual Base Rent, as adjusted, be less than the prior year's gross annual Base Rent.

In the event that the Index herein referred to ceases to be published during the Term of this Lease, or if a substantial change is made in the method of establishing such Index, then the determination of the rental adjustment shall be made by comparable statistics on the cost of living in the United States, as shall then be computed and published by an agency of the United States, or, by

a respected financial periodical mutually selected by Landlord and Tenant.

8. **ESCALATION - REAL ESTATE TAXES.** It is hereby agreed and acknowledged that Section 3.02(B) (REAL ESTATE TAX ESCALATION) of the Lease as subsequently amended shall be deleted in its entirety and replaced with the following:

(i) **“Real Estate Taxes”** shall mean all taxes, assessments, levies and other charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which shall or may be during the Lease Term assessed, levied, charged, confirmed or imposed upon the Property and provided that said Real Estate Taxes have been finally determined by legal proceedings or otherwise to be legally payable, but shall not include any municipal, state or federal capital levy, estate, succession, inheritance, transfer, sales, use or franchise taxes, or any income, profits, or revenue tax, assessment or charge imposed upon the rent received as such by the Landlord under this Lease, nor shall Real Estate Taxes include interest or penalties imposed for late payment or otherwise. However, in the event that Landlord (or any successor) shall, at any time during the Lease Term, or any extension or renewal thereof, receive an abatement, reduction or exemption with respect to the Real Estate Taxes, assessments, levies or other charges for the Property, subject to the provisions of Paragraph 3.02(B)(vi) below, the Real Estate Taxes shall be deemed reduced by the amount of such abatement, reduction or exemption, during the Computation Year that such is received. Furthermore, if at any time during the Lease Term the methods of taxation prevailing as of the date hereof shall be altered so that as a substitute for the whole or any part of the Real Estate Taxes now levied, assessed or imposed, there shall be levied, assessed or imposed any other similar or dissimilar tax, levy, imposition, charge or license fee (hereafter, the **“Revised Real Estate Taxes”**), however described or imposed, then Tenant agrees that such Revised Real Estate Taxes shall, but only to the extent of such substitution, be deemed to be included in the definition of Real Estate Taxes.

Special assessments may be included with Real Estate Taxes to the extent that (i) the special assessment benefits all tenants of the Building equally in proportion to a tenant's rentable area of the Building; (ii) the special assessment benefits the Building, as defined in this Lease, as opposed to another building within a project or park, and (iii) the special assessment is not incurred or paid by Landlord in lieu of a capital expenditure. As to any such special assessments which are payable over a period of time extending beyond the Lease Term (as the same may be extended), only a pro rata portion thereof, covering that portion of the Lease Term unexpired at the time of the imposition of such assessment, shall be included in Real Estate Taxes. If, after Tenant shall have made a Tax Payment, as hereafter defined, Landlord shall receive a refund of any portion of the Real Estate Taxes on which such Tax Payment was based, as a result of a reduction of such Real Estate Taxes by final determination of legal proceedings, settlement or otherwise, Landlord shall within thirty (30) days after receiving the refund, pay to Tenant, Tenant's Proportionate Share of the refund.

(ii) "Tax Year" means the full fiscal period for each levied or assessed Real Estate Tax.

(iii) "Base Real Estate Taxes" means Real Estate Taxes for the Base Tax Year.

(iv) "Base Tax Year" shall mean the calendar year 2009; however, subject to the terms provided in Subsection 3.02(B)(vi) hereof, below, the Base Real Estate Taxes shall be adjusted in accordance with the terms of such Subsection (vi) and shall not be deemed fully determined until such time that the Building is 100% fully assessed and 100% fully taxed, as a 100% fully completed structure, with no abatements or tax exemption status.

(v) Tenant shall not be responsible for any increase in Real Estate Taxes which results solely from the creation of additional rentable area on the Land or in the Building or from improvements or alterations made by Landlord or other tenants; provided, however, Tenant shall be responsible for any additional Real Estate Taxes which are imposed upon the Building and which result solely from the creation of additional rentable area in the Building due to Tenant's exercise of an Additional Space Option, pursuant to Section 5.05 hereof; provided that there is an actual increase in the Total Rentable Area of the Building in accordance with the BOMA Method of measurement.

(vi) If (i) there is a tax abatement program, tax exemption or other reduction in effect at any time prior to or during the Lease Term which reduces Real Estate Taxes, or (ii) Real Estate Taxes are "phased in" during the Lease Term, or (iii) the Building is not 100% fully assessed, 100% occupied and 100% fully taxed as a 100% completed structure for the Base Tax Year, then in such an event, the Base Real Estate Taxes shall be adjusted in the subsequent Tax Years immediately following the abatement, reduced tax or exemption period so that the Base Real Estate Taxes reflect full taxation at a level where (x) the Real Estate Taxes have been fully phased in; (y) no more abatement or exemption applies; and (z) the Building is 100% fully assessed, 100% occupied and 100% fully taxed as a 100% completed structure.

(vii) At Tenant's option, Tenant may bring appropriate proceedings in Landlord's name or Tenant's name or both for contesting any assessment for any Tax Year during the Lease Term. The net amount of taxes recovered as a result of such proceedings (e.g., the amount recovered after payment of all sums necessary to attain such recovery) shall be shared between Landlord and Tenant with Tenant receiving Tenant's Proportionate Share thereof. Landlord shall cooperate with Tenant with respect to the proceedings so far as is reasonably necessary.

(viii) Any increase in Real Estate Taxes for the Building or the Land resulting from a refinancing or sale of the Building or Land shall be added to the Base Real Estate Taxes.

(ix) Tenant's payment of Additional Rent, with respect to Real Estate Taxes, shall be in accordance with the terms of Section 3.02(C) of the Lease, which provides that Tenant shall pay to Landlord the positive difference, if any, between Tenant's Proportionate Share of the Real

Estate Taxes for the Base Tax Year, and Tenant's Proportionate Share of the Real Estate Taxes for any such Tax Year (the "Tax Payment").

(x) Notwithstanding the terms of this Fourth Amendment, the payment of Real Estate Taxes for Tax Years 2008 and prior shall be governed by the terms of the Original Lease, the First Amendment, Second Amendment and Third Amendment, unmodified by the Fourth Amendment.

9. **SERVICES PROVIDED BY LANDLORD.** Pursuant to the terms and conditions of Paragraph 8 of the Third Amendment, however, with the exception of the initial obligation of Landlord to hire and retain a professional property management company to perform managerial and maintenance services for the Building, the other standards and conditions of such Paragraph 8 shall remain in full force and effect and a part of the Lease.

10. **PARKING.** It is hereby agreed that parking shall remain as provided for in Paragraph 9 of the Third Amendment.

11. **TENANT SIGNAGE.** In accordance with the terms of Section 5.03 (TENANT SIGNAGE) of the Lease and pursuant to Landlord's prior approval, to the extent required in Section 5.03, and which shall not be unreasonably withheld, conditioned or delayed, Tenant, at its own cost and expense, shall be permitted to install a sign or other identification at the new Building entrance door which is being constructed by Landlord, as part of the Landlord's Work (as provided above). Tenant acknowledges and agrees that the cost of such signage shall be Tenant's sole responsibility.

12. **SURRENDER OF SPACE OPTION.** Section 5.04 (SURRENDER OF SPACE OPTION) of the Lease, as amended by Paragraph 10 of the Third Amendment, shall hereby be ratified and confirmed for the Lease Term provided for by this Fourth Amendment, and therefore Tenant shall have the option, at any time after the end of the third (3rd) Lease Year of the Lease Term provided for herein, upon providing Landlord with six (6) months prior written notice, to surrender up to one hundred percent (100%) of Tenant's then existing Rentable Area of the Premises (the "**Surrender of Space Option**"), in accordance with the terms of such Section 5.04, except to the extent otherwise amended herein. In the event that Tenant exercises this Surrender of Space Option, Tenant shall pay to Landlord, on or before any Surrender Date, a surrender fee, to be calculated in the following manner: the remaining unamortized portion of the brokerage commission paid or granted by Landlord to Tenant or paid by Landlord to a real estate broker (pursuant to this Fourth Amendment), with respect to the Surrender Space (hereafter, "**Landlord's Transaction Costs**") – multiplied by a fraction, the numerator of which is the number of months occurring during the period commencing on the day following the Surrender Date and ending on the Lease Expiration Date, and the denominator of which is the number of months occurring during the period commencing on the Effective Date for the Surrender Space and ending on the Lease Expiration Date, and as amortized over the Lease Term (on a straight-line basis) at an annual interest rate of seven

(7%) percent (hereafter, the “**Surrender Fee**”).

Landlord and Tenant each hereby acknowledge and agree that any space which Tenant surrenders hereunder (known as the “**Surrender Space**”) shall be reasonably marketable space for purposes of Landlord’s re-letting of the same, and that Landlord at Landlord’s sole cost and expense shall complete any demising costs associated with the Surrender Space.

This Surrender of Space Option for all or a portion of the Premises shall be self-operative and no additional agreement between Landlord and Tenant will be necessary to effectuate such release; provided, however, Landlord and Tenant shall for their mutual convenience, execute an amendment to the Lease within sixty (60) days following Tenant’s notice to Landlord exercising this Surrender of Space Option, either terminating the Lease, or stating the reduced Rentable Area of the Premises (if the entire Premises is not surrendered), the annual Base Rent, and the monthly rent installments.

13. **RIGHT OF FIRST OFFER**. Section 5.06 (RIGHT OF FIRST OFFER) of the Lease is deleted by the Lease and as of the Effective Date shall be of no further force and effect.

14. **RENEWAL OPTION**. Section 5.07 (RENEWAL OPTION) of the Lease shall mean the following:

“Provided that no event of Default has occurred, beyond any applicable notice and cure periods, and is continuing at the time of exercise of an option under this Section 5.07, or on the expiration date of the then expiring Lease Term, as the case may be, Tenant shall have the option to renew this Lease (the “**Renewal Option**”) for two (2) additional terms of up to five (5) years each (each known as a “**Renewal Term**”), upon the same terms and conditions as provided for in the Lease, as amended by this Fourth Amendment thereto, except that the Base Rent for the First Lease Year of each respective Renewal Term (expressed in an amount per square foot of rentable area) shall be at ninety percent (90%) of the Fair Market Rate (hereinafter defined) at that time. Furthermore, the Base Tax Year shall also be updated to the calendar year or the Tax Year, as appropriate, in which the applicable Renewal Term commences.

For purposes hereof, “**Fair Market Rate**” shall mean the average of the annual rental rates then being charged in the office market sector of the area where the Building is situated, for comparable space for leases commencing on or about the time of the commencement of the lease term to which this definition applies, taking into consideration use, location and floor level of the applicable building, the location, quality and age of the building, size of the space, parking, leasehold improvements or allowances provided, rental concessions (such as abatements, lease assumptions or takeovers and moving expenses), the date that the particular rate under consideration became effective, the term of the lease under consideration, the extent of services provided thereunder, applicable distinctions between “gross” leases and “net” leases, base year figures for

escalation purposes, brokerage fees saved due to the renewal, the period for which space would be vacant if Tenant were to vacate the space rather than to renew, the creditworthiness and quality of Tenant, and other adjustments to the base rental and any other relevant term or condition in making such evaluation, including bonafide written offers made to the Landlord by unrelated third parties at an arms-length basis to lease the same comparable space.

Tenant shall determine the amount of space that shall be subject to renewal and Tenant shall provide Landlord with at least six (6) months written notice, prior to the expiration of the then current Lease Term, of Tenant's intent to exercise the Renewal Option and of Tenant's space requirements for the applicable Renewal Term. Any portion of the Premises that is **not included** in the Renewal Term shall be of a leasable configuration and accessible to another tenant in accordance with local Building Code. Landlord shall, within one (1) month after receipt of Tenant's notice, notify Tenant, in writing, of its determination of the Fair Market Rate and/or the resulting Base Rent for the applicable Renewal Term, determined in accordance with the formula provided in this Section 5.07 ("**Landlord's Determination of the Fair Market Rate**"). Tenant shall, within fifteen (15) days after receipt of Landlord's Determination of the Fair Market Rate, either accept or dispute Landlord's Determination of the Fair Market Rate and the resulting Base Rent for the Renewal Term. In the event that Tenant disputes Landlord's Determination of the Fair Market Rate, Tenant shall, within such fifteen (15) day period, so notify Landlord, in writing, of Tenant's dispute and advise Landlord of Tenant's determination of the Fair Market Rate and the resulting Base Rent for the Renewal Term, as determined in accordance with this Section 5.07. If Tenant does not either accept or dispute Landlord's Determination of the Fair Market Rate within such fifteen (15) day period, Tenant shall be deemed to have accepted the same. In the event that Landlord and Tenant shall agree upon the Base Rent for the Renewal Term, the same shall be confirmed in writing. In the event Tenant disputes Landlord's determination of the Fair Market Rate and the resulting Base Rent for the Renewal Term and forwards notice of the same to Landlord, within the fifteen (15) days after receipt of Landlord's Determination of Fair Market Rate, as set forth above, and Landlord, upon receipt and review of Tenant's determination, does not agree with Tenant's determination of the Fair Market Rate and the resulting Base Rent for the Renewal Term, Landlord and Tenant hereby agree to faithfully negotiate such matter in order to attempt to resolve the disagreement and reach a mutual agreement with respect to the determination of the Base Rent for the Renewal Term, for a period of thirty (30) days (the "**Negotiation Period**"), following Landlord's receipt of Tenant's notice of dispute of Landlord's determination, accompanied by Tenant's determination of the same.

In the event that Landlord and Tenant are unable to agree upon the Fair Market Rate and the resulting Base Rent for a Renewal Term, during the Negotiation Period, then the Fair Market Rate shall be determined by appraisal made as hereinafter provided, by a board of three (3) reputable independent commercial real estate brokers, each of whom shall have at least ten (10) years of experience in the rental market in the general market area, for comparable properties and each of whom is hereinafter referred to as an "**Appraiser**". Tenant and Landlord shall each appoint one such Appraiser and the two Appraisers so appointed shall appoint the third Appraiser. The cost and

expenses of each Appraiser appointed separately by Tenant and Landlord shall be borne by the party who appointed the Appraiser. The cost and expenses of the third Appraiser shall be shared equally by Tenant and Landlord. Landlord and Tenant shall appoint their respective Appraisers within fifteen (15) days after the expiration of Negotiation Period, and shall designate the Appraisers so appointed by notice to the other party. The two Appraisers so appointed and designated shall appoint the third Appraiser within fifteen (15) days after their appointment, and shall designate such Appraiser by notice to Landlord and Tenant. If the two Appraisers are unable to agree upon a third Appraiser within such fifteen (15) day period, the determination of the Fair Market Rate shall be subject to arbitration in a location mutually agreed upon between Landlord and Tenant in accordance with the rules of the American Arbitration Association with the cost of such arbitration to be shared equally between Landlord and Tenant. Each of the three Appraisers shall determine the Fair Market Rate of the space in question as of the commencement of the period to which the Fair Market Rate shall apply and shall notify Landlord and Tenant in writing of their determinations within thirty (30) days of their appointment. If the determinations of the Fair Market Rate of any two or all three of the Appraisers shall be identical in amount, said amount shall be deemed to be the Fair Market Rate of the Premises. If the determinations of all three Appraisers shall be different in amount, the average of the two values nearest in amount shall be deemed the Fair Market Rate. Notwithstanding the foregoing, if either party shall fail to appoint its Appraiser within the period specified above (such party referred to hereinafter as the “**failing party**”), the other party may serve notice on the failing party requiring the failing party to appoint its Appraiser within five (5) days of the giving of such notice and if the failing party shall not respond by appointment of its Appraiser within said five (5) day period, then the Appraiser appointed by the other party shall be the sole Appraiser hereunder. Tenant shall have the option, exercisable by written notice to Landlord within ten (10) days after determination of Fair Market Rate hereunder, to rescind its exercise of its Renewal Option under this Section 5.07, in which event this Lease shall expire at the end of the then current Lease Term. If Tenant does not timely deliver such notice of rescission, the determination of Fair Market Rate by the Appraisers hereunder shall be final and binding upon the parties. If this Renewal Option is exercised, the Lease Expiration Date shall mean the last day of the applicable Renewal Term.

Landlord and Tenant shall execute an amendment to this Lease within thirty (30) days after the determination of the Fair Market Rate and resulting Base Rent for the Renewal Term (including any steps thereto, which amendment shall set forth the Renewal Term, the Base Rent and all other agreed upon terms and conditions for the applicable Renewal Term.

15. **REQUIREMENTS OF LAW AND ENVIRONMENTAL COMPLIANCE.** For purposes of this Fourth Amendment, pursuant to the terms of Section 6.02 (REQUIREMENTS OF LAW AND ENVIRONMENTAL COMPLIANCE), Landlord hereby covenants to Tenant that Landlord has not received any written violation notice or complaint from any federal, state or local government body, on account of a claimed violation or violations of any Laws or Environmental Laws which Landlord is responsible for complying with under such Section 6.02 of the Lease, as such pertain to the Building, the Premises, the Common Area Facilities, or the Land, and to the best

of Landlord’s knowledge, Landlord remains in compliance of its obligations under such Section 6.02. Tenant hereby covenants to Landlord, that to the best of its knowledge it has complied with its obligations, and representations and covenants set forth in such Sections 6.02 of the Lease and covenants to Landlord that Tenant has not received any written violation notice or complaint from any federal, state or local government body, on account of a claimed violation or violations of any Laws or Environmental Laws which Tenant is responsible for complying with under such Section 6.02 of the Lease.

16. **BROKERS.** Pursuant to the terms of Section 1.01(Q) and Section 10.07 (BROKER’S WARRANTY) of the Lease, Landlord and Tenant hereby represent and warrant that they have dealt with no real estate broker in connection with this Fourth Amendment other than Jones Lang LaSalle Americas, Inc. (the “**Broker**”), and that no other broker is entitled to any commission on account of this Fourth Amendment. For purposes of Section 1.01(Q), the name of the Broker for purposes of this Fourth Amendment shall be “Jones Lang LaSalle Americas, Inc.” replacing in its entirety any other broker. The party who breaches this warranty shall defend, hold harmless and indemnify the other from any loss, cost, damage or expense, including reasonable attorney fees, arising from the breach. Landlord is solely responsible for paying the commission of said Broker in accordance with the terms of separate agreements by and between Landlord and Broker.

17. **BINDING EFFECT.** The terms of this Fourth Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

18. **RATIFICATION.** Except as expressly amended herein, all provisions, covenants and conditions of the Lease are hereby ratified, confirmed and incorporated herein in their entirety by this reference, and the Lease shall remain in full force and effect and the terms of this Fourth Amendment shall control over any conflicts between the terms of the Lease and the terms of this Fourth Amendment.

19. **AUTHORITY.** Each person executing this Fourth Amendment on behalf of Tenant and Landlord, respectively, hereby covenants, warrants and represents that the Tenant and Landlord named herein are duly qualified to do business in the state which the Building is located; that Tenant and Landlord have full right and authority to enter into this Fourth Amendment; that each person signing on behalf of Tenant and Landlord respectively are duly authorized to do so; and that no other signatures or approvals are necessary. Upon either party's request, Tenant or Landlord shall provide to the requesting party reasonably satisfactory evidence confirming the foregoing covenants, warranties and representations.

20. **MATERIAL RELATIONSHIP DISCLOSURE.** Owners of the Landlord entity are licensed real estate brokers in Colorado, Connecticut and Kentucky and are participating in this agreement as owners of the Landlord entity, but will not be receiving a broker’s commission (A

material relationship means one actually known of a personal, familial or business nature between the Broker and affiliated licensees and a client which would impair their ability to exercise fair judgment to another client.)

21. **EXHIBITS.** The following exhibits (the "**Exhibits**") were attached to this Fourth Amendment and made a part hereof prior to the execution of this Fourth Amendment:

Exhibit "G" Base Rent Schedule

(Remainder of page left intentionally blank.)

(Signatures follow on next page.)

IN WITNESS WHEREOF, Landlord and Tenant have executed this Fourth Amendment as of the day and year first above written.

WITNESSES:

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

LANDLORD:

ELMIRA EASTOWNE MALL, LLC

By *[Handwritten Signature]*
Title: *[Handwritten Signature]*

TENANT:

THE TRAVELERS INDEMNITY COMPANY

By *[Handwritten Signature]*
Title JAMES A. SCANNELL
SENIOR VICE PRESIDENT

EXHIBIT "G"
BASE RENT SCHEDULE

Period	Rentable Area	Base Rental Rate *	Monthly Base Rent	Annual Base Rent
7/1/2009 - 6/30/2014	40,888 sq. ft.	\$13.95 *	\$47,532.30	\$570,387.60

- Base Rental Rate and the resulting Monthly Base Rent and Annual Base Rent will increase on an annual base, commencing as of the Second Lease Year (July 1, 2010) in accordance with the terms of Paragraph 5 (RENT) of this Fourth Amendment.

EXHIBIT A

ARTICLES OF ORGANIZATION OF THE COMPANY

ARTICLES OF ORGANIZATION
OF
ELMIRA EASTOWNE MALL, LLC

Under Section 203 of the Limited Liability Company Law

Filed By:

*Moore, Woodhouse & Pawlak
150 Lake Street
Elmira, NY 14901
Telephone (607) 734-6191*

ARTICLES OF ORGANIZATION

OF

ELMIRA EASTOWNE MALL, LLC

under Section 203 of the New York Limited Liability Company Law

FIRST: The name of the limited liability company is ELMIRA EASTOWNE MALL, LLC

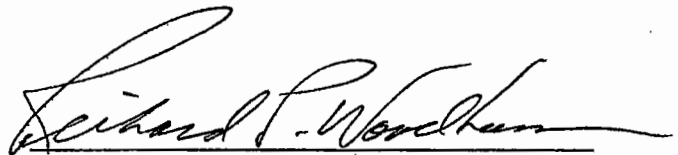
SECOND: The county within this state in which the office of the limited liability company is to be located is Chemung.

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is c/o Moore, Woodhouse & Pawlak, LLP, 150 Lake Street, Elmira, NY 14901.

FOURTH: The limited liability company is to be managed by one or more members.

FIFTH: These Articles of Organization shall be effective upon filing.

IN WITNESS WHEREOF, this Certificate has been subscribed this 4th day of February, 2005, by the undersigned who affirms that the statements made herein are true under the penalties of perjury.



Richard P. Woodhouse - Organizer
150 Lake Street
Elmira, NY 14901

FILING RECEIPT

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ENTITY NAME: ELMIRA EASTOWNE MALL, LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM LLC)

COUNTY: CHEM

SERVICE COMPANY: COLBY ATTORNEYS SERVICE COMPANY

SERVICE CODE: 08 *

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FILED:02/07/2005 DURATION:***** CASH#:050207000249 FILM #:050207000238

ADDRESS FOR PROCESS

EXIST DATE

C/O MOORE WOODHOUSE & PAWLAK
150 LAKE STREET
ELMIRA, NY 14901

02/07/2005

REGISTERED AGENT



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FILER	FEES	235.00	PAYMENTS	235.00
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	FILING	200.00	CASH	0.00
	TAX	0.00	CHECK	0.00
MOORE WOODHOUSE & PAWLAK	CERT	0.00	CHARGE	0.00
150 LAKE STREET	COPIES	10.00	DRAWDOWN	235.00
	HANDLING	25.00	BILLED	0.00
ELMIRA, NY 14901			REFUND	0.00

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EXHIBIT B
OPERATING AGREEMENT OF THE COMPANY

OPERATING AGREEMENT
OF
NEW YORK STATE LIMITED LIABILITY COMPANY

This Operating Agreement ("Agreement") of Elmira Eastowne Mall, LLC (the "Company"), effective as of this day of February 16, 2005 by, between and among the undersigned confirms our understanding as to the matters contained herein. The parties hereto agree as follows:

ARTICLE I
Definitions

SECTION 1.1 As used herein, the following terms and phrases shall have the meanings indicated:

- A. "Act" shall mean the New York Limited Liability Company Law, as amended.
- B. "Capital Account" shall mean, with respect to each Member, the account established for each Member pursuant to Section 6.5, which will initially equal the Capital Contributions of such Member and will be (a) increased by the amount of Net Profits allocated to such Member and (b) reduced by the amount of Net Losses allocated to such Member and the amount of Cash Flow distributed to such Member. Members' Capital Accounts shall be determined and maintained in accordance with the rules of paragraph (b)(2)(iv) of Regulation Section 1.704-1 of the Code.
- C. "Capital Contributions" shall mean the fair market value of the amounts contributed by the Members pursuant to Section 6.1.
- D. "Cash Flow" shall have the meaning provided in Section 7.1.
- E. "Code" shall mean the internal Revenue Code of 1986, as amended, or corresponding provisions of subsequent revenue laws.
- F. "Operating Managers" shall mean the Member, Members or others selected by the Members in accordance with this Agreement to serve as Operating Manager or Operating Managers of the Company.
- G. "Members" shall mean the persons designated as such in Schedule A of this Agreement, any successor(s) to their interests as such in the Company; and any other person who pursuant to this Agreement shall become a Member, and any reference to a "Member" shall be to any one of the then Members.
- H. "Net Profits" and "Net Losses" shall mean the net profit or net loss, respectively, of the Company determined in accordance with Section 8.1.
- I. The words "Membership Interest" shall mean a Member's interest in the Company which shall be in the proportion that the Member's share of the current profits of the Company bears to the aggregate shares of all the Members. A Membership Interest may be evidenced by a certificate issued by the Company. A Membership Interest may be expressed on a certificate as "Units" where a Member's Unit shall be in the proportion that the Member's interest bears to the aggregate Membership Interests of all Members. A Member's Interest may be a certificated security or an uncertificated security within the meaning of section 8-102 of the Uniform Commercial Code if the requirements of

section 8.403(c) are met, and if the requirements are not met such interest shall, for purposes of the Uniform Commercial Code, be deemed to be a general intangible asset.

- J. "Company" shall mean this limited liability company, to wit: Elmira Eastowne Mall, LLC.
- K. "Person" shall mean any natural person, corporation, partnership, joint venture, association, limited liability company or other business or legal entity.
- L. "Economic Interest" shall mean a Member's Economic Interest in the company's Net Profits, Net Losses and distributions of the Company's assets pursuant to this Operating Agreement, but shall not include any right to participate in the management or affairs of the Company, including the right to vote on, consent to or otherwise participate in any decision of the Members or Operating Managers.

ARTICLE II Organization of the Company

SECTION 2.1 The purpose of the Company is to conduct any lawful business for which limited liability companies may be organized and to do all things necessary or useful in connection with the foregoing.

SECTION 2.2 The Company name shall be "Elmira Eastowne Mall, LLC".

SECTION 2.3 The Members shall be Members in the Company and shall continue to do business under the name of the Company until the Operating Manager's shall change the name or the Company shall terminate.

SECTION 2.4 The principal address of the Company shall be such place or places as the Operating Manager's may determine. The Operating Manager's will give notice to the Member's promptly after any change in the location of the principal office of the Company. The initial address of the Company shall be c/o Dana E. Barnes, 16 William F. Palmer Road, Moodus, CT 06469.

SECTION 2.5 The Company shall terminate on the date provided in the Articles of Organization or on December 31, 2050, whichever is later, except that the Company may terminate prior to such date as provided in this Agreement.

ARTICLE III Status of Members

SECTION 3.1 No Member will be bound by, or be personally liable for the expenses, liabilities or obligations of the Company.

SECTION 3.2 No Member will be entitled to withdraw any part of his Capital Account or to receive any distributions from the Company except as expressly provided in this Agreement.

SECTION 3.3 No Member will have the right to require partition of the Company property or to compel any sale or appraisal of the Company's assets or any sale of a deceased Member's interest in the Company's assets, notwithstanding any provisions of law to the contrary.

ARTICLES IV Meeting of Members

SECTION 4.1 An annual meeting of Members shall be held within five (5) months after the close of the fiscal year of the Company on such date and at the time and place (either within or without the state of its organization) as shall be fixed by the members. At the annual meeting, the members shall elect the Operating Managers and transact such other business as may properly be brought before the meeting.

SECTION 4.2 A special meeting of Members may be called at any time by the Operating Managers and shall be called by the Operating Managers at the request in writing of that Membership interest specified in Schedule B of the Members entitled to vote at such meeting. Any such request shall state the purpose or purposes of the proposed meeting. Business transacted at any special meeting of Members shall be confined to the purposes set forth in the notice thereof.

SECTION 4.3 Written notice of the time, place and purpose of every meeting of Members (and, if other than an annual meeting, the person or persons at whose direction the meeting is being called), shall be given by the Operating Managers to each Member of record entitled to vote at such meeting, not less than ten nor more than thirty days prior to the date set for the meeting. Notice shall be given either personally or by mailing said notice by first class mail to each Member at his address appearing on the record book of the Company or at such other address supplied by him in writing to the Operating Managers of the Company for the purpose of receiving notice.

A written waiver of notice setting forth the purposes of the meeting for which notice is waived, signed by the person or persons entitled to such notice, whether before or after the time of the meeting stated therein, shall be deemed equivalent to the giving of such notice. The attendance by a Member at a meeting either in person or by proxy without protesting the lack of notice thereof shall constitute a waiver of notice of such Member.

All notices given with respect to an original meeting shall extend to any and all adjournments thereof and such business as might have been transacted at the original meeting may be transacted at any adjournment thereof; no notice of any adjourned meeting need be given if an announcement of the time and place of the adjourned meeting is made at the original meeting.

SECTION 4.4 The holders of a majority in interest of the Members present in person or represented by proxy, shall be requisite and shall constitute a quorum at all meetings of members except as otherwise provided by statute or the Articles of Organization. If, however, a quorum shall not be present or represented at any meeting of Members, the Members entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. When a quorum is once present to organize a meeting, such quorum is not deemed broken by the subsequent withdrawal of any Members.

SECTION 4.5 Every Member entitled to vote at any meeting shall be entitled to vote in accordance with his membership interest in the Company held by him of record on the date fixed as the record date for said meeting and may so vote in person or by proxy. Any Company action shall be authorized by a majority in interest of the votes cast by the Members entitled to vote thereon except as may otherwise be provided by statute, the Articles of Organization or this Operating Agreement.

SECTION 4.6 Every proxy must be signed by the Member entitled to vote or by his duly authorized attorney-in-fact and shall be valid only if filed with the Operating Managers of the Company prior to the commencement of voting on the matter in regard to which said proxy is to be voted. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise expressly provided in the proxy. Every proxy shall be revocable at the pleasure of the person executing it

except as otherwise provided by statute. Unless the proxy by its terms provides for a specific revocation date and except as otherwise provided by statute, revocation of a proxy shall not be effective unless and until such revocation is executed in writing by the Member who executed such proxy and the revocation is filed with the Operating Managers of the Company prior to the voting of the proxy.

SECTION 4.7 All meetings of Members shall be presided over by the Operating Managers, or if not present, by a Member thereby chosen by the Members at the meeting. The Operating Managers or the person presiding at the meeting shall appoint any person present to act as secretary of the meeting.

SECTION 4.8 For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof or to express consent or dissent from any proposal without a meeting, or for the purpose of determining the Members entitled to receive payment of any distribution of Cash Flow or the allotment of any rights, or for the purpose of any other action, the Members may fix, in advance, a date as the record date for any such determination of Members. Such date shall not be less than ten days before the date of any meeting nor more than fifty days prior to any action taken without a meeting, the payment of any distribution of Cash Flow or the allotment of any rights, or any other action. When a determination of Members of record entitled to notice of, or to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof, unless the Members fix a new record date under this Section for the adjourned date.

SECTION 4.9 The Company shall be entitled to treat the holder of record of any Membership Interest as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Membership Interest on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the Act.

ARTICLE V Management

SECTION 5.1 Management of the Company shall be vested in the Operating Managers of the Company who initially be as follows:

1. Dana E. Barnes, 16 William F. Palmer Rd, Moodus, CT 06469
2. Michael J. Kuziak, 15 Lewis St, Hartford, CT 06103

No Member will take part in or interfere in any manner with the conduct or control of the business of the Company or have any right or authority to act for or bind the Company except as provided in this Agreement.

SECTION 5.2 The Operating Managers shall hold office for a term of one year and until a successor has been elected and qualified. A vacancy in the office of Operating Manager arising from any cause may be filled for the unexpired portion of the term by the Members.

SECTION 5.3 Any Operating Manager may resign at any time by giving written notice to the Members. Any such resignation shall take effect at the time specified therein or, if the time is not specified therein, upon the receipt thereof, irrespective of whether any such resignations shall have been accepted.

SECTION 5.4 The Company shall be managed by the Operating Managers and the conduct of the Company's business shall be controlled and conducted solely and exclusively by the Operating Managers in accordance with this Agreement. In addition to and not in limitation of any right and powers conferred by law or other provisions of this Agreement, the Operating Managers shall have and may exercise on behalf of the Company all powers and rights necessary, proper, convenient or advisable to

effectuate and carry out the purposes, business and objectives of the Company, and to maximize Company profits. Such powers shall include, without limitation, the following:

- A. To open accounts and deposit and maintain funds in the name of the Company in banks or savings and loan associations;
- B. To determine the appropriate accounting method or methods to be used by the Company;
- C. To commence lawsuits and other proceedings;
- D. To retain accountants; attorneys or other agents to act on behalf of the Company;
- E. To execute, acknowledge, and deliver any and all instruments to effectuate the foregoing, and to take all such action in connection therewith as the Operating Managers deem necessary or appropriate.
- F. To make any decision regarding any employee.

SECTION 5.5 Notwithstanding the foregoing, the Operating Managers may not make any of the following management decisions without obtaining the consent of a majority interest of the Members:

- A. To admit a person as a Member (which shall require unanimous consent in accordance with Section 9 1)
- B. To acquire, sell, assign, or otherwise transfer any interest in any property;
- C. To create any indebtedness for borrowed money whether or not secured;
- D. To make, execute or deliver on behalf of the Company any assignment for the benefit of creditors or any guarantee, indemnity bond, or surety bond;
- E. To obligate the Company or any Member as a surety, guarantor or accommodation party to any obligation;
- F. To confess any judgment on behalf of the Company;
- G. To do any act which makes it impossible to carry on the ordinary business of the Company;
- H. To obligate the Company in any manner for a liability in excess of \$10,000;
- I. To approve the dissolution of Company;
- J. To approve the merger of the Company with another limited liability company;
- K. To adopt, amend, restate or revoke the Articles of Organization, subject to this Agreement and the Act.

SECTION 5.6 The Operating Managers shall serve as Tax Matters Members as such term is defined in Code Section 6231 (a)(7).

SECTION 5.7 Any person made or threatened to be made a party to an action or proceeding, whether civil or criminal, by reason of the fact that he, his testator or intestate, then, is, or was a Manager, Member, employee or agent of the Company, or then serves or has served on behalf of the Company in any capacity at the request of the Company, shall be indemnified by the Company against reasonable expenses, judgments, fines and amounts actually and necessarily incurred in connection with the defense of such action Or proceeding or in connection with an appeal therein, to the fullest extent permissible by the Act. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled.

ARTICLE VI Capital

SECTION 6.1 The Members have contributed to the Company in exchange for their Membership Interests, the cash and other property as set forth on Schedule A, annexed hereto.

SECTION 6.2 The fair market value and the adjusted basis of the contributing Member of any property other than cash contributed to the Company by a Member shall be set forth on Schedule A, annexed hereto, if applicable.

SECTION 6.3 Except as expressly provided in this Agreement, no Member shall be required to make any additional contributions to the capital of the Company.

SECTION 6.4 No interest shall be paid on the Capital Account of any Member.

SECTION 6.5 A Capital Account shall be established for each Member on the books and records of the Company. If any assets of the Company are distributed to the Members in kind, the Capital Accounts of the Members shall be adjusted to reflect the difference between the fair market value of such assets on the date of distribution and the basis of the Company in such assets.

SECTION 6.6 The Operating Managers may determine from time to time that a Capital Call is necessary or appropriate in connection with the conduct of Company business (including without limitation, expansion or diversification or to meet operating deficits). Such Capital Call shall be funded by each Member on a pro rata basis. Any such Capital Call shall be solely voluntary, but if not advanced to the Company within thirty (30) of notice, that Member shall be termed the "Defaulting Member". If the Defaulting Member chooses not to advance the funds within said thirty (30) days, any other Member may, at his election, advance (the "Advance") on behalf of the Defaulting Member, the defaulting Member's share of such additional Capital Contribution. Said Advance shall be treated as a loan from the Non-Defaulting Member. If the Non-Defaulting Member's loan is not repaid within one (1) year at 12.00% interest, then the Non-Defaulting Member may convert such Advance to a Capital Contribution and elect to dilute the interest of the Defaulting Member by the amount owed. In such an event, the interest of the Defaulting Member shall be decreased proportionately, and the interest of the Non-Defaulting Member shall be increased proportionately. Said decrease and increase shall be based upon each Member's proportion of the total amount of the Capital Contribution of the Company. The Defaulting Member may repay its Advance at any time for up to one (1) year, provided all amounts due for the Advance and Interest are paid in full to the Non-Defaulting Member.

ARTICLE VII Distributions of Cash

SECTION 7.1 At the discretion of the Operating Managers, the Company shall distribute to the Members from time to time all cash (regardless of the source thereof) of the Company which is not required for the operation or the reasonable working capital requirements of the Company (such cash is

sometimes referred to herein as "Cash Flow"). For purposes of this Agreement all Cash Flow allocated to the Members shall be allocated among them in proportion to their respective Membership Interests.

SECTION 7.2 Distributions of Cash Flow shall be made from time to time in such manner as determined by the Operating Managers.

ARTICLE VIII Profits and Losses

SECTION 8.1 The Net Profits and Net Losses of the Company shall be the net profits and net losses of the Company as determined for Federal income tax purposes.

SECTION 8.2 The Net Profits and Net Losses of the Company and each item of income, gain, loss, deduction or credit entering into the computation thereof, shall be allocated to the Members in the same proportions that they share in distributions of Cash Flow pursuant to Section 7.1, or if there is no Cash Flow, that they would have shared if there had been Cash Flow.

SECTION 8.3 References herein to "Reg. Sec.", are to the regulations promulgated by the United States Treasury Code. The terms "minimum gain", "minimum gain chargeback", "qualified income offset", "nonrecourse deduction" and "nonrecourse liability" are to be interpreted consistent with the definitions and use of such terms in Reg. Sec. 1.704-2 and Reg. Sec. 1.704-1. The following special allocations shall be made in the following order:

- A. Except as otherwise set forth in Reg. Sec. 1.704-2(f), if there is a net decrease in minimum gain, during the fiscal year of the Company, each Member, shall be specially allocated items of gross income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to that Member's share of the net decrease of minimum gain determined, in accordance with Reg. Sec. 1.704-2(g). Allocations in accordance with this Section shall be made first from the disposition of Company assets subject to nonrecourse liabilities, to the extent of the minimum gain attributable to those assets, and thereafter, from a pro-rata portion of the Company's other items of income and gain for the taxable year. This Section is intended to comply with the minimum gain chargeback requirement of Reg. Sec. 1.704-2(f).
- B. Except as otherwise set forth in Reg. Sec. 1.704-2(i)(4), if there is a net decrease in a Member's nonrecourse liability minimum gain attributable to Members' nonrecourse liabilities during any fiscal year, each Member who has a share of the Member nonrecourse liability minimum gain attributable to Member nonrecourse liability shall be specially allocated items of gross income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to that Member's share of the net decrease in Members' nonrecourse debt minimum gain attributable to such Member nonrecourse debt. Allocations pursuant to this Section shall be made first from gain recognized from the disposition of Company assets subject to Member nonrecourse liabilities to the extent of Member minimum gain attributable to those assets, and thereafter, from a pro-rata portion of the Company's other items of income and gain for the fiscal year. This section is intended to comply with the minimum gain chargeback requirements of Reg. Sec. 1.704-2(1).
- C. A Member who unexpectedly receives an adjustment, allocation or distribution described in (4), (5) or (6) of Reg. Sec. 1.704-1 (b)(2)(ii)(d) will be allocated items of income and gain in an amount and manner sufficient to eliminate such deficit balance as quickly as possible. An allocation shall be made pursuant to this Section and if and to the extent a Member would have a deficit in his adjusted Capital Account after all other allocations

provided for in this Section 8.3 were made as if this paragraph were not in the Agreement.

- D. Nonrecourse deductions shall be allocated among the Members in the same proportion in which they share the Cash Flow of the Company.
- E. Any nonrecourse deduction shall be allocated to any Member who bears the economic risk of loss with respect to the Member nonrecourse liability to which such deduction is attributable.

SECTION 8.4 Any Company gain or loss realized with respect to property, other than money, contributed to the Company by a Member shall be shared among the Members pursuant to Code section 704(c) and regulations to be promulgated thereunder so as to take account of the difference between the Company basis and the fair market value of the property at the time of the contribution ("built-in gain or loss"). Such built-in gain or loss shall be allocated to the contributing Member upon the disposition of the property.

ARTICLE IX Transferability

SECTION 9.1 A Member who wishes to transfer his interest in the Company ("Selling Member") shall first give each other Member ("Buying Member") the exclusive right to purchase the Selling Member's interest. If the parties can not agree on a price, the Selling Member may market for sale his membership interest. Upon receiving a bona fide third party offer acceptable in writing by the Selling Member, the Selling Member must again offer the "Buying Member" the opportunity to buy the Selling Member's membership interest at the same terms and conditions as offered by the third party offer. The Buying Member shall have thirty (30) days to purchase the Selling Member's membership interest under said terms. If the Buying Member elects not to purchase the Selling Member's membership interest under those terms, the Selling Member may consummate the sale to the third party and said third party shall be entitled to receive the share of profits, losses and Cash Flow or other compensation by way of income and the return of contributions to which the transferor otherwise would be entitled. The transferee, however, shall have no voting privileges or other control over the running of the Company as those privileges shall be transferred to the remaining Members.

Notwithstanding the foregoing, a Member may transfer his Economic Interests to any entity controlled by said Member without the consent of the other Members. Said transfer of Economic Interests shall be for estate planning and other similar circumstances. Said recipient(s) of Member's Economic Interests shall have no voting privileges or other control of the affairs of the Company as those privileges shall stay with the transferring Member.

SECTION 9.2 The Members agree to sign such additional documents as may be required in order to admit additional Members to the Company, pursuant to section 9.1 as well as, among other things, to provide for the division of profits, losses and Cash Flow among the Members.

SECTION 9.3 All costs and expenses incurred by the Company in connection with the assignment of a Member's interest, including any filing fees and publishing costs and the fees and disbursements of counsel, shall be paid by the assigning Member.

SECTION 9.4 Each person who becomes a Member in the Company, by becoming a Member, shall and does hereby ratify and agree to be bound by the terms and conditions of this Agreement.

ARTICLE X

Termination or Dissolution of Company

SECTION 10.1 The Company shall be terminated prior to the date of expiration of the term as provided in Section 2.5 if (a) a majority in interest of the Members consent that the Company should be terminated and dissolved, or (b) the Company is dissolved pursuant to this Agreement.

SECTION 10.2 The Company shall be terminated in the event any Member (i) withdraws, resigns or is expelled from the Company; (ii) makes an assignment for the benefit of creditor's, is the subject of an order for relief under Title 11 of the United States Code, files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation, files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature, seeks, consents to, or acquiesces in the appointment of a trustee, receiver or liquidator for all or any substantial part of his properties; (iii) dies; or (iv) a judgment is entered by a court of competent jurisdiction adjudicating him incompetent to manage his person or his property.

SECTION 10.3 If the Company is dissolved or terminated, the owners of a majority in interest of the remaining Member's may elect to reconstitute and continue the Company as a Successor Company upon the same conditions as are set forth in this Agreement. Any such election to continue the Company will not result in the creation of a new Company among the remaining Members, nor will such election require the amendment of this Agreement or the execution of an amended Agreement.

SECTION 10.4 Upon the termination and dissolution of the Company, the then Operating Manager, or Operating Managers, if any, or, if there is no Operating Manager, any person elected to perform such liquidation by the written consent of the owners of a majority in interest of the Members, shall proceed to the liquidation of the Company. The proceeds of such liquidation shall be applied and distributed as follows:

- A. If any assets of the Company are to be distributed in kind, such assets shall be distributed on the basis of the fair market value thereof, and any Member entitled to any interest in such assets shall receive such interest therein as a tenant-in-common with all other Members so entitled. The fair market value of such assets shall be determined by an independent appraiser to be selected by the Company's independent public accountants. The amount by which the fair market value of any property to be distributed in kind to the Members exceeds or is less than the basis of such property, shall, to the extent not otherwise recognized by the Company, be taken into account in computing Net Profits or Net Losses (and shall be allocated among the Members in accordance with Section 8.2) for purposes of crediting or charging the Capital Accounts of, and liquidating distributions to, the Members under Section 10.4.B.
- B. All distributions upon liquidation of the Company shall be distributed as follows: to each of the members, in proportion to the amounts of their respective positive Capital Accounts, as such accounts have been adjusted (i) in accordance with Section 6.5 to reflect the Net Profit or Net Loss realized or incurred upon the sale of the Company's property or assets and any deemed sale pursuant to Section 10.4.A; (ii) in accordance with Section 8.2 to reflect all Net Profits or Net Losses with respect to the year of liquidation. No member shall be liable to repay the negative amount of his Capital Account.

SECTION 10.5 Each of the Members shall be furnished with a statement, reviewed by the Company's independent public accountants, which shall set forth the assets and liabilities of the Company as of the date of the Company's liquidation. Upon completion of the liquidation, the Operating Manager shall execute and cause to be filed Articles of Dissolution of the Company and any and all other documents necessary with respect to termination of the Company.

ARTICLE XI
Books and Reports

SECTION 11.1 The Operating Managers shall cause the Company to maintain the following records:

- A. Complete and accurate books of account, in which shall be entered, fully and accurately, each and every transaction of the Company, shall be kept by the Operating Managers at the principal office of the Company. The fiscal year of the Company shall be the calendar year. The books of account of the Company shall be kept in accordance with sound accounting practices and principles applied in a consistent manner by the Company; provided, however, that all methods of accounting and treating particular transactions shall be in accordance with the methods of accounting employed for Federal income tax purposes. All determinations by the Operating Managers with respect to the treatment of any item or its allocation for Federal, state or local tax purposes shall be binding upon all the Members unless the determination is inconsistent with any express provision of this Agreement.
- C. A current list of the full name and last known mailing address of each Member set forth in alphabetical order together with the contribution and share in profits and losses of each Member; a copy of the Articles of Organization of the Company and any amendments thereto; a copy of the Company Operating Agreement and any amendments thereto; a copy of the Company's federal, state and local income tax returns for the three most recent fiscal years.
- D. Any Member shall have the right from time to time at his expense to have his accountants and representatives examine and/or audit the books and records of the Company and the information referred to in this Section, and the Operating Managers will make such books and records and information available for such examinations and/or audits.

SECTION 11.2 No value shall be placed for any purpose upon the Company name or the right to its use, or upon the goodwill of the Company or its business upon termination or dissolution of the Company (without reconstitution thereof) as provided in this Agreement, neither the Company name or the right to its use, nor the goodwill of the Company, shall be considered as an asset of the Company.

SECTION 11.3 The Operating Managers will cause to be sent to the Members within a reasonable period after the close of each year the following: (a) annual statements of the Company's gross receipts and operating expenses, and the capital accounts of each Member, prepared by the Company's independent public accountants; to be transmitted to each Member; and (b) a report to be transmitted to each Member indicating the Member's share of the Company's profit or loss for that year and the Member's allocable share of all items of income, gain, loss, deduction, and credit, for Federal income tax purposes.

ARTICLE XII
Tax Elections

SECTION 12.1 In the event of a transfer of a Member's interest, or upon the death of a Member, or in the event of the distribution of Company property to any party hereto, the Company may (but need not necessarily) file an election, in accordance with Section 754 of the Code to cause the basis of the Company property to be adjusted for Federal income tax purposes, as provided by Sections 734 and 743 of the Code.

ARTICLE XIII
Miscellaneous

SECTION 13.1 Any notice or other communication under this Agreement shall be in writing and shall be considered given when mailed by registered or certified mail, return receipt requested, to the parties at the following addresses (or at such other address as a party shall have previously specified by notice to the others as the address to which notice shall be given to him):

- A. If to the Company, to it in care of the Operating Managers at the address of the Company.
- B. If to the Operating Managers, to them at the address of the Company.
- C. If to any Member, to him at his address set forth on the books and records of the Company.

SECTION 13.2 This Agreement contains a complete statement of all of the arrangements among the parties with respect to the Company and cannot be changed or terminated orally or in any manner other than by a written agreement executed by all of the Members. There are no representations, agreements, arrangements or understandings, oral or written, between or among the parties relating to the subject matter of this Agreement which are not fully expressed in this Agreement.

SECTION 13.3 This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

SECTION 13.4 This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations of the jurisdiction in which the Company does business. If any provision of this Agreement, or the application thereof to any person or circumstance, shall for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected, but rather shall be enforced to the extent permitted by law.

SECTION 13.5 Anything hereinbefore in this Agreement to the contrary notwithstanding, all references to the property of the Company are deemed to include the profits, losses and Cash Flow of the property.

SECTION 13.6 Irrespective of the place of execution or performance, this Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed in the State of New York.

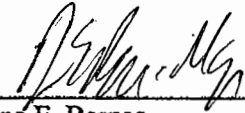
SECTION 13.7 The captions, headings and table of contents in this Agreement are solely for convenience of references and shall not affect its interpretation.

SECTION 13.8 This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall be deemed to constitute a single document.

SECTION 13.9 Whenever the context so requires, the male gender when used herein shall be deemed to include the female gender, the female gender shall be deemed to include the male gender, the singular shall be deemed to include the plural and the plural shall be deemed to include the singular.

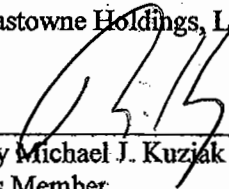
IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

Member: Clouded December, LLC



By Dana E. Barnes
Its Member

Member: Eastowne Holdings, LLC



By Michael J. Kuziak
Its Member

SCHEDULE A

In alphabetical order, list name of Member, Membership Interest, address, taxpayer identification number and amount of initial capital contribution:

Member: Clouded December, LLC
16 William F. Palmer Road
Moodus, CT 06469

Tax ID# 01-0650014

Membership Percentage Ownership - Eighty Percent (80.00%)

Initial Capital Contribution - \$420,000.00

Member: Eastowne Holdings, LLC
15 Lewis Street
Hartford, CT 06103

Tax ID# 082-44-5927

Membership Percentage Ownership - Twenty Percent (20.00%)

Initial Capital Contribution - \$105,000.00

EXHIBIT C

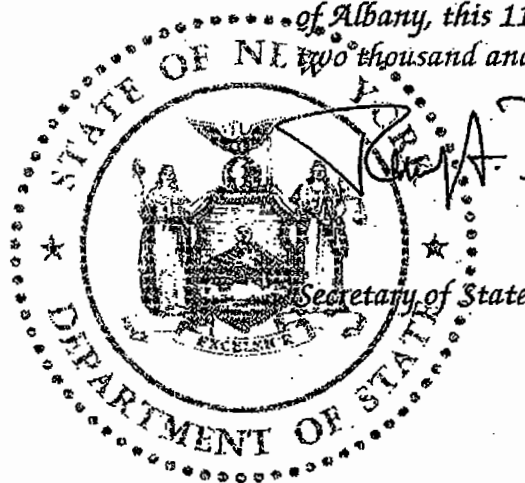
**CERTIFICATE OF GOOD STANDING
RELATING TO THE COMPANY**

State of New York | ss:
Department of State

I hereby certify, that ELMIRA EASTOWNE MALL, LLC a NEW YORK Limited Liability Company filed Articles of Organization pursuant to the Limited Liability Company Law on 02/07/2005, and that the Limited Liability Company is existing so far as shown by the records of the Department.

I further certify, that no other documents have been filed by such Limited Liability Company.

Witness my hand and the official seal
of the Department of State at the City
of Albany, this 11th day of April
two thousand and five.



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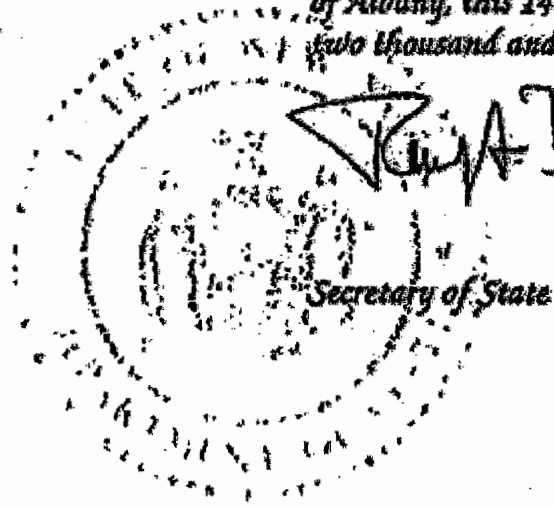
FAX NO.

State of New York | **ss:**
Department of State

I hereby certify, that **ELMIRA EASTONNE MALL, LLC** a **NEW YORK** Limited Liability Company filed Articles of Organization pursuant to the Limited Liability Company Law on **02/07/2005**, and that the Limited Liability Company is existing so far as shown by the records of the Department

I further certify, that no other documents have been filed by such Limited Liability Company.

Witness my hand and the official seal of the Department of State at the City of Albany, this 14th day of February, two thousand and five.



200502150529 51

Secretary of State

EXHIBIT D

RESOLUTION OF THE MEMBERS OF THE COMPANY

RESOLUTION

The undersigned, operating members of ELMIRA EASTOWNE MALL, LLC

DO HEREBY CERTIFY:

1. At a meeting of the Members of the above Limited Liability Company, duly called and held this day at which all members were present and acted throughout, the members unanimously adopted the following resolution, which has not been modified or rescinded:

RESOLVED, that the Company purchase the real property commonly known as The Eastowne Mall/Parking Facility, as more particularly shown on a survey map made by Weiler Associates under original date of September 24, 2004, Job No. 13322, from the City of Elmira for the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) and execute all of the necessary documents to effectuate the transfer of title; and be it further resolved that the Company finance same by paying Five Hundred Thousand Dollars (\$500,000.00) in cash, entering into a mortgage with Chemung Canal Trust Company secured by a Note giving Chemung Canal Trust Company a first lien on said real property in the amount of Seven Hundred Forty-five Thousand Dollars (\$745,000.00) and entering into a second mortgage with the City of Elmira secured by a Note giving the City of Elmira a second lien on said real property in the amount of Two Hundred Fifty-five Thousand Dollars (\$255,000.00); by entering into a Lease-Lease Back transaction and a PILOT Agreement with the Chemung County Industrial Development Agency; and either operating manager of the Company is authorized to sign the Notes, Mortgages and CCIDA documents and all related documents to perfect the two (2) mortgage liens and complete the transaction with the Chemung County Industrial Development Agency.

2. The undersigned operating managers are the sole managing members of Clouded December, LLC and Eastowne Holdings, LLC the sole members of Elmira Eastowne Mall, LLC.

IN WITNESS WHEREOF, the undersigned have hereto affixed their hands and seals of the above mentioned company this 2 day of ~~April~~, 2005.

August



Dana E. Barnes

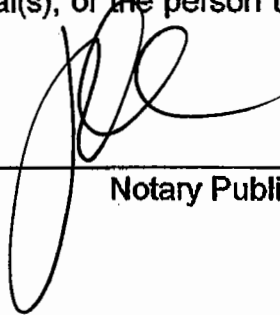


Michael J. Kuziak



STATE OF NEW YORK)
COUNTY OF CHEMUNG) ss.:

On the 2 day of AUGUST in the year 2005, before me, the undersigned, a notary public in and for said state, personally came Dana E. Barnes, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed this instrument.

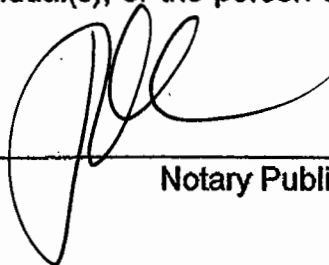


Notary Public

JOHN V. MOORE
Notary Public New York State
Chemung County 02M02759970
Commission Exp. Dec. 31, 2005

STATE OF NEW YORK)
COUNTY OF CHEMUNG) ss.:

On the 2 day of AUGUST in the year 2005, before me, the undersigned, a notary public in and for said state, personally came Michael J. Kuziak, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed this instrument.



Notary Public

JOHN V. MOORE
Notary Public New York State
Chemung County 02M02759970
Commission Exp. Dec. 31, 2005

EXHIBIT E

**PENDING LITIGATION
AFFECTING THE COMPANY**

PENDING LITIGATION

The undersigned, an operating manager of ELMIRA EASTOWNE MALL, LLC, hereby certifies there is no pending litigation in existence or threatened against or in favor of ELMIRA EASTOWNE MALL, LLC.

Dated: April 25, 2005



Dana E. Barnes

CLOSING ITEM NO.: C-1

GENERAL CERTIFICATE

OF

ELMIRA EASTOWNE MALL, LLC

This certificate is made in connection with the execution by Elmira Eastowne Mall, LLC (the "Company") of a lease agreement dated as of August 1, 2005 (the "Lease Agreement") by and between the Company and the Agency (as hereinafter defined), the Underlying Lease, the Memorandum of Underlying Lease, the Bill of Sale to Agency, the Memorandum of Lease Agreement, the Payment in Lieu of Tax Agreement, the Mortgage, (as each of said documents is defined in the Lease Agreement) and any other document to be executed by the Company (all of the preceding documents being collectively referred to as the "Company Documents") in connection with the undertaking by Chemung County Industrial Development Agency (the "Agency"), a public benefit corporation created pursuant to Chapter 1030 of 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 349 of the 1970 Laws of New York, as amended, constituting Section 896 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), of a project (the "Project") consisting of the following: A) (1) the acquisition of an interest in an approximately 2.6 acre parcel of land located at 150 Baldwin Street in the City of Elmira, Chemung County, New York (the "Land"), together with an existing building containing approximately 57,000 square feet of space and a three (3) story parking garage containing approximately 114,000 square feet of space located thereon (collectively, the "Facility") and (2) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment"), all the foregoing to be leased by the Company to Travelers Insurance Company and other tenants (collectively, the "Tenants") (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from sales taxes, real property transfer taxes, mortgage recording taxes and real estate taxes (collectively, the "Financial Assistance"); and (C) the lease of the Project Facility to the Company pursuant to the terms of the Lease Agreement.

Capitalized terms which are not otherwise defined herein shall have the meanings ascribed to them in the Lease Agreement, except that, for purposes of this certificate, (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date, and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

THE UNDERSIGNED OFFICER OF THE COMPANY HEREBY CERTIFIES THAT:

1. I am an officer of the Company and am duly authorized to execute and deliver this certificate in the name of and on behalf of the Company.

2. The Company (A) has been duly formed, is validly existing and is in good standing as a limited liability company under the laws of the State of New York with full legal power and authority to own its Property, conduct its business and execute, deliver and perform its obligations under the Company Documents and (B) has taken all actions and obtained all approvals required in connection therewith.

3. Attached hereto as Exhibit A is a true, correct and complete copy of the Articles of Organization of the Company, together with all amendments thereto, certified by the State of New York Department of State, Corporations Unit, as the same is in full force and effect on and as of the date of this certificate.

4. Attached hereto as Exhibit B is a true, correct and complete copy of the Operating Agreement of the Company, together with all amendments thereto, as the same is in full force and effect on and as of the date of this certificate.

5. Attached hereto as Exhibit C is a true, correct and complete copy of a certificate of good standing relating to the Company from the New York State Department of State, Corporations Unit.

6. Attached hereto as Exhibit D is a true, correct and complete copy of the resolution of the members of the Company (the "Company Resolution") approving and authorizing execution and delivery of the Company Documents. Such Company Resolution was duly adopted by the members of the Company, has not been amended or modified since its adoption and is in full force and effect on the date of this certificate in accordance with its terms.

7. Attached hereto as Exhibit E is a list of all material pending litigation relating to the Company. Except as set forth in Exhibit E, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body, pending or, to the best of our knowledge, threatened against or affecting the Company, (nor to the best of our knowledge is there any basis therefor), wherein an unfavorable decision, ruling or finding would adversely affect (A) the transactions contemplated by the Company Resolution, (B) the validity or the enforceability of the Company Resolution or the Company Documents or the transactions contemplated therein, (C) the organization or existence of the Company, or (D) the business, prospects, Property or condition of the Company.

8. I have been duly designated to act as an "Authorized Representative" of the Company pursuant to and in accordance with the provisions of the Lease Agreement.

9. There are no Liens against or overdue taxes, assessments, fees or other governmental charges payable by the Company to the United States, the State, or, to my knowledge, to any other state or municipality in the United States.

10. The execution, delivery and performance of all agreements, certificates and documents required to be executed, delivered and performed by the Company in order to carry out, give effect to and consummate the transactions contemplated by the Company Documents have been duly authorized by all necessary action of the Company. The Company Documents are in full force and effect on and as of the date hereof, and no authority for the execution, delivery or performance of the Company Documents has been repealed, revoked or rescinded.

11. The execution, delivery and performance of the Company Documents, the consummation of the transactions therein contemplated and compliance with the provisions of each by the Company do not and will not (A) violate the Company's Articles of Organization or Operating Agreement (B) require consent under (which has not heretofore been received) or result in a breach of or default under any credit agreement, purchase agreement, indenture, mortgage, deed of trust, commitment, guaranty, lease or other agreement or instrument to which the Company is a party or by which the Company may be bound or affected, or (C) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court, domestic or foreign, having jurisdiction over the Company or any of the Property of the Company.

12. The Company has duly authorized the taking of and has taken any and all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Company Documents.

13. No Event of Default specified in any of the Company Documents has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

14. Each of the representations and warranties of the Company contained in each of the Company Documents is true, accurate and complete on and as of the date of this certificate with the same force and effect as though such representations and warranties were made on and as of the date hereof.

15. The Company Documents have been each duly executed, acknowledged, where appropriate, and delivered on behalf of the Company by an authorized officer of the Company; the signature of said officer thereon is the genuine signature of said officer; and said executed Company Documents are in substantially the same form as the forms thereof presented to the members of the Company and approved by the Company Resolution.

16. The Company is not contemplating instituting bankruptcy, insolvency or any similar proceedings against itself.

17. The Company has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied by the terms of the Company Documents at or prior to the Closing Date.

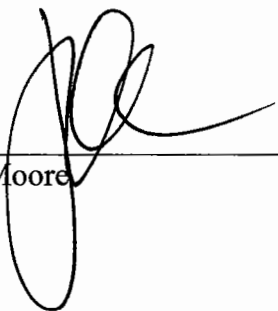
18. As of the Closing Date, there has been no material adverse change in the business, condition, Property or prospects (financial or otherwise) of the Company.

IN WITNESS WHEREOF, the undersigned has set his signature as an authorized officer of the Company this ____ day of August, 2005.

ELMIRA EASTOWNE MALL, LLC

BY:  _____
Authorized Officer

The undersigned, John V. Moore., counsel to the Company, hereby certifies that the signature of the officer of the Company subscribed to and contained in the foregoing General Certificate of the Company is true and genuine.

 _____
John V. Moore

Elmira Eastowne Mall, LLC 16 William F. Palmer Road Moodus, CT 06469 BORROWER'S NAME AND ADDRESS <small>"I" includes each borrower above, joint and severally.</small>	Chemung Canal Trust Company One Chemung Canal Plaza Elmira, NY 14901 LENDER'S NAME AND ADDRESS <small>"You" means the lender, its successors and assigns.</small>	Loan Number _____ Date <u>08/02/2005</u> Maturity Date <u>08/10/2020</u> Loan Amount \$ <u>745,000.00</u> Renewal Of _____
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For value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of **SEVEN HUNDRED FORTY FIVE THOUSAND AND 00/100** Dollars \$ **745,000.00**

- Single Advance:** I will receive all of this principal sum on 08/02/2005. No additional advances are contemplated under this note.
- Multiple Advance:** The principal sum shown above is the maximum amount of principal I can borrow under this note. On _____ I will receive the amount of \$ _____ and future principal advances are contemplated.
- Conditions:** The conditions for future advances are _____

- Open End Credit:** You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on _____.
- Closed End Credit:** You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from 08/02/2005 at the rate of 6.500 % per year until 04/18/2010.

- Variable Rate:** This rate may then change as stated below.
- Index Rate:** The future rate will be 1.750% above the following index rate: Wall St. Journal Prime Rate

- No Index:** The future rate will not be subject to any internal or external index. It will be entirely in your control.
- Frequency and Timing:** The rate on this note may change as often as every 60 months. A change in the interest rate will take effect immediately.
- Limitations:** During the term of this loan, the applicable annual interest rate will not be more than 16.000 % or less than _____ %.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

- The amount of each scheduled payment will change. The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a 365/360 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

- on the same fixed or variable rate basis in effect before maturity (as indicated above).
- at a rate equal to _____

- LATE CHARGE:** If a payment is made more than 10 days after it is due, I agree to pay a late charge of 4.000%

- ADDITIONAL CHARGES:** In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: _____

PAYMENTS: I agree to pay this note as follows:

- Interest:** I agree to pay accrued interest _____

- Principal:** I agree to pay the principal _____

- Installments:** I agree to pay this note in 180 payments. The first payment will be in the amount of \$ 6,536.22 and will be due 09/10/2005. A payment of \$ 6,536.22 will be due monthly thereafter.

The final payment of the entire unpaid balance of principal and interest will be due 08/10/2020

ADDITIONAL TERMS:

- SECURITY:** This note is separately secured by (describe separate document by type and date): Collateral Documents dated 08/02/2005

(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

Signature for Lender

PURPOSE: The purpose of this loan is Purchase the Eastowne Mall

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

Elmira Eastowne Mall, LLC

Dana E Barnes

Robert M Pichette
Assistant Vice President

UNIVERSAL NOTE

1984, 1991 Bankers Systems, Inc., St. Cloud, MN Form UN-NY 7/12/99

UNIVERSAL C-154(NY) (06-21-03)

UNIVERSAL MORTGAGE FORMS - (800)521-7291

COPY

(page 1 of 2)

DEFINITIONS: As used on page 1, "X" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW: The law of the state in which you are located will govern this note. Any term of this note which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE: The index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier. In the event that judgment is entered against me due to my default, I will pay interest on the judgment through the date of satisfaction of the judgment debt at the Post Maturity Rate or the statutory judgment rate, whichever is higher.

SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
- (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account, or to any account in which I have deposited (by way of direct deposit) social security or supplemental security income payments. Your right of set-off applies without prior demand, but you must send me notice of and the reasons for the set-off when you exercise your right.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree

to hold you harmless from any such claim arising as a result of your exercise of your right of set-off.

REAL ESTATE OR RESIDENCE SECURITY: If this note is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season if I am a producer of crops; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES: If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued charges).
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "Set-Off" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- (4) You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up your right to later use any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to later consider the event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

OBLIGATIONS INDEPENDENT: I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may do so without any notice that it has not been paid (notice of dishonor). You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

CREDIT INFORMATION: I agree and authorize you to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others your credit experience with me (such as a credit reporting agency). I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform you in writing of any change in my address. I will give any notice to you by mailing it first class to your address stated on page 1 of this agreement, or to any other address that you have designated.

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S INITIALS (not required)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST RATE	INTEREST PAYMENTS	INTEREST PAID THROUGH:
/ /	\$		\$	\$	%	\$	/ /
/ /	\$		\$	\$	%	\$	/ /
/ /	\$		\$	\$	%	\$	/ /
/ /	\$		\$	\$	%	\$	/ /
/ /	\$		\$	\$	%	\$	/ /
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/ /	\$		\$	\$	%	\$	/ /
/ /	\$		\$	\$	%	\$	/ /

MORTGAGE

THIS MORTGAGE made as of the 2nd day of August, 2005, from **ELMIRA EASTOWNE MALL, LLC**, a New York Limited Liability Corporation with an office at Moodus Professional Building, 16 William F. Palmer Road, Moodus, Connecticut, 06469 (the "**Mortgagor**"), and **CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation organized under the laws of the State of New York having an office for the transaction of business located at 400 East Church Street, P.O. Box 251, Elmira, New York (the "**Agency**"), to **CHEMUNG CANAL TRUST COMPANY**, a banking corporation organized and existing under the laws of the State of New York, having an office at One Chemung Canal Plaza, Elmira, New York 14901 (the "**Mortgagee**").

WITNESSETH :

WHEREAS, the Mortgagor is the owner of the real property described in Schedule A attached hereto (the "**Premises**").

NOW THEREFORE, to secure the payment of an indebtedness in the principal amount of Seven Hundred Forty Five Thousand and 00/100ths Dollars (\$745,000.00) lawful money of the United States of America to be paid with interest (said indebtedness, interest and all other sums which may or shall become due, collectively the "**Debt**") according to a certain note dated the date hereof given by the Mortgagor to the Mortgagee and any and all modifications, amendments, extensions, renewals, restatements, consolidations and replacements thereof (the "**Note**"), the Mortgagor has mortgaged, given, granted, bargained, sold, aliened, enfeoffed, conveyed, confirmed and assigned, and by these presents does mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm and assign unto the Mortgagee forever all right, title and interest of the Mortgagor now owned, or hereafter acquired, in and to the following property, rights and interest (such property, rights and interests, collectively, the "**Mortgaged Property**"):

- (a) The Premises;
- (b) all buildings and improvements now or hereafter located on the Premises (the "**Improvements**");
- (c) all of the estate, right, title, claim or demand of any nature whatsoever of the Mortgagor, either in law or in equity, in possession or expectancy, in and to the Mortgaged Property or any part thereof;
- (d) all easements, rights-of-way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Mortgaged Property (including, without limitation, any and all development rights, air rights or similar or comparable rights of any nature whatsoever now or hereafter appurtenant to the Premises or now or hereafter transferred to the Premises) and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises to the center line thereof;
- (e) all machinery, apparatus, equipment, fittings, fixtures and other property of every kind and nature whatsoever and all additions thereto and renewals and replacements thereof, and all substitutions therefor now owned or hereafter acquired by the Mortgagor, or in which the Mortgagor has or shall have an interest, now or hereafter located upon and attached to, any portion of the Mortgaged Property or appurtenances thereto, and used or usable in connection with the present or future operation and occupancy of the Mortgaged Property (collectively, the "**Equipment**");
- (f) all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Mortgaged Property, whether from the exercise of the right of eminent domain (including any transfer made in lieu of the exercise of said right), or for any other injury to or decrease in the value of the Mortgaged Property;
- (g) all leases and other agreements affecting the use or occupancy of the Mortgaged Property now or hereafter entered into (the "**Leases**") and the right to receive and apply the rents, issues and profits of the Mortgaged Property (the "**Rents**") to the payment of the Debt;

- (h) all right, title and interest of the Mortgagor in and to (i) all contracts from time to time executed by the Mortgagor or any manager or agent on its behalf relating to the ownership, construction, maintenance, repair, operation, occupancy, sale or financing of the Mortgaged Property or any part thereof and all agreements relating to the purchase or lease of any portion of the Mortgaged Property or any property which is adjacent or peripheral to the Mortgaged Property, together with the right to exercise such options and all leases of Equipment; (ii) all consents, licenses, building permits, certificates of occupancy and other governmental approvals relating to construction, completion, occupancy, use or operation of the Mortgaged Property or any part thereof; and (iii) all drawings, plans, specifications and similar or related items relating to the Mortgaged Property;
- (i) all trade names, trade marks, logos, copyrights, good will and books and records relating to or used in connection with the operation of the Mortgaged Property or any part thereof; all general intangibles related to the operation of the Mortgaged Property now existing or hereafter arising;
- (j) all proceeds, both cash and non-cash, of the foregoing;
- (k) all proceeds of and any unearned premiums on any insurance policies covering the Mortgaged Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof, for damage to the Mortgaged Property; and
- (l) the right, in the name and on behalf of the Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of the Mortgagee in the Mortgaged Property.

TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto and to the proper use and benefit of the Mortgagee, and the successors and assigns of the Mortgagee, forever.

AND the Mortgagor covenants and agrees with and represents and warrants to the Mortgagee as follows:

1. Payment of Debt.

The Mortgagor will pay the Debt at the time and in the manner provided for its payment in the Note and in this Mortgage.

2. Warranty of Title.

- (a) The Mortgagor warrants the title to the Premises, the Improvements, the Equipment. The Mortgagor also represents and warrants that it is now, and after giving effect to this Mortgage, will be in a solvent condition; (ii) the execution and delivery of this Mortgage by the Mortgagor does not constitute a "fraudulent conveyance" within the meaning of Title 11 of the United States Code as now constituted or under any other applicable statute; and (iii) no bankruptcy or insolvency proceedings are pending, or contemplated by or against the Mortgagor.
- (b) The Mortgagor additionally represents and warrants that it has full power, authority and legal right to execute this Mortgage, and to mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm and assign the Mortgaged Property pursuant to the terms hereof and to keep and observe all of the terms of this Mortgage on the Mortgagor's part to be performed.

3. Insurance.

The Mortgagor (a) will keep the Improvements and the Equipment insured against loss or damage by fire, standard extended coverage perils and such other hazards as the Mortgagee shall from time to time require in amounts approved by the Mortgagee, which amounts shall in no event be less than the outstanding principal balance of this Mortgage or exceed in the aggregate 100% of the full insurable value of the Improvements and the Equipment and shall be sufficient to meet all applicable co-insurance requirements, and (b) will maintain rental or business interruption insurance such other forms of insurance coverage with respect to the Mortgaged Property as the Mortgagee shall from time to time reasonably require in amounts approved by the Mortgagee. All policies of insurance (the "Policies") shall be issued by insurers having a minimum policy holders

rating of "A" per the latest rating publication of Property and Casualty Insurers by A.M. Best Company and who are lawfully doing business in New York and are otherwise acceptable in all respects to the Mortgagee. All Policies shall contain the standard New York mortgagee non-contribution clause endorsement or an equivalent endorsement satisfactory to the Mortgagee naming the Mortgagee as the person to which all payments made by the insurer thereunder shall be paid and shall otherwise be in form and substance satisfactory in all respects to the Mortgagee. Blanket insurance policies shall not be acceptable for the purposes of this paragraph unless otherwise approved to the contrary by the Mortgagee. The Mortgagor shall pay the premiums for the Policies as the same become due and payable. At the request of the Mortgagee, the Mortgagor will deliver the Policies to the Mortgagee. Not later than ten (10) days prior to the expiration date of each of the Policies, the Mortgagor will deliver to the Mortgagee a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment of premium satisfactory to the Mortgagee. If at any time the Mortgagee is not in receipt of written evidence that all insurance required hereunder is in force and effect, the Mortgagee shall have the right without notice in the event of a cancellation or threatened cancellation of a policy, or on five (5) days notice to the Mortgagor in any other event, to take such action as the Mortgagee deems necessary to protect its interest in the Mortgaged Property, including, without limitation, the obtaining of such insurance coverage as the Mortgagee in its sole discretion deems appropriate, and all expenses incurred by the Mortgagee in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by the Mortgagor to the Mortgagee upon demand. The Mortgagor shall at all times comply with and shall cause the Improvements and Equipment and the use, occupancy, operation, maintenance, alteration, repair and restoration thereof to comply with the terms, conditions, stipulations and requirements of the Policies. If the Premises, or any portion of the Improvements or the Equipment, is located in a Federally designated "special flood hazard area," in addition to the other Policies required under this paragraph, a flood insurance policy shall be delivered by the Mortgagor to the Mortgagee. If no portion of the Premises is located in a Federally designated "special flood hazard area" such fact shall be substantiated by a certificate in form satisfactory to the Mortgagee from a licensed surveyor, appraiser or professional engineer or other qualified person. If the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other property hazard or casualty, the Mortgagor shall give prompt notice thereof to the Mortgagee. Sums paid to the Mortgagee by any insurer may be retained and applied by the Mortgagee toward payment of the Debt whether or not then due and payable in such order, priority and proportions as the Mortgagee in its discretion shall deem proper or, at the discretion of the Mortgagee, the same may be paid, either in whole or in part, to the Mortgagor for such purposes as the Mortgagee shall designate. If the Mortgagee shall receive and retain such insurance proceeds, the lien of this Mortgage shall be reduced only by the amount thereof received and retained by the Mortgagee and actually applied by the Mortgagee in reduction of the Debt. The provisions of subsection 4 of Section 254 of the Real Property Law of New York covering the insurance of buildings against loss by fire shall not apply to this Mortgage.

4. **Payment of Taxes, etc.**

The Mortgagor shall pay all taxes, assessments, water rates, sewer rents and other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Premises, now or hereafter levied or assessed against the Mortgaged Property, and all insurance premiums, water rates and sewer rents (the "Taxes") prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof. The Mortgagor shall deliver to the Mortgagee, within thirty (30) days of payment/upon request, upon request, receipted bills, cancelled checks and other evidence satisfactory to the Mortgagee evidencing the payment of the Taxes prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof.

5. **Escrow Fund.**

At Mortgagee's option, in the event Mortgagor does not pay the Taxes when due or fails to provide Mortgagee with evidence of payment within ten (10) days of request, the Mortgagor will, at the option of the Mortgagee, pay to the Mortgagee on the first day of each calendar month one-twelfth of an amount (the "Escrow Fund") which would be sufficient to pay the Taxes payable, or estimated by the Mortgagee to be payable, during the ensuing twelve (12) months. The Mortgagee will apply the Escrow Fund to the payment of Taxes which are required to be paid by the Mortgagor pursuant to the provisions of this Mortgage. If the amount of the Escrow Fund shall exceed the amount of the Taxes payable by the Mortgagor pursuant to the provisions of this Mortgage, the Mortgagee shall, in its discretion, (a) return any excess to the Mortgagor; or (b) credit such excess against future payments to be made to the Escrow Fund. In allocating such excess, the Mortgagee may deal with the person shown on the records of the Mortgagee to be the owner of the Mortgaged Property. If the Escrow Fund is not sufficient to pay the Taxes, as the same become payable, the Mortgagor shall pay to the Mortgagee, upon request, an amount which the Mortgagee shall estimate as sufficient to make up the deficiency. Until expended or applied as above provided, any amounts in the Escrow Fund may be commingled with the general funds of the Mortgagee and shall constitute additional security for the Debt and shall not bear interest. Notwithstanding the foregoing provisions of this paragraph, the Mortgagee shall not exercise its option to require the

establishment of an Escrow Fund in accordance with the provisions of this paragraph unless and until the Mortgagor shall at any time fail to make prompt and timely payments and there exists a pattern of delinquencies with respect to the payment of the Taxes or the premiums or an Event of Default shall have occurred and be continuing.

6. Condemnation.

Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise, the Mortgagor shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and this Mortgage and the Debt shall not be reduced until any award or payment therefore shall have been actually received and applied by the Mortgagee to the discharge of the Debt. The Mortgagee may apply the entire amount of any such award or payment to the discharge of the Debt whether or not then due and payable in such order, priority and proportions as the Mortgagee in its discretion shall deem proper. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by the Mortgagee of such award or payment, the Mortgagee shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive such award or payment, or a portion thereof sufficient to pay the Debt, whichever is less. The Mortgagor shall file and prosecute its claim or claims for any such award or payment in good faith and with due diligence and cause the same to be collected and paid over to the Mortgagee. The Mortgagor hereby irrevocably authorizes and empowers the Mortgagee, in the name of the Mortgagor or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claim or claims. Although it is hereby expressly agreed that the same shall not be necessary in any event the Mortgagor shall, upon demand of the Mortgagee, make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning any such award or payment to the Mortgagee, free and clear of any encumbrances of any kind or nature whatsoever.

7. Leases and Rents.

Subject to the terms of this paragraph, the Mortgagee waives the right to enter the Mortgaged Property for the purpose of collecting the Rents, and grants the Mortgagor the right to collect the Rents. The Mortgagor shall hold the Rents, or an amount sufficient to discharge all current sums due on the Debt, in trust for use in payment of the Debt. The right of the Mortgagor to collect the Rents may be revoked by the Mortgagee upon any default by the Mortgagor under the terms of the Note or this Mortgage by giving notice of such revocation to the Mortgagor. Following such notice the Mortgagee may retain and apply the Rents toward payment of the Debt in such order, priority and proportions as the Mortgagee, in its discretion, shall deem proper, or to the operation, maintenance and repair of the Mortgaged Property, and irrespective of whether the Mortgagee shall have commenced a foreclosure of this Mortgage or shall have applied or arranged for the appointment of a receiver. The Mortgagor shall not, without the consent of the Mortgagee accept prepayments of installments of the Rents for a period of more than one (1) month in advance or further assign the whole or any part of the Rents, or make, or suffer to be made, any Leases or modify any Leases or cancel any Leases or modify or cancel any Leases. The Mortgagee shall have all of the rights against tenants of the Mortgaged Property as set forth in Section 291-f of the Real Property Law of New York. The Mortgagor shall (a) fulfill or perform each and every provision of the Leases on the part of the Mortgagor to be fulfilled or performed; (b) promptly send copies of all notices of default which the Mortgagor shall send or receive under the Leases to the Mortgagee; and (c) enforce, short of termination of the Leases, the performance or observance of the provisions thereof by the tenants thereunder. The Mortgagor shall from time to time, provide to the Mortgagee a complete and detailed leasing status report with respect to the Improvements, which leasing status report shall be in form and substance satisfactory in all respects to the Mortgagee. In addition to the rights which the Mortgagee may have herein, in the event of any default under this Mortgage, the Mortgagee, at its option, may require the Mortgagor to pay monthly in advance to the Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Mortgaged Property as may be in possession of the Mortgagor. Upon default in any such payment, the Mortgagor will vacate and surrender possession of the Mortgaged Property to the Mortgagee, or to such receiver, and, in default thereof, the Mortgagor may be evicted by summary proceedings or otherwise. Nothing contained in this paragraph shall be construed as imposing on the Mortgagee any of the obligations of the lessor under the Leases.

8. Maintenance of the Mortgaged Property.

The Mortgagor shall cause the Mortgaged Property to be maintained in good condition and repair and will not commit or suffer to be committed any waste of the Mortgaged Property. The Improvements and the Equipment shall not be removed, demolished or materially altered (except for normal replacement of the Equipment), without the prior written consent of the Mortgagee. The Mortgagor shall promptly comply with all existing and future governmental laws, orders, ordinances, rules and regulations affecting the Mortgaged Property, or any portion thereof or the use thereof. The Mortgagor shall promptly repair, replace or rebuild any part of the Mortgaged Property which may be damaged or destroyed by fire or other property hazard or casualty (including

any fire or other property hazard or casualty for which insurance was not obtained or obtainable) or which may be affected by any taking by any public or quasi-public authority through eminent domain or otherwise, and shall complete and pay for, within a reasonable time, any structure at any time in the process of construction or repair on the Premises. If such fire or other property hazard or casualty shall be covered by the Policies, the Mortgagor's obligation to repair, replace or rebuild such portion of the Mortgaged Property shall be contingent upon the Mortgagee paying the Mortgagor the proceeds of the Policies, or such portion thereof as shall be sufficient to complete such repair, replacement or rebuilding, whichever is less. The Mortgagor will not, without obtaining the prior consent of the Mortgagee, initiate, join in or consent to any private restrictive covenant, zoning ordinance, or other public or private restrictions, limiting or affecting the uses which may be made of the Mortgaged Property or any part thereof.

9. **Environmental Provisions.**

- (a) For the purposes of this paragraph the following terms shall have the following meanings: (i) the term "**Hazardous Material**" shall mean any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Requirement, or which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel fuel, another petroleum hydrocarbon product, asbestos, asbestos-containing materials or polychlorinated biphenyls; (ii) the term "**Environmental Requirements**" shall collectively mean all present and future laws, statutes, common law, ordinances, rules, regulations, orders, codes, licenses, permits, decrees, judgments, directives or the equivalent of or by any Governmental Authority and relating to or addressing the protection of the environment or human health; and (iii) the term "**Governmental Authority**" shall mean the Federal government, or any state or other political subdivision thereof, or any agency, court or body of the Federal government, any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.
- (b) The Mortgagor hereby represents and warrants to the Mortgagee that to the best of the Mortgagor's knowledge (i) no Hazardous Material is currently located at, in, on, under or about the Mortgaged Property in manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement; (ii) no releasing, emitting, discharging, leaching, dumping, disposing or transporting of any Hazardous Material from the Mortgaged Property onto any other property or from any other property onto or into the Mortgaged Property has occurred or is occurring in violation of any Environmental Requirement; (iii) no notice of violation, non-compliance, liability or potential liability, lien, complaint, suit, order or other notice with respect to the Mortgaged Property is presently outstanding under any Environmental Requirement, nor does the Mortgagor have knowledge or reason to believe that any such notice will be received or is being threatened; and (iv) the Mortgaged Property and the operation thereof are in full compliance with all Environmental Requirements.
- (c) The Mortgagor shall comply, and shall cause all tenants or other occupants of the Mortgaged Property to comply, in all respects with all Environmental Requirements, and will not generate, store, handle, process, dispose of or otherwise use, and will not permit any tenant or other occupant of the Mortgaged Property to generate, store, handle, process, dispose of or otherwise use, Hazardous Materials at, in, on, or about the Mortgaged Property in a manner that could lead or potentially lead to the imposition on the Mortgagor, the Mortgagee or the Mortgaged Property of any liability or lien of any nature whatsoever under any Environmental Requirement. The Mortgagor shall notify the Mortgagee promptly in the event of any spill or other release of any Hazardous Material at, in, on, under or about the Mortgaged Property which is required to be reported to a Governmental Authority under any Environmental Requirement, will promptly forward to the Mortgagee copies of any notices received by the Mortgagor relating to alleged violations of any Environmental Requirement or any potential liability under any Environmental Requirement and will promptly pay when due any fine or assessment against the Mortgagee, the Mortgagor or the Mortgaged Property relating to any Environmental Requirement. If at any time it is determined that the operation or use of the Mortgaged Property in violation of any applicable Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Mortgaged Property violates any applicable Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Mortgaged Property which, under any Environmental

Requirement, require special handling in collection, storage, treatment or disposal, or any form of cleanup or corrective action, the Mortgagor shall, within thirty (30) days after receipt of notice thereof from any Governmental Authority or from the Mortgagee, take, at the Mortgagor's sole cost and expense, such actions as may be necessary to fully comply in all respects with all Environmental Requirements, provided, however, that if such compliance cannot reasonably be completed within such thirty (30) day period, the Mortgagor shall commence such necessary action within such thirty (30) day period and shall thereafter diligently and expeditiously proceed to fully comply in all respects and in a timely fashion with all Environmental Requirements.

- (d) If the Mortgagor fails to timely take, or to diligently and expeditiously proceed to complete in a timely fashion, any such action described in clause (c) above, the Mortgagee may, in its sole and absolute discretion, make advances or payments toward the performance or satisfaction of the same, but shall in no event be under any obligation to do so. All sums so advanced or paid by the Mortgagee (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, and fines or other penalty payments) and all sums advanced or paid in connection with any judicial or administrative investigation or proceeding relating thereto, will immediately, upon demand, become due and payable from the Mortgagor and shall bear interest at the Default Rate from the date any such sums are so advanced or paid by the Mortgagee until the date any such sums are repaid by the Mortgagor to the Mortgagee. The Mortgagor will execute and deliver, promptly upon request, such instruments as the Mortgagee may deem useful or necessary to permit the Mortgagee to take any such action, and such additional notes and mortgages, as the Mortgagee may require to secure all sums so advanced or paid by the Mortgagee. If a lien is filed against the Mortgaged Property by any Governmental Authority resulting from the need to expend or the actual expending of monies arising from an action or omission, whether intentional or unintentional, of the Mortgagor or for which the Mortgagor is responsible, resulting in the releasing, spilling, leaking, leaching, pumping, emitting, pouring, emptying or dumping of any Hazardous Material into the waters or onto land located within or without the State where the Mortgaged Property is located, then the Mortgagor will, within thirty (30) days from the date that the Mortgagor is first given notice that such lien has been placed against the Mortgaged Property (or within such shorter period of time as may be specified by the Mortgagee if such Governmental Authority has commenced steps to cause the Mortgaged Property to be sold pursuant to such lien), either (i) pay the claim and remove the lien; or (ii) furnish a cash deposit, bond, or such other security with respect thereto as is satisfactory in all respects to the Mortgagee and is sufficient to effect a complete discharge of such lien on the Mortgaged Property.
- (e) *(Intentionally Omitted)*
- (f) If this Mortgage is foreclosed, or if the Mortgaged Property is sold pursuant to the provisions of this Mortgage, or if the Mortgagor tenders a deed or assignment in lieu of foreclosure or sale, the Mortgagor shall deliver the Mortgaged Property to the purchaser at foreclosure or sale or to the Mortgagee, its nominee, or wholly-owned subsidiary, as the case may be, in a condition that complies in all respects with all Environmental Requirements.
- (g) The Mortgagor will defend, indemnify, and hold harmless the Mortgagee, its co-lenders, participants, employees, agents, officers and directors, from and against any and all claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) arising out of, or in any way related to, (i) any breach by the Mortgagor of any of the provisions of this paragraph 9; (ii) the presence, disposal, spillage, discharge, emission, leakage, release or threatened release of any Hazardous Material which is at, in, on, under, about, from or affecting the Mortgaged Property, including, without limitation, any damage or injury resulting from any such Hazardous Material to or affecting the Mortgaged Property or the soil, water, air, vegetation, buildings, personal property, persons or animals located on the Mortgaged Property or on any other property or otherwise; (iii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Material; (iv) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such

Hazardous Material; or (v) any violation of any Environmental Requirement or any policy or requirement of the Mortgagee hereunder. The aforesaid indemnification shall, notwithstanding any exculpatory or other provision of any other document or instrument now or hereafter executed and delivered in connection with the loan evidenced by the Note and secured by this Mortgage, constitute the personal recourse undertakings, obligations and liabilities of the Mortgagor.

- (h) The obligations and liabilities of the Mortgagor under this paragraph 9 shall survive and continue in full force and effect and shall not be terminated, discharged or released, in whole or in part, irrespective of whether the Debt has been paid in full and irrespective of any foreclosure of this Mortgage, sale of the Mortgaged Property pursuant to the provisions of this Mortgage or acceptance by the Mortgagee, its nominee or affiliate of a deed or assignment in lieu of foreclosure or sale and irrespective of any other fact or circumstance of any nature whatsoever.

10. Estoppel Certificates.

The Mortgagor, within ten (10) days after request by the Mortgagee and at its expense, will furnish the Mortgagee with a statement, duly acknowledged and certified, setting forth the amount of the Debt and the offsets or defenses thereto, if any.

11. Transfer or Encumbrance of the Mortgaged Property.

- (a) Except as otherwise hereinafter specifically provided to the contrary in this paragraph, no part of the Mortgaged Property nor any interest of any nature whatsoever therein nor any interest of any nature whatsoever in any Guarantor (whether partnership, stock, equity, beneficial, profit, loss or otherwise) shall in any manner, directly or indirectly, be further encumbered, sold, transferred or conveyed, or permitted to be further encumbered, sold, transferred, assigned or conveyed without the prior consent of the Mortgagee, which consent in any and all circumstances may be withheld in the sole and absolute discretion of the Mortgagee. The provisions of the foregoing sentence of this paragraph shall apply to each and every such further encumbrance, sale, transfer, assignment or conveyance, regardless of whether or not the Mortgagee has consented to, or waived by its action or inaction its rights hereunder with respect to, any such previous further encumbrance, sale, transfer, assignment or conveyance, and irrespective of whether such further encumbrance, sale, transfer, assignment or conveyance is voluntary, by reason of operation of law or is otherwise made. Mortgagee consents to assignments of the Mortgaged Property, together with any interests therein and any interest of any Guarantor and/or Mortgagor, provided the same is made upon the written consent of lender prior to any such assignment, the Mortgagor consents to and pays a one percent (1%) assignment fee for each such assignment made and consented to by the Mortgagee, and the Mortgagee approves any assignment and any assignee of such right or interest in advance of such assignment, and in the sole discretion of the Mortgagee, together with any other reasonable terms and conditions that the Mortgagee may set prior to any of such assignment and in its sole discretion.
- (b) Anything contained in this paragraph 11 to the contrary notwithstanding, and provided that no default shall then exist hereunder be on the expiration of any applicable notice and/or grace period specified herein within which to cure such default, it shall not be a default hereunder if transfers of any Guarantor are made so long as the Mortgagor retains a controlling interest in such entity. A controlling interest shall be deemed to exist where the Mortgagor has the ability to elect a majority of the Board of Directors or other governing body of the entity and is entitled to a majority interest in the profits and losses of that entity.

12. Notice.

Any notice, request, demand, statement, authorization, approval or consent made hereunder shall be in writing and shall be hand delivered or sent by Federal Express, or other reputable courier service, or by postage pre-paid registered or certified mail, return receipt requested, and shall be deemed given (a) when received at the following addresses if hand delivered or sent by Federal Express, or other reputable courier service; and (b) three (3) business days after being postmarked and addressed as follows if sent by registered or certified mail, return receipt requested:

If to the Mortgagor: *Elmira Eastowne Mall, LLC*
~~Concord Equity Group, LLC~~ *PB*
Moodus Professional Building
16 William F. Palmer Road
Moodus, CT 06469
Attention Dana E. Barnes

With a copy to: Moore, Woodhouse & Pawlak
150 Lake Street
Elmira, New York 14901
Attention: John V. Moore, Esq.

If to the Agency: 400 East Church Street
P.O. Box 251
Elmira, New York 14902-0251

If to the Mortgagee: Chemung Canal Trust Company
One Chemung Canal Plaza
Elmira, New York 14901
Attention: Commercial Loan Department

With a copy to: Sayles & Evans
One West Church Street
Elmira, New York 14901
Attention: Anthony F. Pagano, Esq.

Each party may designate a change of address by notice to the other party, given at least fifteen (15) days before such change of address is to become effective.

13. Sale of Mortgaged Property.

If this Mortgage is foreclosed, the Mortgaged Property, or any interest therein, may, at the discretion of the Mortgagee, be sold in one or more parcels or in several interests or portions and in any order or manner.

14. Changes in Laws Regarding Taxation.

In the event of the passage after the date of this Mortgage of any law of the State of New York deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage, the Note or the Debt, the Mortgagor shall, if permitted by law, pay any tax imposed as a result of any such law within the statutory period or within fifteen (15) days after demand by the Mortgagee, whichever is less, provided, however, that if, in the opinion of the attorneys for the Mortgagee, the Mortgagor is not permitted by law to pay such taxes, the Mortgagee shall have the right, at its option, to declare the Debt due and payable on a date specified in a prior notice to the Mortgagor of not less than thirty (30) days.

15. No Credits on Account of the Debt.

The Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes assessed against the Mortgaged Property or any part thereof and no deduction shall otherwise be made or claimed from the taxable value of the Mortgaged Property, or any part thereof, by reason of this Mortgage or the Debt. If at any time this Mortgage shall secure less than all of the principal amount of the Debt, it is expressly agreed that any repayment of the principal amount of the Debt shall not reduce the amount of the lien of this Mortgage until the lien amount shall equal the principal amount of the Debt outstanding.

16. Offsets, Counterclaims and Defenses.

Any assignee of this Mortgage and the Note shall take the same free and clear of all offsets, counterclaims or defenses of any nature whatsoever which the Mortgagor may have against any assignor of this Mortgage and the Note, and no such offset, counterclaim or defense shall be interposed or asserted by the Mortgagor in any action or proceeding brought by any such assignee upon this Mortgage or the Note and any such right to interpose or assert any such offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Mortgagor.

17. Other Security for the Debt.

The Mortgagor shall observe and perform all of the terms, covenants and provisions contained in the Note and in all other mortgages and other instruments or documents evidencing, securing or guaranteeing payment of the Debt, in whole or in part, or otherwise executed and delivered in connection with the Note, this Mortgage or the loan evidenced and secured thereby.

18. Documentary Stamps.

If at any time the United States of America, any state thereof, or any governmental subdivision of any such state, shall require revenue or other stamps to be affixed to the Note or this Mortgage, the Mortgagor will pay for the same, with interest and penalties thereon, if any.

19. Right of Entry.

Upon prior notice, the Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property at all reasonable times.

20. Books and Records.

The Mortgagor will keep and maintain or will cause to be kept and maintained on a fiscal year basis in accordance with accounting practices consistently applied proper and accurate books, records and accounts reflecting all of the financial affairs of the Mortgagor and all items of income and expense in connection with the operation of the Mortgaged Property or in connection with any services, equipment or furnishings provided in connection with the operation of the Mortgaged Property, whether such income or expense be realized by the Mortgagor or by any other person whatsoever excepting lessees unrelated to and unaffiliated with the Mortgagor who have leased from the Mortgagor portions of the Mortgaged Property for the purpose of occupying the same. The Mortgagee shall have the right from time to time upon reasonable notice at all times during normal business hours to examine such books, records and accounts at the office of the Mortgagor or other person maintaining such books, records and accounts and to make copies or extracts thereof as the Mortgagee shall desire. The Mortgagor will furnish the Mortgagee (a) within one hundred twenty (120) days following each fiscal year, financial statements prepared by certified public accountant of the Mortgagor prepared on Mortgagee's standard form (or other form acceptable to the Mortgagee); (b) within ten (10) days after the request, such further detailed information covering the operation of the Mortgaged Property and the financial affairs of the Mortgagor or any affiliate of the Mortgagor as may be reasonably requested by the Mortgagee; and (c) such other information regarding Mortgagor's operations, business affairs and financial conditions as the Mortgagee may reasonably request, all in form and detail satisfactory to Mortgagee. Failure of Mortgagor to comply with the above requirements shall constitute a default under the terms herein.

21. Performance of Other Agreements.

The Mortgagor shall observe and perform each and every term to be observed or performed by the Mortgagor pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Mortgaged Property.

22. Events of Default.

The Debt shall become due at the option of the Mortgagee upon the occurrence of any one or more of the following events (herein collectively referred to as Events of Default):

- (a) if any portion of the Debt is not paid within five (5) days after notice by the Mortgagee to the Mortgagor that the same is past due;
- (b) if (except as specifically provided to the contrary in Paragraph 4 above) the Mortgagor shall fail to pay within twenty (20) days of notice and demand by the Mortgagee, any installment of any taxes or assessment against the Mortgaged Property for local improvements heretofore or hereafter laid, which assessment is or may become payable in annual or periodic installments and is or may become a lien on the Mortgaged Property;
- (c) if any Federal tax lien is filed against the Mortgagor, or the Mortgaged Property and the same is not discharged of record within thirty (30) days after the same is filed;

- (d) if without the consent of the Mortgagee (which consent in any and all circumstances may be withheld in the sole and absolute discretion of the Mortgagee) any part of the Mortgaged Property or any interest of any nature whatsoever therein or any interest of any nature whatsoever in the Mortgagor (whether partnership, stock, equity, beneficial, profit, loss or otherwise) is in any manner, by operation of law or otherwise, whether directly or indirectly, further encumbered, sold, transferred, assigned or conveyed and irrespective of whether any such further encumbrance, sale, transfer, assignment or conveyance is voluntary, by reason or operation of law or is otherwise made;
- (e) if without the consent of the Mortgagee any Improvement or the Equipment (except for the normal replacement of the Equipment) is removed, demolished or materially altered, or if the Mortgaged Property is not kept in good condition and repair;
- (f) if the Mortgagor shall fail to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the Mortgaged Property within three (3) months from the issuance thereof, or the time period set forth therein, whichever is less;
- (g) if the Insurance Policies are not kept in full force and effect, or if the Insurance Policies are not delivered to the Mortgagee upon request;
- (h) if on application of the Mortgagee two or more fire insurance companies lawfully doing business in the State of New York refuse to issue Policies;
- (i) if the Mortgagor shall fail to pay the Mortgagee on demand for all premiums and/or Taxes paid by the Mortgagee pursuant to this Mortgage, together with any late payment charge and interest thereon calculated at the Default Rate;
- (j) if (except as specifically provided to the contrary in Paragraph 7 above) without the consent of the Mortgagee any Leases are made, cancelled or modified or if any portion of the Rents is paid for a period of more than one (1) month in advance or if any of the Rents are further assigned;
- (k) if any representation or warranty of the Mortgagor, or in any certificate, report, financial statement or other instrument furnished in connection with the making of the Note or this Mortgage, shall prove false or misleading in any material respect;
- (l) if the Mortgagor shall make an assignment for the benefit of creditors;
- (m) if a court of competent jurisdiction enters a decree or order for relief with respect to the Mortgagor under Title 11 of the United States Code as now constituted or hereafter amended or under any other applicable Federal or state bankruptcy law or other similar law, or if such court enters a decree or order appointing a receiver, liquidator, assignee, trustee, sequestrator (or similar official) of the Mortgagor, or of any substantial part of their respective properties, or if such court decrees or orders the winding up or liquidation of the affairs of the Mortgagor;
- (n) if the Mortgagor files a petition or answer or consent seeking relief under Title 11 of the United States Code as now constituted or hereafter amended, or under any other applicable Federal or state bankruptcy law or other similar law, or if the Mortgagor consents to the institution of proceedings thereunder or to the filing of any such petition or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Mortgagor, or of any substantial part of their respective properties, or if the Mortgagor fails generally to pay its respective debts as such debts become due, or if the Mortgagor takes any action in furtherance of any action described in this subparagraph;
- (o) if the Mortgagor shall be in default beyond any applicable notice and/or grace period under the Note or under any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt, in whole or in part, or otherwise executed and delivered in connection with the Note, this Mortgage or the loan evidenced and secured thereby;

- (p) if the Mortgagor shall be in default beyond any applicable notice and/or grace period under any mortgage or deed of trust covering any part of the Mortgaged Property whether superior or inferior in lien to this Mortgage, and including, without limitation, any such mortgage or deed of trust now or hereafter held by the Mortgagee, or if the Mortgagor shall be in default beyond the expiration of any applicable notice and/or grace period therein expressly provided in respect of any other indebtedness (except consumer indebtedness) owed by the Mortgagor, to the Mortgagee or any other person or entity;
- (q) if the Mortgaged Property shall become subject (i) to any tax lien, other than a lien for local real estate taxes and assessments not due and payable; or (ii) to any lis pendens, notice of pendency, stop order, notice of intention to file mechanic's or materialman's lien, mechanic's or materialman's lien or other lien of any nature whatsoever and the same shall not either be discharged of record or in the alternative insured over to the satisfaction of the Mortgagee by the title company insuring the lien of this Mortgage within a period of thirty (30) days after notice that the same is filed or recorded, and irrespective of whether the same is superior or subordinate in lien or other priority to the lien of this Mortgage and irrespective of whether the same constitutes a perfected or inchoate lien or encumbered on the Mortgaged Property or is only a matter of record or notice;
- (r) if the Mortgagor shall continue to be in default under any of the other terms, covenants or conditions of this Mortgage for five (5) days after notice from the Mortgagee in the, case of any default which can be cured by the payment of a sum of money or for twenty (20) days after notice from the Mortgagee in the case of any other default, provided that if such default cannot reasonably be cured within such twenty (20) day period and the Mortgagor shall have commenced to cure such default within such twenty (20) day period and thereafter diligently and expeditiously proceeds to cure the same, such twenty (20) day period shall be extended for so long as it shall require the Mortgagor in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days;

23. Right to Cure Defaults.

If default in the performance of any of the covenants of the Mortgagor herein occurs, the Mortgagee may, at its discretion, remedy the same and for such purpose shall have the right to enter upon the Mortgaged Property or any portion thereof without thereby becoming liable to the Mortgagor or any person in possession thereof holding under the Mortgage. If the Mortgagee shall remedy such a default or appear in, defend, or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt, the costs and expenses thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this paragraph, shall be paid by the Mortgagor to the Mortgagee upon demand. All such costs and expenses incurred by the Mortgagee in remedying such default or in appearing in, defending, or bringing any such action or proceeding shall be paid by the Mortgagor to the Mortgagee upon demand, with interest (calculated for the actual number of days elapsed on the basis of a 360-day year) at a rate per annum equal to 5% plus the rate of interest provided in the Note (herein referred to as the Default Rate), provided, however, that the Default Rate shall in no event exceed the maximum interest rate which the Mortgagor may by law pay, for the period after notice from the Mortgagee that such costs or expenses were incurred to the date of payment to the Mortgagee. To the extent any of the aforementioned costs or expenses paid by the Mortgagee after default by the Mortgagor shall constitute payment of (a) Taxes, charges or assessments which may be imposed by law upon the Mortgaged Property; (b) premiums on insurance policies covering the Mortgaged Property; (c) expenses incurred in upholding the lien of this Mortgage, including, but not limited to, the costs and expenses of any litigation to collect the indebtedness secured by this Mortgage or to prosecute, defend, protect or preserve the rights and the lien created by this Mortgage; or (d) any amount, cost or charge to which the Mortgagee becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority; then, and in each such event, such costs, expenses and amounts, together with interest thereon at the Default Rate, shall be added to the indebtedness secured by this Mortgage and shall be secured by this Mortgage. Notwithstanding anything to the contrary contained in this Mortgage, the maximum amount of the principal indebtedness secured by this Mortgage at execution or which under any contingency may become secured by this Mortgage is Seven Hundred Forty Five Thousand and 00/100ths Dollars (\$745,000.00), plus all amounts expended by the Mortgagee after default by the Mortgagor, as hereinabove set forth in this paragraph.

24. Appointment of Receiver.

The Mortgagee, in any action to foreclose this Mortgage or upon the actual or threatened waste to any part of the Mortgaged Property or upon the occurrence of any default hereunder, shall be at liberty, without notice, to apply for the appointment of a receiver of the Rents, and shall be entitled to the appointment of such receiver as a matter of right, without regard to the value of the Mortgaged Property as security for the Debt, or the solvency or insolvency of any person then liable for the payment of the Debt.

25. Non-Waiver.

The failure of the Mortgagee to insist upon strict performance of any term of this Mortgage shall not be deemed to be a waiver of any term of this Mortgage. The Mortgagor shall not be relieved of the Mortgagor's obligation to pay the Debt at the time and in the manner provided for its payment in the Note and this Mortgage by reason of (a) failure of the Mortgagee to comply with any request of the Mortgagor to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt or any portion thereof; (b) the release, regardless of consideration, of the whole or any part of the Mortgaged Property or any other security for the Debt; or (c) any agreement or stipulation between the Mortgagee and any subsequent owner or owners of the Mortgaged Property or other person extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt or any portion thereof, without first having obtained the consent of the Mortgagor, and in the latter event, the Mortgagor shall continue to be obligated to pay the Debt at the time and in the manner provided in the Note and this Mortgage, as so extended, modified and supplemented, unless expressly released and discharged from such obligation by the Mortgagee in writing. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Mortgaged Property, the Mortgagee may release any person at any time liable for the payment of the Debt or any portion thereof or any part of the security held for the Debt and may extend the time of payment or otherwise modify the terms of the Note or this Mortgage, including, without limitation, a modification of the interest rate payable on the principal balance of the Note, without in any manner impairing or affecting this Mortgage or the lien thereof or the priority of this Mortgage, as so extended and modified, as security for the Debt over any such subordinate lien, encumbrance, right, title or interest. The Mortgagee may resort for the payment of the Debt to any other security held by the Mortgagee in such order and manner as the Mortgagee, in its discretion, may elect. The Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of the Mortgagee thereafter to foreclose this Mortgage. The Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every additional right and remedy now or hereafter afforded by law. The rights of the Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of the Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

26. Liability.

If the Mortgagor consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several.

27. Construction.

The terms of this Mortgage shall be construed in accordance with the laws of the State of New York.

28. Right of First Refusal.

In the event that Mortgagee desires to transfer, sell or assign the loan and/or obligation secured by herein, Mortgagor shall have a right of first refusal to purchase the same from Mortgagee for no less than the same terms and conditions as the Mortgagee would otherwise receive from such third party vendee or transferee. This privilege shall in no way act to obligate Mortgagee to accept any offers, or transfer, in whole or in part, the loan and/or any of the obligations of Mortgagor secured herein, and further, shall in no way operate to require Mortgagee to accept any repurchase of the loan and obligation secured hereby from the Mortgagor for any terms or conditions that the Mortgagee deems in its sole discretion to be inferior to any such third party offer for sale, transfer or assignment of the obligation, together with any rights of the Mortgagee, secured herein.

29. Further Acts, etc.

The Mortgagor will, at the cost of the Mortgagor, and without expense to the Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as the Mortgagee shall, from time to time, require for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby mortgaged or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this mortgage and, on demand, will execute and deliver and hereby authorizes the Mortgagee to execute in the name of the Mortgagor to the extent the Mortgagee may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien hereof upon the Mortgaged Property.

30. Headings, etc.

The headings and captions of various paragraphs of this Mortgage are for convenience of reference only and are not to be construed as defined or limiting, in any way, the scope or intent of the provisions hereof.

31. Filing of Mortgage, etc.

The Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage, and any security instrument creating a lien or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect, preserve and perfect the lien hereof upon, and the interest of the Mortgagee in, the Mortgaged Property. The Mortgagor will pay all filing, registration and recording fees, and all expenses incident to the preparation, execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property, and any instrument of further assurance, and all Federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property or any instrument of further assurance. The Mortgagor shall hold harmless and indemnify the Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making and recording of this Mortgage.

32. Usury Laws.

This Mortgage and the Note are subject to the express condition that at no time shall the Mortgagor be obligated or required to pay interest on the principal balance due under the Note at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate which the Mortgagor is permitted by law to contract or agree to pay. If by the terms of this Mortgage or the Note, the Mortgagor is at any time required or obligated to pay interest on the principal balance due under the Note at a rate in excess of such maximum rate, the rate of interest under the Note shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note.

33. Sole Discretion of Mortgagee.

Except as may otherwise be expressly provided to the contrary, wherever pursuant to the Note, this Mortgage, or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise with respect to the loan secured hereby, the Mortgagee exercises any right given to it to consent or not consent, or to approve or disapprove, or any arrangement or term is to be satisfactory to the Mortgagee, the decision of the Mortgagee to consent or not consent, or to approve or disapprove, or to decide that arrangements or terms are satisfactory or not satisfactory, shall be in the sole and absolute discretion of the Mortgagee and shall be final and conclusive.

34. Reasonableness.

If at any time the Mortgagor believes that the Mortgagee has not acted reasonably in granting or withholding any approval or consent under the Note, this Mortgage, or any other

document or instrument now or hereafter executed and delivered in connection therewith or otherwise with respect to the loan secured hereby, as to which approval or consent either (a) the Mortgagee has expressly agreed to act reasonably; or (b) absent such agreement, applicable law would nonetheless require the Mortgagee to act reasonably, then the Mortgagor's sole remedy shall be to seek injunctive relief or specific performance, and no action for monetary damages or punitive damages shall in any event or under any circumstance be maintained by the Mortgagor against the Mortgagee.

35. Recovery of Sums Required To Be Paid.

The Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

36. Actions and Proceedings.

The Mortgagee shall have the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of the Mortgagor, which the Mortgagee, in its discretion, determines should be brought to protect its interest in the Mortgaged Property.

37. Inapplicable Provisions.

If any term, covenant or condition of this Mortgage shall be held to be invalid, illegal or unenforceable in any respect, this Mortgage shall be construed without such provision.

38. Duplicate Originals.

This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to constitute but one and the same instrument.

39. Certain Definitions.

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided in this Mortgage, words used in this Mortgage shall be used interchangeably in singular or plural form and the word "**Mortgagor**" shall mean each the Mortgagor and any subsequent owner or owners of the Mortgaged Property or any part thereof or interest therein (excepting therefrom the word "Agency"); the word "**Mortgagee**" shall mean the Mortgagee or any subsequent holder of the Note; the word "**Note**" shall mean the Note or any other evidence of indebtedness secured by this Mortgage and any and all modifications, amendments, extensions, renewals, restatements, consolidations and replacements thereof; the word "**person**" shall include an individual, corporation, partnership, trust, limited liability company, unincorporated association, government, governmental authority, or other entity; the words "**Mortgaged Property**" shall include any portion of the Mortgaged Property or interest therein; and the word "**Debt**" shall mean all sums secured by this Mortgage; and the word "**default**" shall mean the occurrence of any default by the Mortgagor or other person in the observance or performance of any of the terms, covenants or provisions of the Note or this Mortgage on the part of the Mortgagor or such other person to be observed or performed without regard to whether such default constitutes or would constitute upon notice or lapse of time, or both, an Event of Default under this Mortgage. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

40. Waiver of Notice.

The Mortgagor shall not be entitled to any notices of any nature whatsoever from the Mortgagee except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by the Mortgagee to the Mortgagor, and the Mortgagor hereby expressly waives the right to receive any notice from the Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by the Mortgagee to the Mortgagor.

41. No Oral Change.

This Mortgage may only be modified, amended or changed by an agreement in writing signed by the Mortgagor and the Mortgagee, and may only be released, discharged or

satisfied of record by an agreement in writing signed by the Mortgagee. No waiver of any term, covenant or provision of this Mortgage shall be effective unless given in writing by the Mortgagee and if so given by the Mortgagee shall only be effective in the specific instance in which given. The Mortgagor acknowledges that the Note, this Mortgage, and the other documents and instruments executed and delivered in connection therewith or otherwise in connection with the loan secured hereby set forth the entire agreement and understanding of the Mortgagor and the Mortgagee with respect to the loan secured hereby and that no oral or other agreements, understanding, representation or warranties exist with respect to the loan secured hereby other than those set forth in the Note, this Mortgage and such other executed and delivered documents and instruments.

42. Absolute and Unconditional Obligation.

The Mortgagor acknowledges that the Mortgagor's obligation to pay the Debt in accordance with the provision of the Note and this Mortgage is and shall at all times continue to be absolute and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a defense to the Note or this Mortgage or the obligation of the Mortgagor thereunder to pay the Debt or the obligations of any other person relating to the Note or this Mortgage or the obligations of the Mortgagor under the Note or this Mortgage or otherwise with respect to the loan secured hereby, and the Mortgagor absolutely, unconditionally and irrevocably waives any and all right to assert any defense, setoff, counterclaim or crossclaim of any nature whatsoever with respect to the obligation of the Mortgagor to pay the Debt in accordance with the provisions of the Note and this Mortgage or the obligations of any other person relating to the Note or this Mortgage or obligations of the Mortgagor under the Note or this Mortgage or otherwise with respect to the loan secured hereby in any action or proceeding brought by the Mortgagee to collect the Debt, or any portion thereof, or to enforce, foreclose and realize upon the lien and security interest created by this Mortgage or any other document or instrument securing repayment of the Debt, in whole or in part, (provided, however, that the foregoing shall not be deemed a waiver of the Mortgagor's right to assert any compulsory counterclaim maintained in a court of the United States, or of the State of New York if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of the Mortgagor's right to assert any claim which would constitute a defense, setoff, counterclaim or crossclaim of any nature whatsoever against the Mortgagee in any separate action or proceeding).

43. Trust Fund.

Pursuant to Section 13 of the Lien Law of New York, the Mortgagor shall receive the advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of any improvement and shall apply such advances first to the payment of the cost of any such improvement on the Mortgaged Property before using any part of the total of the same for any other purpose.

44. Residential Property.

This Mortgage does not cover real property principally improved by one or more structures containing in the aggregate six (6) or less residential dwelling units having their own separate cooking facilities.

45. Waiver of Trial by Jury.

The Mortgagor hereby irrevocably and unconditionally waives, and the Mortgagee by its acceptance of the Note and this Mortgage irrevocably and unconditionally waives, any and all rights to trial by jury in any action, suit or counterclaim arising in connection with, out of or otherwise relating to the Note, this Mortgage any other document or instrument now or hereafter executed and delivered in connection therewith or the loan secured by this Mortgage.

46. Waiver of Statutory Rights.

The Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Property marshaled upon any foreclosure of the lien of this Mortgage and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. The Mortgagor hereby waives for itself and all who may claim through or under it, and to the full extent the Mortgagor may do so under applicable law, any and all rights of redemption from sale under any order of decree of foreclosure of this Mortgage or granted under any statute now existing or hereafter enacted.

47. Brokerage.

The Mortgagor covenants and agrees that no brokerage commission or other fee, commission or compensation is to be paid by the Mortgagee on account of the loan or other financing obligations evidenced by the Note and/or secured by this Mortgage and the Mortgagor agrees to indemnify the Mortgagee against any claims for any of the same.

48. Indemnity.

Anything in this Mortgage or the other Loan Documents to the contrary notwithstanding, the Mortgagor shall indemnify and hold the Mortgagee harmless and defend the Mortgagee at the Mortgagor's sole cost and expense against any loss or liability, cost or expense (including, without limitation, title insurance premiums and charges and reasonable attorneys' fees and disbursements of the Mortgagee's counsel, whether in-house staff, retained firms or otherwise), and all claims, actions, procedures and suits arising out of or in connection with (a) any ongoing matters arising out of the transaction contemplated hereby, the Debt, this Mortgage, the Note or any other document or instrument now or hereafter executed and/or delivered in connection with the Debt (the "**Loan Documents**") and/or the Mortgaged Property, including, but not limited to, all costs of reappraisal of the Mortgaged Property or any part thereof, whether required by law, regulation, the Mortgagee or any governmental or quasigovernmental authority; (b) any amendment to, or restructuring of, the Debt and this Mortgage, the Note or any of the other Loan Documents; and (c) any and all lawful action that may be taken by the Mortgagee in connection with the enforcement of the provisions of this Mortgage or the Note or any of the other Loan Documents, whether or not suit is filed in connection with the same, or in connection with the Mortgagor, any Guarantor and/or any partner, joint venturer, member or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding. All sums expended by the Mortgagee shall be payable on demand and, until reimbursed by the Mortgagor pursuant hereto, shall be deemed additional principal of the Debt and secured hereby and shall bear interest at the Default Rate. The obligations of the Mortgagor under this paragraph shall, notwithstanding any exculpatory or other provisions of any nature whatsoever set forth in the Loan Documents, constitute the personal recourse undertakings, obligations and liabilities of the Mortgagor.

49. Enforceability.

This Mortgage was negotiated in the State of New York, and made by the Mortgagor and accepted by the Mortgagee in the State of New York, and the proceeds of the loan secured hereby were disbursed from the State of New York, which State the parties agree has a substantial relationship to the parties and to the underlying transaction embodied hereby, and in all respects, including, without limiting the generality of the foregoing, matters of construction, validity and performance, this Mortgage and the obligations arising hereunder shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and performed in such State and any applicable laws of the United State of America, except with respect to the provisions hereof which relate to the realization upon the security covered by this Mortgage, in which case such provisions shall be governed by the State in which the Mortgaged Property is located, it being understood that, to the fullest extent permitted by the law of such State, the law of the State of New York shall govern the validity and enforceability of this Mortgage, the Note, and other documents executed and delivered in connection with the Debt, and the obligations arising hereunder and thereunder. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be unenforceable or prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such unenforceability, prohibition or invalidity, without invalidating the remaining provisions of this Mortgage.

50. Relationship.

The relationship of the Mortgagee to the Mortgagor hereunder is strictly and solely that of lender and borrower and mortgagor and mortgagee and nothing contained in the Note, this Mortgage, or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise in connection with the loan secured hereby is intended to create, or shall in any event or under any circumstance be construed as creating, a partnership, joint venture, tenancy-in-common, joint tenancy or other relationship of any nature whatsoever between the Mortgagee and the Mortgagor other than as lender and borrower.

51. Remedies.

Upon the occurrence of an Event of Default, the Mortgagee may at any time, at its option and in its sole discretion, (a) bring an action in any court of competent jurisdiction to

foreclose this instrument or to enforce the covenants hereof; (b) exercise any or all of the remedies available to a secured party under the Uniform Commercial Code; and (c) exercise any or all of its other rights and remedies under the Mortgage, the other Loan Documents and applicable law.

Mortgagee may, either with or without entry or taking possession of the Mortgaged Property as provided in this Mortgage or otherwise, personally or by its agents or attorneys, and without prejudice to the right to bring an action for foreclosure of this Mortgage, sell the Mortgaged Property or any part thereof pursuant to any procedures provided by applicable law, including, without limitation, the procedures set forth in Article 14 of the New York Real Property Actions and Proceedings Law (and any amendments or substitute statutes in regard thereto), and all estate, right, title, interest, claim and demand therein, and right of redemption thereof, at one or more sales as an entity or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by applicable law.

52. Multiple Security.

If (a) the Premises shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county; or (b) in addition to this Mortgage, the Mortgagee shall now or hereafter hold one or more additional mortgages, liens or other security (directly or indirectly) for the Debt upon other property in the State in which the Premises are located, then to the fullest extent permitted by law, the Mortgagee may, at its election, commence or consolidate in a single foreclosure action all foreclosure proceedings against all such collateral securing the Debt (including the Mortgaged Property), which action may be brought or consolidated in the courts of any county in which any of such collateral is located. The Mortgagor acknowledges that the right to maintain a consolidated foreclosure action is a specific inducement to the Mortgagee to extend the Debt, and the Mortgagor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have.

53. Adjustable Rate Note.

The interest rate of the Note shall adjust in accordance with the terms more particularly set forth in the Note.

54. Non Recourse; Limited Liability.

The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection therewith or herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Mortgagor) or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Mortgagor) and employees of the Agency shall not be liable personally hereon or 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 and therein shall not constitute or give rise to an obligation of the State of New York or Chemung County, New York, and neither the State of New York nor Chemung County, New York shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights)(as such capitalized terms are defined in the lease agreement dated as of August 1, 2005 (the "Lease Agreement") by and between the Agency and the Mortgagor).

No order or decree or specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless (1) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten day period) or failed to respond within such notice period, (2) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its

reasonable expectation that it or any of its members, officers, directors, agents (other than the Mortgagor) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Agency and its members, officers, directors, agents (other than the Mortgagor) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, directors, agents (other than the Mortgagor) and employees against all liability expected to be incurred as a result of compliance with such request.

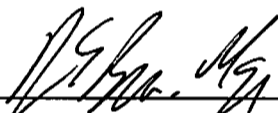
Notwithstanding anything to the contrary in this document, the Agency specifically intends to except, and hereby excepts, from any and all property which the Agency agrees to mortgage, pledge, assign, grant a lien on, or otherwise convey, pursuant to this document, the "Unassigned Rights" as such term is defined in the Lease Agreement.

55. Recording.

This Mortgage shall be recorded by the Agency, at the expense of the Mortgagor, in the office of the County Clerk of Chemung County, New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

IN WITNESS WHEREOF, the Mortgagor and Agency have duly executed this Mortgage as of the day and year first above written.

EASTOWNE MALL, LLC

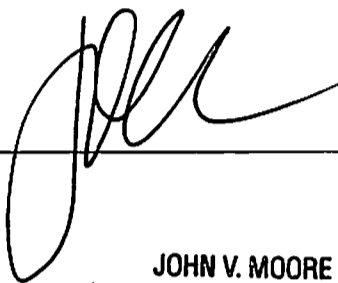
By: 
DANA E. BARNES
Its: Manager

CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: 
JOHN A. FLORY
Its: Chairman

STATE OF NEW YORK)
: ss.
COUNTY OF CHEMUNG)

On the 2 day of AUGUST in the year 2005 before me, the undersigned, personally appeared **DANA E. BARNES** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



JOHN V. MOORE
Notary Public New York State
Chemung County 02M02759970
Commission Exp. Dec. 31, 2005

STATE OF NEW YORK)
: ss.
COUNTY OF CHEMUNG)

On the 2nd day of August in the year 2005 before me, the undersigned, personally appeared **JOHN A. FLORY** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



THOMAS F. O'MARA, Notary Public
New York State, Chemung Co. 02OM5004235
Commission Expires Nov. 16, 2006

MORTGAGE

THIS MORTGAGE made as of the 23rd day of November, 2010, from **ELMIRA EASTOWNE MALL, LLC**, a New York Limited Liability Company, with an office at Moodus Professional Building, 16 William F. Palmer Road, Moodus, Connecticut 06469 (the "**Mortgagor**") to **CHEMUNG CANAL TRUST COMPANY**, a banking corporation organized and existing under the laws of the State of New York, having an office at One Chemung Canal Plaza, Elmira, New York 14901 (the "**Mortgagee**").

WITNESSETH:

WHEREAS, the Mortgagor is the owner of the real property described in Schedule A attached hereto (the "**Premises**").

NOW THEREFORE, to secure the payment of an indebtedness in the principal amount of **One Hundred Seventy Thousand Five Hundred and 00/100ths Dollars (\$170,500.00)** lawful money of the United States of America to be paid with interest (said indebtedness, interest and all other sums which may or shall become due, collectively the "**Debt**") according to a certain note dated the date hereof given by the Mortgagor to the Mortgagee and any and all modifications, amendments, extensions, renewals, restatements, consolidations and replacements thereof (the "**Note**"), the Mortgagor has mortgaged, given, granted, bargained, sold, aliened, enfeoffed, conveyed, confirmed and assigned, and by these presents does mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm and assign unto the Mortgagee forever all right, title and interest of the Mortgagor now owned, or hereafter acquired, in and to the following property, rights and interest (such property, rights and interests, collectively, the "**Mortgaged Property**"):

- (a) The Premises;
- (b) all buildings and improvements now or hereafter located on the Premises (the "**Improvements**");
- (c) all of the estate, right, title, claim or demand of any nature whatsoever of the Mortgagor, either in law or in equity, in possession or expectancy, in and to the Mortgaged Property or any part thereof;
- (d) all easements, rights-of-way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Mortgaged Property (including, without limitation, any and all development rights, air rights or similar or comparable rights of any nature whatsoever now or hereafter appurtenant to the Premises or now or hereafter transferred to the Premises) and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises to the center line thereof;

- (e) all machinery, apparatus, equipment, fittings, fixtures and other property of every kind and nature whatsoever and all additions thereto and renewals and replacements thereof, and all substitutions therefore now owned or hereafter acquired by the Mortgagor, or in which the Mortgagor has or shall have an interest, now or hereafter located upon and attached to, any portion of the Mortgaged Property or appurtenances thereto, and used or usable in connection with the present or future operation and occupancy of the Mortgaged Property (collectively, the "Equipment");
- (f) all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Mortgaged Property, whether from the exercise of the right of eminent domain (including any transfer made in lieu of the exercise of said right), or for any other injury to or decrease in the value of the Mortgaged Property;
- (g) all leases and other agreements affecting the use or occupancy of the Mortgaged Property now or hereafter entered into (the "Leases") and the right to receive and apply the rents, issues and profits of the Mortgaged Property (the "Rents") to the payment of the Debt;
- (h) all right, title and interest of the Mortgagor in and to (i) all contracts from time to time executed by the Mortgagor or any manager or agent on its behalf relating to the ownership, construction, maintenance, repair, operation, occupancy, sale or financing of the Mortgaged Property or any part thereof and all agreements relating to the purchase or lease of any portion of the Mortgaged Property or any property which is adjacent or peripheral to the Mortgaged Property, together with the right to exercise such options and all leases of Equipment; (ii) all consents, licenses, building permits, certificates of occupancy and other governmental approvals relating to construction, completion, occupancy, use or operation of the Mortgaged Property or any part thereof; and (iii) all drawings, plans, specifications and similar or related items relating to the Mortgaged Property;
- (i) all trade names, trade marks, logos, copyrights, good will and books and records relating to or used in connection with the operation of the Mortgaged Property or any part thereof; all general intangibles related to the operation of the Mortgaged Property now existing or hereafter arising;
- (j) all proceeds, both cash and non-cash, of the foregoing;
- (k) all proceeds of and any unearned premiums on any insurance policies covering the Mortgaged Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof, for damage to the Mortgaged Property; and

- (l) the right, in the name and on behalf of the Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of the Mortgagee in the Mortgaged Property.

TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto and to the proper use and benefit of the Mortgagee, and the successors and assigns of the Mortgagee, forever.

AND the Mortgagor covenants and agrees with and represents and warrants to the Mortgagee as follows:

1. **Payment of Debt.**

The Mortgagor will pay the Debt at the time and in the manner provided for its payment in the Note and in this Mortgage.

2. **Warranty of Title.**

- (a) The Mortgagor warrants the title to the Premises, the Improvements, the Equipment. The Mortgagor also represents and warrants that it is now, and after giving effect to this Mortgage, will be in a solvent condition; (ii) the execution and delivery of this Mortgage by the Mortgagor does not constitute a "fraudulent conveyance" within the meaning of Title 11 of the United States Code as now constituted or under any other applicable statute; and (iii) no bankruptcy or insolvency proceedings are pending, or contemplated by or against the Mortgagor.
- (b) The Mortgagor additionally represents and warrants that it has full power, authority and legal right to execute this Mortgage, and to mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm and assign the Mortgaged Property pursuant to the terms hereof and to keep and observe all of the terms of this Mortgage on the Mortgagor's part to be performed.

3. **Insurance.**

The Mortgagor (a) will keep the Improvements and the Equipment insured against loss or damage by fire, standard extended coverage perils and such other hazards as the Mortgagee shall from time to time require in amounts approved by the Mortgagee, which amounts shall in no event be less than the outstanding principal balance of this Mortgage or exceed in the aggregate 100% of the full insurable value of the Improvements and the Equipment and shall be sufficient to meet all applicable co-insurance requirements, and (b) will maintain rental or business interruption insurance such other forms of insurance coverage with respect to the Mortgaged Property as the Mortgagee shall from time to time reasonably require in amounts approved by the Mortgagee. All policies of insurance (the "**Policies**") shall be issued by insurers having a minimum policy holders rating of "A" per the latest rating publication of Property and Casualty Insurers by A.M. Best Company and who are lawfully doing business in New York and are otherwise acceptable in all respects to the Mortgagee. All Policies

shall contain the standard New York mortgagee non-contribution clause endorsement or an equivalent endorsement satisfactory to the Mortgagee naming the Mortgagee as the person to which all payments made by the insurer thereunder shall be paid and shall otherwise be in form and substance satisfactory in all respects to the Mortgagee. Blanket insurance policies shall not be acceptable for the purposes of this paragraph unless otherwise approved to the contrary by the Mortgagee. The Mortgagor shall pay the premiums for the Policies as the same become due and payable. At the request of the Mortgagee, the Mortgagor will deliver the Policies to the Mortgagee. Not later than ten (10) days prior to the expiration date of each of the Policies, the Mortgagor will deliver to the Mortgagee a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment of premium satisfactory to the Mortgagee. If at any time the Mortgagee is not in receipt of written evidence that all insurance required hereunder is in force and effect, the Mortgagee shall have the right without notice in the event of a cancellation or threatened cancellation of a policy, or on five (5) days notice to the Mortgagor in any other event, to take such action as the Mortgagee deems necessary to protect its interest in the Mortgaged Property, including, without limitation, the obtaining of such insurance coverage as the Mortgagee in its sole discretion deems appropriate, and all expenses incurred by the Mortgagee in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by the Mortgagor to the Mortgagee upon demand. The Mortgagor shall at all times comply with and shall cause the Improvements and Equipment and the use, occupancy, operation, maintenance, alteration, repair and restoration thereof to comply with the terms, conditions, stipulations and requirements of the Policies. If the Premises, or any portion of the Improvements or the Equipment, is located in a Federally designated "special flood hazard area," in addition to the other Policies required under this paragraph, a flood insurance policy shall be delivered by the Mortgagor to the Mortgagee. If no portion of the Premises is located in a Federally designated "special flood hazard area" such fact shall be substantiated by a certificate in form satisfactory to the Mortgagee from a licensed surveyor, appraiser or professional engineer or other qualified person. If the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other property hazard or casualty, the Mortgagor shall give prompt notice thereof to the Mortgagee. Sums paid to the Mortgagee by any insurer may be retained and applied by the Mortgagee toward payment of the Debt whether or not then due and payable in such order, priority and proportions as the Mortgagee in its discretion shall deem proper or, at the discretion of the Mortgagee, the same may be paid, either in whole or in part, to the Mortgagor for such purposes as the Mortgagee shall designate. If the Mortgagee shall receive and retain such insurance proceeds, the lien of this Mortgage shall be reduced only by the amount thereof received and retained by the Mortgagee and actually applied by the Mortgagee in reduction of the Debt. The provisions of subsection 4 of Section 254 of the Real Property Law of New York covering the insurance of buildings against loss by fire shall not apply to this Mortgage.

4. **Payment of Taxes, etc.**

The Mortgagor shall pay all taxes, assessments, water rates, sewer rents and other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Premises, now or hereafter levied or assessed against the Mortgaged Property, and all insurance premiums, water rates and sewer rents (the "Taxes") prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof. The Mortgagor shall deliver to the Mortgagee, within thirty (30) days of payment/upon request, upon request, receipted bills, cancelled checks and other evidence satisfactory to the Mortgagee evidencing

the payment of the Taxes prior to the date upon which any fine, penalty, interest or cost may be added thereto or imposed by law for the nonpayment thereof.

5. Escrow Fund.

At Mortgagee's option, in the event Mortgagor does not pay the Taxes when due or fails to provide Mortgagee with evidence of payment within ten (10) days of request, the Mortgagor will, at the option of the Mortgagee, pay to the Mortgagee on the first day of each calendar month one-twelfth of an amount (the "**Escrow Fund**") which would be sufficient to pay the Taxes payable, or estimated by the Mortgagee to be payable, during the ensuing twelve (12) months. The Mortgagee will apply the Escrow Fund to the payment of Taxes which are required to be paid by the Mortgagor pursuant to the provisions of this Mortgage. If the amount of the Escrow Fund shall exceed the amount of the Taxes payable by the Mortgagor pursuant to the provisions of this Mortgage, the Mortgagee shall, in its discretion, (a) return any excess to the Mortgagor; or (b) credit such excess against future payments to be made to the Escrow Fund. In allocating such excess, the Mortgagee may deal with the person shown on the records of the Mortgagee to be the owner of the Mortgaged Property. If the Escrow Fund is not sufficient to pay the Taxes, as the same become payable, the Mortgagor shall pay to the Mortgagee, upon request, an amount which the Mortgagee shall estimate as sufficient to make up the deficiency. Until expended or applied as above provided, any amounts in the Escrow Fund may be commingled with the general funds of the Mortgagee and shall constitute additional security for the Debt and shall not bear interest. Notwithstanding the foregoing provisions of this paragraph, the Mortgagee shall not exercise its option to require the establishment of an Escrow Fund in accordance with the provisions of this paragraph unless and until the Mortgagor shall at any time fail to make prompt and timely payments and there exists a pattern of delinquencies with respect to the payment of the Taxes or the premiums or an Event of Default shall have occurred and be continuing.

6. Condemnation.

Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise, the Mortgagor shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and this Mortgage and the Debt shall not be reduced until any award or payment therefore shall have been actually received and applied by the Mortgagee to the discharge of the Debt. The Mortgagee may apply the entire amount of any such award or payment to the discharge of the Debt whether or not then due and payable in such order, priority and proportions as the Mortgagee in its discretion shall deem proper. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by the Mortgagee of such award or payment, the Mortgagee shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive such award or payment, or a portion thereof sufficient to pay the Debt, whichever is less. The Mortgagor shall file and prosecute its claim or claims for any such award or payment in good faith and with due diligence and cause the same to be collected and paid over to the Mortgagee. The Mortgagor hereby irrevocably authorizes and empowers the Mortgagee, in the name of the Mortgagor or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claim or claims. Although it is hereby expressly agreed that the same shall not be necessary in any event the Mortgagor shall, upon demand of the Mortgagee, make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning any such

award or payment to the Mortgagee, free and clear of any encumbrances of any kind or nature whatsoever.

7. Leases and Rents.

Subject to the terms of this paragraph, the Mortgagee waives the right to enter the Mortgaged Property for the purpose of collecting the Rents, and grants the Mortgagor the right to collect the Rents. The Mortgagor shall hold the Rents, or an amount sufficient to discharge all current sums due on the Debt, in trust for use in payment of the Debt. The right of the Mortgagor to collect the Rents may be revoked by the Mortgagee upon any default by the Mortgagor under the terms of the Note or this Mortgage by giving notice of such revocation to the Mortgagor. Following such notice the Mortgagee may retain and apply the Rents toward payment of the Debt in such order, priority and proportions as the Mortgagee, in its discretion, shall deem proper, or to the operation, maintenance and repair of the Mortgaged Property, and irrespective of whether the Mortgagee shall have commenced a foreclosure of this Mortgage or shall have applied or arranged for the appointment of a receiver. The Mortgagor shall not, without the consent of the Mortgagee accept prepayments of installments of the Rents for a period of more than one (1) month in advance or further assign the whole or any part of the Rents, or make, or suffer to be made, any Leases or modify any Leases or cancel any Leases or modify or cancel any Leases. The Mortgagee shall have all of the rights against tenants of the Mortgaged Property as set forth in Section 291-f of the Real Property Law of New York. The Mortgagor shall (a) fulfill or perform each and every provision of the Leases on the part of the Mortgagor to be fulfilled or performed; (b) promptly send copies of all notices of default which the Mortgagor shall send or receive under the Leases to the Mortgagee; and (c) enforce, short of termination of the Leases, the performance or observance of the provisions thereof by the tenants thereunder. The Mortgagor shall from time to time, provide to the Mortgagee a complete and detailed leasing status report with respect to the Improvements, which leasing status report shall be in form and substance satisfactory in all respects to the Mortgagee. In addition to the rights which the Mortgagee may have herein, in the event of any default under this Mortgage, the Mortgagee, at its option, may require the Mortgagor to pay monthly in advance to the Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Mortgaged Property as may be in possession of the Mortgagor. Upon default in any such payment, the Mortgagor will vacate and surrender possession of the Mortgaged Property to the Mortgagee, or to such receiver, and, in default thereof, the Mortgagor may be evicted by summary proceedings or otherwise. Nothing contained in this paragraph shall be construed as imposing on the Mortgagee any of the obligations of the lessor under the Leases.

8. Maintenance of the Mortgaged Property.

The Mortgagor shall cause the Mortgaged Property to be maintained in good condition and repair and will not commit or suffer to be committed any waste of the Mortgaged Property. The Improvements and the Equipment shall not be removed, demolished or materially altered (except for normal replacement of the Equipment, without the prior written consent of the Mortgagee. The Mortgagor shall promptly comply with all existing and future governmental laws, orders, ordinances, rules and regulations affecting the Mortgaged Property, or any portion thereof or the use thereof. The Mortgagor shall promptly repair, replace or rebuild any part of the Mortgaged Property which may be damaged or destroyed by fire or other property hazard or casualty (including any fire or other property

hazard or casualty for which insurance was not obtained or obtainable) or which may be affected by any taking by any public or quasi-public authority through eminent domain or otherwise, and shall complete and pay for, within a reasonable time, any structure at any time in the process of construction or repair on the Premises. If such fire or other property hazard or casualty shall be covered by the Policies, the Mortgagor's obligation to repair, replace or rebuild such portion of the Mortgaged Property shall be contingent upon the Mortgagee paying the Mortgagor the proceeds of the Policies, or such portion thereof as shall be sufficient to complete such repair, replacement or rebuilding, whichever is less. The Mortgagor will not, without obtaining the prior consent of the Mortgagee, initiate, join in or consent to any private restrictive covenant, zoning ordinance, or other public or private restrictions, limiting or affecting the uses which may be made of the Mortgaged Property or any part thereof.

9. **Environmental Provisions.**

- (a) For the purposes of this paragraph the following terms shall have the following meanings: (i) the term "**Hazardous Material**" shall mean any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Requirement, or which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel fuel, another petroleum hydrocarbon product, asbestos, asbestos-containing materials or polychlorinated biphenyls; (ii) the term "**Environmental Requirements**" shall collectively mean all present and future laws, statutes, common law, ordinances, rules, regulations, orders, codes, licenses, permits, decrees, judgments, directives or the equivalent of or by any Governmental Authority and relating to or addressing the protection of the environment or human health; and (iii) the term "**Governmental Authority**" shall mean the Federal government, or any state or other political subdivision thereof, or any agency, court or body of the Federal government, any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.
- (b) The Mortgagor hereby represents and warrants to the Mortgagee that to the best of the Mortgagor's knowledge (i) no Hazardous Material is currently located at, in, on, under or about the Mortgaged Property in manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement; (ii) no releasing, emitting, discharging, leaching, dumping, disposing or transporting of any Hazardous Material from the Mortgaged Property onto any other property or from any other property onto or into the Mortgaged Property has occurred or is occurring in violation of any Environmental Requirement; (iii) no notice of violation, non-compliance, liability or potential liability, lien, complaint, suit, order or other notice with respect to the Mortgaged Property is presently outstanding under any Environmental Requirement, nor does the Mortgagor have knowledge or reason to believe that any such notice will be received or is being threatened; and (iv) the

Mortgaged Property and the operation thereof are in full compliance with all Environmental Requirements.

- (c) The Mortgagor shall comply, and shall cause all tenants or other occupants of the Mortgaged Property to comply, in all respects with all Environmental Requirements, and will not generate, store, handle, process, dispose of or otherwise use, and will not permit any tenant or other occupant of the Mortgaged Property to generate, store, handle, process, dispose of or otherwise use, Hazardous Materials at, in, on, or about the Mortgaged Property in a manner that could lead or potentially lead to the imposition on the Mortgagor, the Mortgagee or the Mortgaged Property of any liability or lien of any nature whatsoever under any Environmental Requirement. The Mortgagor shall notify the Mortgagee promptly in the event of any spill or other release of any Hazardous Material at, in, on, under or about the Mortgaged Property which is required to be reported to a Governmental Authority under any Environmental Requirement, will promptly forward to the Mortgagee copies of any notices received by the Mortgagor relating to alleged violations of any Environmental Requirement or any potential liability under any Environmental Requirement and will promptly pay when due any fine or assessment against the Mortgagee, the Mortgagor or the Mortgaged Property relating to any Environmental Requirement. If at any time it is determined that the operation or use of the Mortgaged Property in violation of any applicable Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Mortgaged Property violates any applicable Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Mortgaged Property which, under any Environmental Requirement, require special handling in collection, storage, treatment or disposal, or any form of cleanup or corrective action, the Mortgagor shall, within thirty (30) days after receipt of notice thereof from any Governmental Authority or from the Mortgagee, take, at the Mortgagor's sole cost and expense, such actions as may be necessary to fully comply in all respects with all Environmental Requirements, provided, however, that if such compliance cannot reasonably be completed within such thirty (30) day period, the Mortgagor shall commence such necessary action within such thirty (30) day period and shall thereafter diligently and expeditiously proceed to fully comply in all respects and in a timely fashion with all Environmental Requirements.
- (d) If the Mortgagor fails to timely take, or to diligently and expeditiously proceed to complete in a timely fashion, any such action described in clause (c) above, the Mortgagee may, in its sole and absolute discretion, make advances or payments toward the performance or satisfaction of the same, but shall in no event be under any obligation to do so. All sums so advanced or paid by the Mortgagee (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, and fines or other penalty payments) and all sums advanced or paid in connection with any judicial or administrative investigation or proceeding relating thereto, will immediately, upon

demand, become due and payable from the Mortgagor and shall bear interest at the Default Rate from the date any such sums are so advanced or paid by the Mortgagee until the date any such sums are repaid by the Mortgagor to the Mortgagee. The Mortgagor will execute and deliver, promptly upon request, such instruments as the Mortgagee may deem useful or necessary to permit the Mortgagee to take any such action, and such additional notes and mortgages, as the Mortgagee may require to secure all sums so advanced or paid by the Mortgagee. If a lien is filed against the Mortgaged Property by any Governmental Authority resulting from the need to expend or the actual expending of monies arising from an action or omission, whether intentional or unintentional, of the Mortgagor or for which the Mortgagor is responsible, resulting in the releasing, spilling, leaking, leaching, pumping, emitting, pouring, emptying or dumping of any Hazardous Material into the waters or onto land located within or without the State where the Mortgaged Property is located, then the Mortgagor will, within thirty (30) days from the date that the Mortgagor is first given notice that such lien has been placed against the Mortgaged Property (or within such shorter period of time as may be specified by the Mortgagee if such Governmental Authority has commenced steps to cause the Mortgaged Property to be sold pursuant to such lien), either (i) pay the claim and remove the lien; or (ii) furnish a cash deposit, bond, or such other security with respect thereto as is satisfactory in all respects to the Mortgagee and is sufficient to effect a complete discharge of such lien on the Mortgaged Property.

- (e) *(Intentionally Omitted)*
- (f) If this Mortgage is foreclosed, or if the Mortgaged Property is sold pursuant to the provisions of this Mortgage, or if the Mortgagor tenders a deed or assignment in lieu of foreclosure or sale, the Mortgagor shall deliver the Mortgaged Property to the purchaser at foreclosure or sale or to the Mortgagee, its nominee, or wholly-owned subsidiary, as the case may be, in a condition that complies in all respects with all Environmental Requirements.
- (g) The Mortgagor will defend, indemnify, and hold harmless the Mortgagee, its co-lenders, participants, employees, agents, officers and directors, from and against any and all claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) arising out of, or in any way related to, (i) any breach by the Mortgagor of any of the provisions of this paragraph 9; (ii) the presence, disposal, spillage, discharge, emission, leakage, release or threatened release of any Hazardous Material which is at, in, on, under, about, from or affecting the Mortgaged Property, including, without limitation, any damage or injury resulting from any such Hazardous Material to or affecting the Mortgaged Property or the soil, water, air, vegetation, buildings, personal

property, persons or animals located on the Mortgaged Property or on any other property or otherwise; (iii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Material; (iv) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Material; or (v) any violation of any Environmental Requirement or any policy or requirement of the Mortgagee hereunder. The aforesaid indemnification shall, notwithstanding any exculpatory or other provision of any other document or instrument now or hereafter executed and delivered in connection with the loan evidenced by the Note and secured by this Mortgage, constitute the personal recourse undertakings, obligations and liabilities of the Mortgagor.

- (h) The obligations and liabilities of the Mortgagor under this paragraph 9 shall survive and continue in full force and effect and shall not be terminated, discharged or released, in whole or in part, irrespective of whether the Debt has been paid in full and irrespective of any foreclosure of this Mortgage, sale of the Mortgaged Property pursuant to the provisions of this Mortgage or acceptance by the Mortgagee, its nominee or affiliate of a deed or assignment in lieu of foreclosure or sale and irrespective of any other fact or circumstance of any nature whatsoever.

10. Estoppel Certificates.

The Mortgagor, within ten (10) days after request by the Mortgagee and at its expense, will furnish the Mortgagee with a statement, duly acknowledged and certified, setting forth the amount of the Debt and the offsets or defenses thereto, if any.

11. Transfer or Encumbrance of the Mortgaged Property.

- (a) Except as otherwise hereinafter specifically provided to the contrary in this paragraph, no part of the Mortgaged Property nor any interest of any nature whatsoever therein nor any interest of any nature whatsoever in any Guarantor (whether partnership, stock, equity, beneficial, profit, loss or otherwise) shall in any manner, directly or indirectly, be further encumbered, sold, transferred or conveyed, or permitted to be further encumbered, sold, transferred, assigned or conveyed without the prior consent of the Mortgagee, which consent in any and all circumstances may be withheld in the sole and absolute discretion of the Mortgagee. The provisions of the foregoing sentence of this paragraph shall apply to each and every such further encumbrance, sale, transfer, assignment or conveyance, regardless of whether or not the Mortgagee has consented to, or waived by its action or inaction its rights hereunder with respect to, any such previous further encumbrance, sale, transfer, assignment or conveyance, and irrespective of whether such further encumbrance, sale, transfer, assignment or conveyance is voluntary, by reason of operation of law or is otherwise made. Mortgagee consents to assignments of the Mortgaged Property, together with any

interests therein and any interest of any Guarantor and/or Mortgagor, provided the same is made upon the written consent of the lender prior to any such assignment, the Mortgagor consents to and pays a one percent (1%) assignment fee for each such assignment made and consented to by the Mortgagee, and the Mortgagee approves any assignment and any assignee of such right or interest in advance of such assignment, and in the sole discretion of the Mortgagee, together with any other reasonable terms and conditions that the Mortgagee may set prior to any of such assignment and in its sole discretion.

- (b) Anything contained in this paragraph 11 to the contrary notwithstanding, and provided that no default shall then exist hereunder be on the expiration of any applicable notice and/or grace period specified herein within which to cure such default, it shall not be a default hereunder if transfers of any Guarantor are made so long as the Mortgagor retains a controlling interest in such entity. A controlling interest shall be deemed to exist where the Mortgagor has the ability to elect a majority of the Board of Directors or other governing body of the entity and is entitled to a majority interest in the profits and losses of that entity.

12. Notice.

Any notice, request, demand, statement, authorization, approval or consent made hereunder shall be in writing and shall be hand delivered or sent by Federal Express, or other reputable courier service, or by postage pre-paid registered or certified mail, return receipt requested, and shall be deemed given (a) when received at the following addresses if hand delivered or sent by Federal Express, or other reputable courier service; and (b) three (3) business days after being postmarked and addressed as follows if sent by registered or certified mail, return receipt requested:

If to the Mortgagor:	Elmira Eastowne Mall, LLC Moodus Professional Building 16 William F. Palmer Road Moodus, CT 06469 Attention: Dana E. Barnes
If to the Mortgagee:	Chemung Canal Trust Company One Chemung Canal Plaza Elmira, New York 14901 Attention: Commercial Loan Department
With a copy to:	Moore, Woodhouse & Pawlak 150 Lake Street Elmira, New York 14901 Attention: John V. Moore, Esq.

Each party may designate a change of address by notice to the other party, given at least fifteen (15) days before such change of address is to become effective.

13. Sale of Mortgaged Property.

If this Mortgage is foreclosed, the Mortgaged Property, or any interest therein, may, at the discretion of the Mortgagee, be sold in one or more parcels or in several interests or portions and in any order or manner.

14. Changes in Laws Regarding Taxation.

In the event of the passage after the date of this Mortgage of any law of the State of New York deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage, the Note or the Debt, the Mortgagor shall, if permitted by law, pay any tax imposed as a result of any such law within the statutory period or within fifteen (15) days after demand by the Mortgagee, whichever is less, provided, however, that if, in the opinion of the attorneys for the Mortgagee, the Mortgagor is not permitted by law to pay such taxes, the Mortgagee shall have the right, at its option, to declare the Debt due and payable on a date specified in a prior notice to the Mortgagor of not less than thirty (30) days.

15. No Credits on Account of the Debt.

The Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes assessed against the Mortgaged Property or any part thereof and no deduction shall otherwise be made or claimed from the taxable value of the Mortgaged Property, or any part thereof, by reason of this Mortgage or the Debt. If at any time this Mortgage shall secure less than all of the principal amount of the Debt, it is expressly agreed that any repayment of the principal amount of the Debt shall not reduce the amount of the lien of this Mortgage until the lien amount shall equal the principal amount of the Debt outstanding.

16. Offsets, Counterclaims and Defenses.

Any assignee of this Mortgage and the Note shall take the same free and clear of all offsets, counterclaims or defenses of any nature whatsoever which the Mortgagor may have against any assignor of this Mortgage and the Note, and no such offset, counterclaim or defense shall be interposed or asserted by the Mortgagor in any action or proceeding brought by any such assignee upon this Mortgage or the Note and any such right to interpose or assert any such offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Mortgagor.

17. Other Security for the Debt.

The Mortgagor shall observe and perform all of the terms, covenants and provisions contained in the Note and in all other mortgages and other instruments or documents evidencing, securing or guaranteeing payment of the Debt, in whole or in part, or otherwise executed and delivered in connection with the Note, this Mortgage or the loan evidenced and secured thereby.

18. Documentary Stamps.

If at any time the United States of America, any state thereof, or any governmental subdivision of any such state, shall require revenue or other stamps to be affixed to the Note or this Mortgage, the Mortgagor will pay for the same, with interest and penalties thereon, if any.

19. Right of Entry.

Upon prior notice, the Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property at all reasonable times.

20. Books and Records.

The Mortgagor will keep and maintain or will cause to be kept and maintained on a fiscal year basis in accordance with accounting practices consistently applied proper and accurate books, records and accounts reflecting all of the financial affairs of the Mortgagor and all items of income and expense in connection with the operation of the Mortgaged Property or in connection with any services, equipment or furnishings provided in connection with the operation of the Mortgaged Property, whether such income or expense be realized by the Mortgagor or by any other person whatsoever excepting lessees unrelated to and unaffiliated with the Mortgagor who have leased from the Mortgagor portions of the Mortgaged Property for the purpose of occupying the same. The Mortgagee shall have the right from time to time upon reasonable notice at all times during normal business hours to examine such books, records and accounts at the office of the Mortgagor or other person maintaining such books, records and accounts and to make copies or extracts thereof as the Mortgagee shall desire. The Mortgagor will furnish the Mortgagee (a) within one hundred twenty (120) days following each fiscal year, financial statements prepared by a certified public accountant of the Mortgagor prepared on Mortgagee's standard form (or other form acceptable to the Mortgagee); (b) within ten (10) days after the request, such further detailed information covering the operation of the Mortgaged Property and the financial affairs of the Mortgagor or any affiliate of the Mortgagor as may be reasonably requested by the Mortgagee; and (c) such other information regarding Mortgagor's operations, business affairs and financial conditions as the Mortgagee may reasonably request, all in form and detail satisfactory to Mortgagee. Failure of Mortgagor to comply with the above requirements shall constitute a default under the terms herein.

21. Performance of Other Agreements.

The Mortgagor shall observe and perform each and every term to be observed or performed by the Mortgagor pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Mortgaged Property.

22. Events of Default.

The Debt shall become due at the option of the Mortgagee upon the occurrence of any one or more of the following events (herein collectively referred to as Events of Default):

- (a) if any portion of the Debt is not paid within five (5) days after notice by the Mortgagee to the Mortgagor that the same is past due;
- (b) if (except as specifically provided to the contrary in Paragraph 4 above) the Mortgagor shall fail to pay within twenty (20) days of notice and demand by the Mortgagee, any installment of any taxes or assessment against the Mortgaged Property for local improvements heretofore or hereafter laid, which assessment is or may become payable in annual or periodic installments and is or may become a lien on the Mortgaged Property;
- (c) if any Federal tax lien is filed against the Mortgagor, or the Mortgaged Property and the same is not discharged of record within thirty (30) days after the same is filed;
- (d) if without the consent of the Mortgagee (which consent in any and all circumstances may be withheld in the sole and absolute discretion of the Mortgagee) any part of the Mortgaged Property or any interest of any nature whatsoever therein or any interest of any nature whatsoever in the Mortgagor (whether partnership, stock, equity, beneficial, profit, loss or otherwise) is in any manner, by operation of law or otherwise, whether directly or indirectly, further encumbered, sold, transferred, assigned or conveyed and irrespective of whether any such further encumbrance, sale, transfer, assignment or conveyance is voluntary, by reason or operation of law or is otherwise made;
- (e) if without the consent of the Mortgagee any Improvement or the Equipment (except for the normal replacement of the Equipment) is removed, demolished or materially altered, or if the Mortgaged Property is not kept in good condition and repair;
- (f) if the Mortgagor shall fail to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the Mortgaged Property within three (3) months from the issuance thereof, or the time period set forth therein, whichever is less;
- (g) if the Insurance Policies are not kept in full force and effect, or if the Insurance Policies are not delivered to the Mortgagee upon request;
- (h) if on application of the Mortgagee two or more fire insurance companies lawfully doing business in the State of New York refuse to issue Policies;
- (i) if the Mortgagor shall fail to pay the Mortgagee on demand for all premiums and/or Taxes paid by the Mortgagee pursuant to this Mortgage, together with any late payment charge and interest thereon calculated at the Default Rate;

- (j) if (except as specifically provided to the contrary in Paragraph 7 above) without the consent of the Mortgagee any Leases are made, cancelled or modified or if any portion of the Rents is paid for a period of more than one (1) month in advance or if any of the Rents are further assigned;
- (k) if any representation or warranty of the Mortgagor, or in any certificate, report, financial statement or other instrument furnished in connection with the making of the Note or this Mortgage, shall prove false or misleading in any material respect;
- (l) if the Mortgagor shall make an assignment for the benefit of creditors;
- (m) if a court of competent jurisdiction enters a decree or order for relief with respect to the Mortgagor under Title 11 of the United States Code as now constituted or hereafter amended or under any other applicable Federal or state bankruptcy law or other similar law, or if such court enters a decree or order appointing a receiver, liquidator, assignee, trustee, sequestrator (or similar official) of the Mortgagor, or of any substantial part of their respective properties, or if such court decrees or orders the winding up or liquidation of the affairs of the Mortgagor;
- (n) if the Mortgagor files a petition or answer or consent seeking relief under Title 11 of the United States Code as now constituted or hereafter amended, or under any other applicable Federal or state bankruptcy law or other similar law, or if the Mortgagor consents to the institution of proceedings thereunder or to the filing of any such petition or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Mortgagor, or of any substantial part of their respective properties, or if the Mortgagor fails generally to pay its respective debts as such debts become due, or if the Mortgagor takes any action in furtherance of any action described in this subparagraph;
- (o) if the Mortgagor shall be in default beyond any applicable notice and/or grace period under the Note or under any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt, in whole or in part, or otherwise executed and delivered in connection with the Note, this Mortgage or the loan evidenced and secured thereby;
- (p) if the Mortgagor shall be in default beyond any applicable notice and/or grace period under any mortgage or deed of trust covering any part of the Mortgaged Property whether superior or inferior in lien to this Mortgage, and including, without limitation, any such mortgage or deed of trust now or hereafter held by the Mortgagee, or if the Mortgagor shall be in default beyond the expiration of any applicable notice and/or grace period therein expressly provided in respect of any other indebtedness (except consumer indebtedness) owed by the Mortgagor, to the Mortgagee or any other person or entity;

- (q) if the Mortgaged Property shall become subject (i) to any tax lien, other than a lien for local real estate taxes and assessments not due and payable; or (ii) to any lis pendens, notice of pendency, stop order, notice of intention to file mechanic's or materialman's lien, mechanic's or materialman's lien or other lien of any nature whatsoever and the same shall not either be discharged of record or in the alternative insured over to the satisfaction of the Mortgagee by the title company insuring the lien of this Mortgage within a period of thirty (30) days after notice that the same is filed or recorded, and irrespective of whether the same is superior or subordinate in lien or other priority to the lien of this Mortgage and irrespective of whether the same constitutes a perfected or inchoate lien or encumbered on the Mortgaged Property or is only a matter of record or notice;
- (r) if the Mortgagor shall continue to be in default under any of the other terms, covenants or conditions of this Mortgage for five (5) days after notice from the Mortgagee in the, case of any default which can be cured by the payment of a sum of money or for twenty (20) days after notice from the Mortgagee in the case of any other default, provided that if such default cannot reasonably be cured within such twenty (20) day period and the Mortgagor shall have commenced to cure such default within such twenty (20) day period and thereafter diligently and expeditiously proceeds to cure the same, such twenty (20) day period shall be extended for so long as it shall require the Mortgagor in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days;

23. Right to Cure Defaults.

If default in the performance of any of the covenants of the Mortgagor herein occurs, the Mortgagee may, at its discretion, remedy the same and for such purpose shall have the right to enter upon the Mortgaged Property or any portion thereof without thereby becoming liable to the Mortgagor or any person in possession thereof holding under the Mortgagor. If the Mortgagee shall remedy such a default or appear in, defend, or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt, the costs and expenses thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this paragraph, shall be paid by the Mortgagor to the Mortgagee upon demand. All such costs and expenses incurred by the Mortgagee in remedying such default or in appearing in, defending, or bringing any such action or proceeding shall be paid by the Mortgagor to the Mortgagee upon demand, with interest (calculated for the actual number of days elapsed on the basis of a 360-day year) at a rate per annum equal to 5% plus the rate of interest provided in the Note (herein referred to as the Default Rate), provided, however, that the Default Rate shall in no event exceed the maximum interest rate which the Mortgagor may by law pay, for the period after notice from the Mortgagee that such costs or expenses were incurred to the date of payment to the Mortgagee. To the extent any of the aforementioned costs or expenses paid by the Mortgagee after default by the Mortgagor shall constitute payment of (a) Taxes, charges or assessments which may be imposed by law upon the Mortgaged

Property; (b) premiums on insurance policies covering the Mortgaged Property; (c) expenses incurred in upholding the lien of this Mortgage, including, but not limited to, the costs and expenses of any litigation to collect the indebtedness secured by this Mortgage or to prosecute, defend, protect or preserve the rights and the lien created by this Mortgage; or (d) any amount, cost or charge to which the Mortgagee becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority; then, and in each such event, such costs, expenses and amounts, together with interest thereon at the Default Rate, shall be added to the indebtedness secured by this Mortgage and shall be secured by this Mortgage. Notwithstanding anything to the contrary contained in this Mortgage, the maximum amount of the principal indebtedness secured by this Mortgage at execution or which under any contingency may become secured by this Mortgage is One Hundred Seventy Thousand Five Hundred and 00/100ths Dollars (\$170,500.00), plus all amounts expended by the Mortgagee after default by the Mortgagor, as hereinabove set forth in this paragraph.

24. Appointment of Receiver.

The Mortgagee, in any action to foreclose this Mortgage or upon the actual or threatened waste to any part of the Mortgaged Property or upon the occurrence of any default hereunder, shall be at liberty, without notice, to apply for the appointment of a receiver of the Rents, and shall be entitled to the appointment of such receiver as a matter of right, without regard to the value of the Mortgaged Property as security for the Debt, or the solvency or insolvency of any person then liable for the payment of the Debt.

25. Non-Waiver.

The failure of the Mortgagee to insist upon strict performance of any term of this Mortgage shall not be deemed to be a waiver of any term of this Mortgage. The Mortgagor shall not be relieved of the Mortgagor's obligation to pay the Debt at the time and in the manner provided for its payment in the Note and this Mortgage by reason of (a) failure of the Mortgagee to comply with any request of the Mortgagor to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt or any portion thereof; (b) the release, regardless of consideration, of the whole or any part of the Mortgaged Property or any other security for the Debt; or (c) any agreement or stipulation between the Mortgagee and any subsequent owner or owners of the Mortgaged Property or other person extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or any other mortgage, instrument or document evidencing, securing or guaranteeing payment of the Debt or any portion thereof, without first having obtained the consent of the Mortgagor, and in the latter event, the Mortgagor shall continue to be obligated to pay the Debt at the time and in the manner provided in the Note and this Mortgage, as so extended, modified and supplemented, unless expressly released and discharged from such obligation by the Mortgagee in writing. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Mortgaged Property, the Mortgagee may release any person at any time liable for the payment of the Debt or any portion thereof or any part of the security held for the Debt and may extend the time of payment or otherwise modify the terms of the Note or this Mortgage, including, without limitation, a modification of the interest rate payable on the principal balance of the Note, without in any manner

impairing or affecting this Mortgage or the lien thereof or the priority of this Mortgage, as so extended and modified, as security for the Debt over any such subordinate lien, encumbrance, right, title or interest. The Mortgagee may resort for the payment of the Debt to any other security held by the Mortgagee in such order and manner as the Mortgagee, in its discretion, may elect. The Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of the Mortgagee thereafter to foreclose this Mortgage. The Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every additional right and remedy now or hereafter afforded by law. The rights of the Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of the Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

26. Liability.

If the Mortgagor consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several.

27. Construction.

The terms of this Mortgage shall be construed in accordance with the laws of the State of New York.

28. Right of First Refusal.

In the event that Mortgagee desires to transfer, sell or assign the loan and/or obligation secured by herein, Mortgagor shall have a right of first refusal to purchase the same from Mortgagee for no less than the same terms and conditions as the Mortgagee would otherwise receive from such third party vendee or transferee. This privilege shall in no way act to obligate Mortgagee to accept any offers, or transfer, in whole or in part, the loan and/or any of the obligations of Mortgagor secured herein, and further, shall in no way operate to require Mortgagee to accept any repurchase of the loan and obligation secured hereby from the Mortgagor for any terms or conditions that the Mortgagee deems in its sole discretion to be inferior to any such third party offer for sale, transfer or assignment of the obligation, together with any rights of the Mortgagee, secured herein.

29. Further Acts, etc.

The Mortgagor will, at the cost of the Mortgagor, and without expense to the Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as the Mortgagee shall, from time to time, require for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby mortgaged or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this mortgage and, on demand, will execute and deliver and hereby authorizes the Mortgagee to execute in the name of the Mortgagor to the extent the Mortgagee may lawfully do

so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien hereof upon the Mortgaged Property.

30. Headings, etc.

The headings and captions of various paragraphs of this Mortgage are for convenience of reference only and are not to be construed as defined or limiting, in any way, the scope or intent of the provisions hereof.

31. Filing of Mortgage, etc.

The Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage, and any security instrument creating a lien or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect, preserve and perfect the lien hereof upon, and the interest of the Mortgagee in, the Mortgaged Property. The Mortgagor will pay all filing, registration and recording fees, and all expenses incident to the preparation, execution and acknowledgement of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property, and any instrument of further assurance, and all Federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property or any instrument of further assurance. The Mortgagor shall hold harmless and indemnify the Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making and recording of this Mortgage.

32. Usury Laws.

This Mortgage and the Note are subject to the express condition that at no time shall the Mortgagor be obligated or required to pay interest on the principal balance due under the Note at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate which the Mortgagor is permitted by law to contract or agree to pay. If by the terms of this Mortgage or the Note, the Mortgagor is at any time required or obligated to pay interest on the principal balance due under the Note at a rate in excess of such maximum rate, the rate of interest under the Note shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note.

33. Sole Discretion of Mortgagee.

Except as may otherwise be expressly provided to the contrary, wherever pursuant to the Note, this Mortgage, or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise with respect to the loan secured hereby, the Mortgagee exercises any right given to it to consent or not consent, or to approve or disapprove, or any arrangement or term

is to be satisfactory to the Mortgagee, the decision of the Mortgagee to consent or not consent, or to approve or disapprove, or to decide that arrangements or terms are satisfactory or not satisfactory, shall be in the sole and absolute discretion of the Mortgagee and shall be final and conclusive.

34. Reasonableness.

If at any time the Mortgagor believes that the Mortgagee has not acted reasonably in granting or withholding any approval or consent under the Note, this Mortgage, or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise with respect to the loan secured hereby, as to which approval or consent either (a) the Mortgagee has expressly agreed to act reasonably; or (b) absent such agreement, applicable law would nonetheless require the Mortgagee to act reasonably, then the Mortgagor's sole remedy shall be to seek injunctive relief or specific performance, and no action for monetary damages or punitive damages shall in any event or under any circumstance be maintained by the Mortgagor against the Mortgagee.

35. Recovery of Sums Required To Be Paid.

The Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

36. Actions and Proceedings.

The Mortgagee shall have the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of the Mortgagor, which the Mortgagee, in its discretion, determines should be brought to protect its interest in the Mortgaged Property.

37. Inapplicable Provisions.

If any term, covenant or condition of this Mortgage shall be held to be invalid, illegal or unenforceable in any respect, this Mortgage shall be construed without such provision.

38. Duplicate Originals.

This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to constitute but one and the same instrument.

39. Certain Definitions.

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided in this Mortgage, words used in this Mortgage shall be used interchangeably in singular or plural form and the word "Mortgagor" shall mean each the Mortgagor and any subsequent owner or

owners of the Mortgaged Property or any part thereof or interest therein (excepting therefrom the word "Agency"); the word "Mortgagee" shall mean the Mortgagee or any subsequent holder of the Note; the word "Note" shall mean the Note or any other evidence of indebtedness secured by this Mortgage and any and all modifications, amendments, extensions, renewals, restatements, consolidations and replacements thereof; the word "person" shall include an individual, corporation, partnership, trust, limited liability company, unincorporated association, government, governmental authority, or other entity; the words "Mortgaged Property" shall include any portion of the Mortgaged Property or interest therein; and the word "Debt" shall mean all sums secured by this Mortgage; and the word "default" shall mean the occurrence of any default by the Mortgagor or other person in the observance or performance of any of the terms, covenants or provisions of the Note or this Mortgage on the part of the Mortgagor or such other person to be observed or performed without regard to whether such default constitutes or would constitute upon notice or lapse of time, or both, an Event of Default under this Mortgage. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

40. Waiver of Notice.

The Mortgagor shall not be entitled to any notices of any nature whatsoever from the Mortgagee except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by the Mortgagee to the Mortgagor, and the Mortgagor hereby expressly waives the right to receive any notice from the Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by the Mortgagee to the Mortgagor.

41. No Oral Change.

This Mortgage may only be modified, amended or changed by an agreement in writing signed by the Mortgagor and the Mortgagee, and may only be released, discharged or satisfied of record by an agreement in writing signed by the Mortgagee. No waiver of any term, covenant or provision of this Mortgage shall be effective unless given in writing by the Mortgagee and if so given by the Mortgagee shall only be effective in the specific instance in which given. The Mortgagor acknowledges that the Note, this Mortgage, and the other documents and instruments executed and delivered in connection therewith or otherwise in connection with the loan secured hereby set forth the entire agreement and understanding of the Mortgagor and the Mortgagee with respect to the loan secured hereby and that no oral or other agreements, understanding, representation or warranties exist with respect to the loan secured hereby other than those set forth in the Note, this Mortgage and such other executed and delivered documents and instruments.

42. Absolute and Unconditional Obligation.

The Mortgagor acknowledges that the Mortgagor's obligation to pay the Debt in accordance with the provision of the Note and this Mortgage is and shall at all times continue to be absolute and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a

defense to the Note or this Mortgage or the obligation of the Mortgagor thereunder to pay the Debt or the obligations of any other person relating to the Note or this Mortgage or the obligations of the Mortgagor under the Note or this Mortgage or otherwise with respect to the loan secured hereby, and the Mortgagor absolutely, unconditionally and irrevocably waives any and all right to assert any defense, setoff, counterclaim or crossclaim of any nature whatsoever with respect to the obligation of the Mortgagor to pay the Debt in accordance with the provisions of the Note and this Mortgage or the obligations of any other person relating to the Note or this Mortgage or obligations of the Mortgagor under the Note or this Mortgage or otherwise with respect to the loan secured hereby in any action or proceeding brought by the Mortgagee to collect the Debt, or any portion thereof, or to enforce, foreclose and realize upon the lien and security interest created by this Mortgage or any other document or instrument securing repayment of the Debt, in whole or in part, (provided, however, that the foregoing shall not be deemed a waiver of the Mortgagor's right to assert any compulsory counterclaim maintained in a court of the United States, or of the State of New York if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of the Mortgagor's right to assert any claim which would constitute a defense, setoff, counterclaim or crossclaim of any nature whatsoever against the Mortgagee in any separate action or proceeding).

43. Trust Fund.

Pursuant to Section 13 of the Lien Law of New York, the Mortgagor shall receive the advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of any improvement and shall apply such advances first to the payment of the cost of any such improvement on the Mortgaged Property before using any part of the total of the same for any other purpose.

44. Residential Property.

This Mortgage does not cover real property principally improved by one or more structures containing in the aggregate six (6) or less residential dwelling units having their own separate cooking facilities.

45. Waiver of Trial by Jury.

The Mortgagor hereby irrevocably and unconditionally waives, and the Mortgagee by its acceptance of the Note and this Mortgage irrevocably and unconditionally waives, any and all rights to trial by jury in any action, suit or counterclaim arising in connection with, out of or otherwise relating to the Note, this Mortgage any other document or instrument now or hereafter executed and delivered in connection therewith or the loan secured by this Mortgage.

46. Waiver of Statutory Rights.

The Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Property marshalled upon any foreclosure of the lien of this Mortgage and agrees that any court having jurisdiction to foreclose such

lien may order the Mortgaged Property sold as an entirety. The Mortgagor hereby waives for itself and all who may claim through or under it, and to the full extent the Mortgagor may do so under applicable law, any and all rights of redemption from sale under any order of decree of foreclosure of this Mortgage or granted under any statute now existing or hereafter enacted.

47. Brokerage.

The Mortgagor covenants and agrees that no brokerage commission or other fee, commission or compensation is to be paid by the Mortgagee on account of the loan or other financing obligations evidenced by the Note and/or secured by this Mortgage and the Mortgagor agrees to indemnify the Mortgagee against any claims for any of the same.

48. Indemnity.

Anything in this Mortgage or the other Loan Documents to the contrary notwithstanding, the Mortgagor shall indemnify and hold the Mortgagee harmless and defend the Mortgagee at the Mortgagor's sole cost and expense against any loss or liability, cost or expense (including, without limitation, title insurance premiums and charges and reasonable attorneys' fees and disbursements of the Mortgagee's counsel, whether in-house staff, retained firms or otherwise), and all claims, actions, procedures and suits arising out of or in connection with (a) any ongoing matters arising out of the transaction contemplated hereby, the Debt, this Mortgage, the Note or any other document or instrument now or hereafter executed and/or delivered in connection with the Debt (the "Loan Documents") and/or the Mortgaged Property, including, but not limited to, all costs of reappraisal of the Mortgaged Property or any part thereof, whether required by law, regulation, the Mortgagee or any governmental or quasigovernmental authority; (b) any amendment to, or restructuring of, the Debt and this Mortgage, the Note or any of the other Loan Documents; and (c) any and all lawful action that may be taken by the Mortgagee in connection with the enforcement of the provisions of this Mortgage or the Note or any of the other Loan Documents, whether or not suit is filed in connection with the same, or in connection with the Mortgagor, any Guarantor and/or any partner, joint venturer, member or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding. All sums expended by the Mortgagee shall be payable on demand and, until reimbursed by the Mortgagor pursuant hereto, shall be deemed additional principal of the Debt and secured hereby and shall bear interest at the Default Rate. The obligations of the Mortgagor under this paragraph shall, notwithstanding any exculpatory or other provisions of any nature whatsoever set forth in the Loan Documents, constitute the personal recourse undertakings, obligations and liabilities of the Mortgagor.

49. Enforceability.

This Mortgage was negotiated in the State of New York, and made by the Mortgagor and accepted by the Mortgagee in the State of New York, and the proceeds of the loan secured hereby were disbursed from the State of New York, which State the parties agree has a substantial relationship to the parties and to the underlying transaction embodied hereby, and in all respects, including, without limiting the generality of the foregoing, matters of construction, validity and performance, this Mortgage and the obligations arising hereunder shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and performed in such State and

any applicable laws of the United State of America, except with respect to the provisions hereof which relate to the realization upon the security covered by this Mortgage, in which case such provisions shall be governed by the State in which the Mortgaged Property is located, it being understood that, to the fullest extent permitted by the law of such State, the law of the State of New York shall govern the validity and enforceability of this Mortgage, the Note, and other documents executed and delivered in connection with the Debt, and the obligations arising hereunder and thereunder. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be unenforceable or prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such unenforceability, prohibition or invalidity, without invalidating the remaining provisions of this Mortgage.

50. Relationship.

The relationship of the Mortgagee to the Mortgagor hereunder is strictly and solely that of lender and borrower and mortgagor and mortgagee and nothing contained in the Note, this Mortgage, or any other document or instrument now or hereafter executed and delivered in connection therewith or otherwise in connection with the loan secured hereby is intended to create, or shall in any event or under any circumstance be construed as creating, a partnership, joint venture, tenancy-in-common, joint tenancy or other relationship of any nature whatsoever between the Mortgagee and the Mortgagor other than as lender and borrower.

51. Remedies.

Upon the occurrence of an Event of Default, the Mortgagee may at any time, at its option and in its sole discretion, (a) bring an action in any court of competent jurisdiction to foreclose this instrument or to enforce the covenants hereof; (b) exercise any or all of the remedies available to a secured party under the Uniform Commercial Code; and (c) exercise any or all of its other rights and remedies under the Mortgage, the other Loan Documents and applicable law.

Mortgagee may, either with or without entry or taking possession of the Mortgaged Property as provided in this Mortgage or otherwise, personally or by its agents or attorneys, and without prejudice to the right to bring an action for foreclosure of this Mortgage, sell the Mortgaged Property or any part thereof pursuant to any procedures provided by applicable law, including, without limitation, the procedures set forth in Article 14 of the New York Real Property Actions and Proceedings Law (and any amendments or substitute statutes in regard thereto), and all estate, right, title, interest, claim and demand therein, and right of redemption thereof, at one or more sales as an entity or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by applicable law.

52. Multiple Security.

If (a) the Premises shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county; or (b) in addition to this Mortgage, the Mortgagee shall now or hereafter hold one or more additional mortgages, liens or other security (directly or indirectly) for the Debt upon other property in the State in which the Premises are located, then to the fullest extent

permitted by law, the Mortgagee may, at its election, commence or consolidate in a single foreclosure action all foreclosure proceedings against all such collateral securing the Debt (including the Mortgaged Property), which action may be brought or consolidated in the courts of any county in which any of such collateral is located. The Mortgagor acknowledges that the right to maintain a consolidated foreclosure action is a specific inducement to the Mortgagee to extend the Debt, and the Mortgagor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have.

IN WITNESS WHEREOF, the Mortgagor has duly executed this Mortgage the day and year first above written.

EASTOWNE MALL, LLC

By: _____
DANA E. BARNES
Its: Manager

STATE OF CONNECTICUT)
) ss.
COUNTY OF)

On the _____ day of November, in the year 2010 before me, the undersigned, personally appeared **DANA E. BARNES** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Elmira, County of Chemung and State of New York, more particularly bounded and described as follows: COMMENCING at a drill hole set in the northerly line of East Water Street, which drill hole marks the southwesterly corner of premises owned by The Elmira Savings Bank, FSB (Fiche 693 at Page 33d); running thence S 80° 44' 13" W, a distance of 44.82 feet to a computed point; running thence N 09° 23' 02" W, a distance of 101.54 feet to a point; running thence S 80° 31' 37" W, a distance of 81.41 feet to a point; running thence S 80° 08' 11" W, a distance of 22.88 feet to a point; running thence S 79° 58' 27" W, a distance of 22.53 feet to a point; running thence N 20° 44' 18" W, a distance of 19.32 feet to a point; running thence N 69° 22' 59" E, a distance of 10.73 feet to a point; running thence N 24° 22' 59" E, a distance of 7.78 feet to a point; running thence N 20° 37' 01" W, a distance of 29.62 feet to a point; running thence N 69° 22' 59" E, a distance of 5.00 feet to a point; running thence N 21° 53' 10" W, a distance of 6.72 feet to a point; running thence N 21° 50' 11" W, a distance of 42.67 feet to a point; running thence S 68° 29' 34" W, a distance of 85.61 feet to a point; running thence N 20° 37' 01" W, a distance of 48.83 feet to a point; running thence N 20° 38' 46" W, a distance of 226.42 feet to a point; running thence N 68° 42' 06" E, a distance of 207.25 feet to a point; running thence S 21° 07' 19" E, a distance of 53.57 feet to a nail set; running thence N 68° 38' 20" E, a distance of 64.65 feet to a point; running thence S 20° 36' 02" E, a distance of 64.30 feet to a drill hole set; running thence N 70° 04' 28" E, a distance of 110.83 feet to a drill hole set; running thence S 21° 24' 59" E, a distance of 28.65 feet to a drill hole set; running thence S 69° 56' 58" W, a distance of 78.52 feet to a drill hole set; running thence S 21° 23' 56" E, a distance of 82.66 feet to a nail found; running thence N 69° 11' 05" E, a distance of 6.46 feet to a point; running thence S 21° 17' 44" E, a distance of 43.73 feet to a point; running thence S 68° 25' 21" W, a distance of 28.34 feet to a point; running thence S 21° 50' 52" E, a distance of 51.34 feet to a point; running thence N 68° 21' 11" E, a distance of 3.97 feet to a point; running thence S 22° 22' 38" E, a distance of 22.25 feet to a point; running thence N 68° 29' 29" E, a distance of 95.75 feet to a point; running thence S 21° 24' 59" E, a distance of 64.88 feet to a drill hole found; running thence S 68° 44' 00" W, a distance of 19.07 feet to a drill hole found; running thence N 21° 16' 00" W, a distance of 14.50 feet to a drill hole set; running thence S 68° 44' 00" W, a distance of 102.83 feet to a point; running thence S 21° 16' 00" E, a distance of 14.50 feet to a point; running thence S 68° 44' 00" W, a distance of 52.22 feet to a point; running thence S 21° 16' 00" E, a distance of 100.86 feet to a drill hole at which hole is the point and place of beginning; all as more fully set forth on a survey map prepared by Weiler Associates dated September 24, 2004 and labeled Job No. 13322.



BROWN & BROWN DBA
MCCUTCHEON BURR & SONS
49 MAIN STREET
P.O. BOX 1206
MIDDLETOWN, CT 06457
PHONE: 860-343-9025
FAX: 860-343-7565



August 16, 2010

Lance Moore
Elmira Eastowne Mall, LLC
5360 N. Franklin St.
Denver, CO 80216

RE: Peerless Group Commercial Account Renewals

Dear Lance:

We are pleased to enclose your renewal policies with Peerless Group effective from 08/02/2010 through 08/02/2011.

*Enclosed you will find a cost comparison between last year's insurance premiums and the new term pricing.
It is designed for your convenience-to put this information at your fingertips.
We will include notes concerning changes that may have affected pricing from year to year as well as
suggestions concerning coverage.
We are hoping this will be of assistance to you in your review both now and in the future.*

For a full understanding of the coverage contained under these contracts, we strongly recommend that you make a complete review of your policies. If you have any questions or note any changes that need to be made, please do not hesitate to give me a call at 800-272-7005. Thank you for your business!

Sincerely,

Colin E. Burr, Ext. 294
cburr@mcburr.com
Vice President

Judy Kerrigan, Ext. 216
(860)343-9025
jkerrigan@mcburr.com
Commercial Account Manager
/encl

"SERVICE BEYOND THE CONTRACT"



Elmira Eastowne Mall, LLC

Cost Comparison/Coverage Review

<u>Current</u>	<u>Policy</u>	<u>Renewal</u>	<u>Variance</u>
6,478.00	BOP	6,396.75	(81.25)
	WC		0
1,641.00	Umbrella	1,641.00	0.00
8,119.00	Totals	8,037.75	(81.25)
<u>Current Coverage Synopsis:</u>			
Location #1/Building #1: 150 Baldwin St., Elmira, NY			
<u>General Liability & Property Coverage:</u>			
General Liability Limits: \$1,000,000 Occurrence/\$2,000,000 Aggregate			
Building Limit: \$6,923,538 (increased from \$6,657,248)			
Contents Limit: NONE			
\$2,500 Property Deductible			
Replacement Cost; Equipment Breakdown & General Liability Extension included.			
<u>Commercial Umbrella Limits:</u>			
\$5,000,000 Each Occurrence			
\$5,000,000 Aggregate			
\$10,000 Self-Insured Retention			
<u>Suggested Coverage/Optional Coverage:</u>			
<i>Please contact our office with questions or to discuss any of these coverage options.</i>			
<u>Comments:</u>			
Thank You for your business!			

Important Notice To Policyholders

This explanation is not a part of your insurance policy, and it does not alter any of its provisions or conditions. No coverage is provided by this notice nor can it be construed to replace any provision in your policy or policies with us, or any forms attached to your policy or policies.

The following information only gives a general explanation of changes in coverage which may have occurred from your prior (or old) policy. Your business may involve factors which require you to obtain specific interpretations of the new policy wording. Read your policy carefully to determine rights, duties, and what is and is not covered. Only the provisions of your policy determine the scope of your insurance protection.

Please refer any questions you may have to your insurance agent.

- CU 64 75 Conditional Exclusion of Terrorism Involving Nuclear, Biological or Chemical Terrorism**
- CU 64 77 Alaska Conditional Exclusion of Terrorism Involving Nuclear, Biological or Chemical Terrorism**
- CU 64 78 Washington Conditional Exclusion of Terrorism Involving Nuclear, Biological or Chemical Terrorism**

The Terrorism Risk Insurance Act may expire during the normal term of this policy.

This policy contains either endorsement CU 64 75 Conditional Exclusion of Terrorism Involving Nuclear, Biological or Chemical Terrorism, CU 64 77 Alaska Conditional Exclusion of Terrorism Involving Nuclear, Biological or Chemical Terrorism or CU 64 78 Washington Conditional Exclusion of Terrorism Involving Nuclear, Biological or Chemical Terrorism that will change the terrorism exclusion only if the Terrorism Risk Insurance Act expires and is not renewed

07/08/2010

ELMIRA EASTOWNE MALL LLC
5360 N FRANKLIN ST

UBO(11)53309762
FROM 08/02/2010 TO 08/02/2011

DENVER CO 80216 1506

(860) 343-9025
MCCUTCHEON BURR AND SONS
MIDDLETOWN CT 06457-1206

UBO(11)53309762 SNR 00002

**POLICYHOLDER DISCLOSURE NOTICE OF
INSURANCE COVERAGE FOR CERTIFIED ACTS OF TERRORISM**

You are hereby notified that under the Terrorism Risk Insurance Act that you now have a right to purchase insurance coverage for losses arising out of acts of terrorism, as defined in Section 102(1) of the Act. The term "act of terrorism" means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States - to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property; or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel or premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The United States government, department of the treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if the aggregate insured losses attributable to terrorist acts certified on the terrorism risk insurance act exceed \$100 billion in a program year (January 1 through December 31), the treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

TERRORISM INSURANCE COVERAGE

Your policy has been issued with Terrorism Coverage. The premium for coverage is shown on your policy declarations as "Certified Acts of Terrorism Coverage." If you accept Terrorism Coverage, no action on your part is required.

REJECTION OF TERRORISM INSURANCE COVERAGE

Should you choose not to accept Terrorism Coverage, you have 45 days from the date of issuance of this notice to reject Terrorism Coverage. If you elect to reject the Terrorism Coverage within the next 45 days, sign your name on the Policyholder/Applicant's Signature line on NP 72 49 01 08 and return this form to:

Attn: Commercial Umbrella & Excess Liability - Terrorism
P.O. Box 188060
Fairfield OH 45018

POLICYHOLDER DISCLOSURE NOTICE OF INSURANCE COVERAGE FOR CERTIFIED ACTS OF TERRORISM

Upon receipt of your signed rejection notice, we will endorse your policy to exclude Terrorism Coverage for the current policy term, returning premium or adjusting your account balance, subject to a Minimum Premium, as appropriate. In addition to adjusting the terrorism premium, we will attach a terrorism exclusion to your policy.

Before making a decision to reject terrorism insurance, refer to the Underlying Coverage Requirement located at the end of this Notice.

I hereby reject Terrorism Coverage for this policy and elect to have the exclusion for Terrorism Coverage added. I understand that I will have no coverage for losses arising from acts of terrorism.

Policyholder/Applicant's Signature

Print Name

Date Signed

Named Insured

Policy Number

ELMIRA EASTOWNE MALL LLC

UBO (11) 53309762

Policy Effective/Expiration Date

FROM 08/02/2010 TO 08/02/2011

UNDERLYING COVERAGE REQUIREMENT

This policy will apply to Terrorism Coverage only in excess of the total amounts stated as the applicable limits of the underlying policies listed in the Schedule of Underlying Insurance and the applicable limits of any other insurance providing coverage to you during the Policy Period.

If you fail to comply with this Underlying Coverage Requirement and you do not maintain your underlying limits as scheduled, we will only be liable to the same extent that we would have been had you fully complied with this requirement.

Attn: Commercial Umbrella & Excess Liability - Terrorism
P.O. Box 188060
Fairfield OH 45018

INSURANCE IS PROVIDED BY THE COMPANY DESIGNATED BELOW

POLICY NUMBER UBO (11) 53 30 97 62
COMMERCIAL UMBRELLA
OCCURRENCE

THE OHIO CASUALTY INSURANCE COMPANY

9450 Seward Road, Fairfield, Ohio 45014

POLICY DECLARATIONS

NAMED INSURED & MAILING ADDRESS ITEM 1.	AGENT'S NAME & ADDRESS 4700 06 01 1204
ELMIRA EASTOWNE MALL LLC	TELEPHONE: (860) 343-9025
5360 N FRANKLIN ST	MCCUTCHEON BURR AND SONS
DENVER CO 80216 1506	PO BOX 1206
	MIDDLETOWN CT 06457-1206
	PREVIOUS POLICY NO. UBO 53 30 97 62

INSURED IS LIMITED LIABILITY COMPANY **INSURED'S BUSINESS LESSORS RISK**

POLICY PERIOD: ITEM 2. THIS POLICY IS IN FORCE FROM 08/02/10 TO 08/02/11 AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.

In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS, AND THE COMMERCIAL UMBRELLA COVERAGE PART (WHICH CONSISTS OF COVERAGE FORMS AND OTHER APPLICABLE FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART OF IT) COMPLETE THIS POLICY.

ITEM 3. PREMIUM:

TOTAL PROVISIONAL PREMIUM: (T.O.P.P.) \$1,641.00
 CERTIFIED ACTS OF TERRORISM COVERAGE: . \$16.00 (INCLUDED)

IN THE EVENT OF CANCELLATION BY THE NAMED INSURED, THE COMPANY WILL RECEIVE AND RETAIN NO LESS THAN \$164.00 AS THE MINIMUM PREMIUM

BASIS OF PREMIUM: NON-AUDITABLE (X) AUDITABLE ()

ITEM 4. LIMITS OF INSURANCE:

\$5,000,000 EACH OCCURRENCE
 \$5,000,000 GENERAL AGGREGATE (WHERE APPLICABLE)
 \$5,000,000 PRODUCTS-COMPLETED OPERATIONS AGGREGATE

ITEM 5. SELF-INSURED RETENTION: \$10,000

N08

CONTINUED ON PAGE 2

Issue Date 07/08/10 At PEERLESS-SOUTHERN NEW ENGLAND By _____

Authorized Representative

UBO(11)53309762 SNR 00002

OC70030801 CLASS E

In witness whereof, we have caused this policy to be signed by our authorized officers.

Handwritten signature of Dexter R. Feyg in black ink.

Secretary

Handwritten signature of J. R. Guss in black ink.

President

NAME OF COMPANY THE OHIO CASUALTY INSURANCE COMPANY

NAMED INSURED ELMIRA EASTOWNE MALL LLC

POLICY NO.UBO (11) 53 30 97 62

INTERNAL USE

EXPLANATION OF CHARGES

R E C A P O F S C H E D U L E T O T A L S

COMMERCIAL UMBRELLA SCHEDULE TOTALS - ANNUAL

COMMERCIAL UMBRELLA PREMIUM

\$1,641.00

TOTAL PROVISIONAL PREMIUM

\$1,641.00

* * * * *

SCHEDULE OF FORMS AND ENDORSEMENTS

FORMS/ENDORSEMENTS APPLICABLE TO THIS POLICY AT TIME OF ISSUE

CU60020697	CU60300697	CU60380108	CU60390108
CU60470697	CU60500697	CU60750698	CU61070697
CU61290697	CU61350697	CU62050804	CU63690697
CU64340999	CU64630108	CU64791104	CU64920107
NP72480108	NP72490108		

* * * * *

UBO(11)53309762 SNR 00002

OC70040801 CLASS E

TRANS:0001

CONTINUED ON PAGE 3

NAME OF COMPANY THE OHIO CASUALTY INSURANCE COMPANY

NAMED INSURED ELMIRA EASTOWNE MALL LLC

POLICY NO.UBO (11) 53 30 97 62

INTERNAL USE

SCHEDULE OF
UNDERLYING INSURANCE

CARRIER, POLICY NUMBER AND PERIOD	TYPE OF COVERAGE	LIMITS OF INSURANCE
WEST AMERICAN INSURANCE COMPANY BZA (11) 53309762 08/02/10 TO 08/02/11	BUSINESSOWNERS LIABILITY	\$1,000,000 EACH OCCURRENCE \$2,000,000 AGGREGATE

OC70040801 CLASS E

TRANS:0001

END OF DECLARATIONS

NAME OF COMPANY THE OHIO CASUALTY INSURANCE COMPANY

NAMED INSURED ELMIRA EASTOWNE MALL LLC

POLICY NO.UBO (11) 53 30 97 62

INTERNAL USE

GENERAL ENDORSEMENT

GENERAL ENDORSEMENT IDENTIFICATION: 1

THE MAILING ADDRESS IS TO READ AS FOLLOWS:

C/O LANCE MOORE
5360 FRANKLIN ST
DENVER, CO. 80216-1506

* * * * *

UBO(11)53309762 SNR 00002

OC70040801 CLASS E

TRANS:0001

END OF GENERAL ENDORSEMENTS



Coverage Is Provided In:
American Fire and Casualty Company

Policy Number:
BZA (11) 53 30 97 62
Policy Period:
From **08/02/2010** To **08/02/2011**
12:01 am Standard Time
at Insured Mailing Location

Businessowners Common Policy Declarations

Named Insured & Mailing Address

ELMIRA EASTOWNE MALL LLC
5360 FRANKLIN ST
DENVER, CO 80216-1506

Agent Mailing Address & Phone No.

(860) 343-9025
MCCUTCHEON BURR AND SONS
PO BOX 1206
MIDDLETOWN, CT 06457-1206

Named Insured Is: LIMITED LIABILITY COMPANY

Named Insured Business Is: LESSOR'S RISK-PROPERTY MGR

In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

SUMMARY OF COVERAGE PARTS AND CHARGES

These Declarations together with the Businessowners Common Policy Conditions and the Businessowners Property and Liability Coverage Parts (which consist of coverage forms and other applicable forms and endorsements, if any, issued to form a part of them) complete this policy.

COVERAGE PART	CHARGES
Businessowners	\$6,396.75

<i>Total Charges for all of the above coverage parts:</i>	\$6,396.75
<i>Certified Acts of Terrorism Coverage:</i>	\$19.00
	(Included)

Note: This is not a bill

IMPORTANT MESSAGES

- Equipment Breakdown Coverage Is Included - See Policy Forms and Endorsements summary

Servicing Office PEERLESS-CT AND RI REGION
and Issue Date 04/20/2010

Authorized Representative

To report a claim, call your Agent or 1-800-366-6446

DS 70 21 01 08



Coverage Is Provided In:
American Fire and Casualty Company

Policy Number:
BZA (11) 53 30 97 62
Policy Period:
From 08/02/2010 To 08/02/2011
12:01 am Standard Time
at Insured Mailing Location

Common Policy Declarations

Named Insured	Agent
ELMIRA EASTOWNE MALL LLC	(860) 343-9025 MCCUTCHEON BURR AND SONS

SUMMARY OF LOCATION(S) AND PREMIUM(S)

0001 150 BALDWIN ST, ELMIRA, NY 14901-3016	\$6,338.00
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POLICY FORMS AND ENDORSEMENTS

This section lists the Forms and Endorsements for your policy. Refer to these documents as needed for detailed information concerning your coverage.

FORM NUMBER	TITLE
BP 00 02 12 99	Businessowners Special Property Coverage Form
BP 00 06 01 97	Businessowners Liability Coverage Form
BP 00 09 01 97	Businessowners Common Policy Conditions
BP 04 17 01 96	Employment Related Practices Exclusion
BP 04 30 01 96	Protective Safeguards
BP 05 14 01 03	War Liability Exclusion
BP 05 23 01 08	Cap On Losses From Certified Acts Of Terrorism
BP 10 04 04 98	Exclusion of Certain Computer-Related Losses
BP 70 02 01 01	General Endorsement
BP 79 93 06 99	Equipment Breakdown Coverage
BP 79 96 06 99	Businessowners Liability Extension Endorsement
BP 79 98 06 99	Amendment - Loss Payment Provision
BP 80 36 06 99	Amendment of Collapse Coverage
BP 80 94 06 99	Medical Expenses Limit Amendment Endorsement
BP 81 11 02 09	Businessowners Property Extention Endorsement - New York
BP 81 41 11 97	New York Amendment of Pollution
BP 82 03 11 03	Continuous Leakage and Moisture Exclusion
BP 82 20 10 04	Exclusion-Electronic Distribution of Unsolicited Material
BP 82 28 04 09	New York Changes
BP 82 98 02 09	Water Exclusion Endorsement

In witness whereof, we have caused this policy to be signed by our authorized officers.

Dexter Legg
Secretary

Gary Gregg
President

To report a claim, call your Agent or 1-800-366-6446

DS 70 21 01 08



Coverage Is Provided In:
American Fire and Casualty Company

Policy Number:
BZA (11) 53 30 97 62
Policy Period:
From 08/02/2010 To 08/02/2011
12:01 am Standard Time
at Insured Mailing Location

Businessowners Common Policy Declarations

Named Insured

Agent

ELMIRA EASTOWNE MALL LLC

(860) 343-9025
MCCUTCHEON BURR AND SONS

POLICY FORMS AND ENDORSEMENTS - CONTINUED

This section lists the Forms and Endorsements for your policy. Refer to these documents as needed for detailed information concerning your coverage.

FORM NUMBER	TITLE
IL 70 04 04 01	Premium Audit Condition
LC 87 00 03 99	Exclusion - Asbestos
LC 87 08 07 99	Medical Expense at Your Request Endorsement

To report a claim, call your Agent or 1-800-366-6446

DS 70 21 01 08



Coverage Is Provided In:
 American Fire and Casualty Company
 9450 Seward Road, Fairfield, Ohio 45014

Policy Number:
BZA (11) 53 30 97 62
 Policy Period:
From 08/02/2010 To 08/02/2011
 12:01 am Standard Time
 at Insured Mailing Location

**Businessowners
 Policy Declarations**

Named Insured	Agent
ELMIRA EASTOWNE MALL LLC	(860) 343-9025 MCCUTCHEON BURR AND SONS

SUMMARY OF LIMITS AND CHARGES

Businessowners Liability Limits of Insurance	DESCRIPTION	LIMIT
	Liability and Medical Expenses - Occurrence	1,000,000
	Aggregate	2,000,000
	Fire Legal Liability (Any One Fire or Explosion)	300,000
	Medical Expenses (Any One Person)	10,000

Explanation of Charges	DESCRIPTION	PREMIUM
	Businessowners Location(s) Total	\$6,338.00
	NY State Fire Insurance Fee	\$39.75
	Certified Acts of Terrorism Coverage	\$19.00

Total Advance Charges: \$6,396.75
Note: This is not a bill

To report a claim, call your Agent or 1-800-366-6446

DS 70 22 01 08



Coverage Is Provided In:
 American Fire and Casualty Company
 9450 Seward Road, Fairfield, Ohio 45014

Policy Number:
BZA (11) 53 30 97 62
 Policy Period:
From 08/02/2010 To 08/02/2011
 12:01 am Standard Time
 at Insured Mailing Location

**Businessowners
 Declarations Schedule**

Named Insured	Agent
ELMIRA EASTOWNE MALL LLC	(860) 343-9025 MCCUTCHEON BURR AND SONS

SUMMARY OF COVERAGES BY LOCATION

0001 150 BALDWIN ST, ELMIRA, NY 14901-3016

Property Characteristics Description: LRO Office space occupied by Travelers Ins. & Canal Bank corp offices.

Construction: Fire Resistive

Building Coverage Occupancy: Offices Lessors Risk Only - Without Restaurant

DESCRIPTION	
Limit of Insurance - Replacement Cost	\$6,923,538
Covered Causes of Loss	
Special Form	
Automatic Increase	4%
Deductible	\$2,500

	Premium
Businessowners Location(s) Total	\$6,338.00
Businessowners Schedule Total	\$6,338.00

To report a claim, call your Agent or 1-800-366-6446

DS 70 23 01 08

Demographics for 150 Baldwin Street, Elmira, NY 14901

	Population	1-mi.	3-mi.	5-mi.
2009 Male Population		6,386	22,432	26,907
2009 Female Population		7,106	21,961	26,744
% 2009 Male Population		47.33%	50.53%	50.15%
% 2009 Female Population		52.67%	49.47%	49.85%
2009 Total Adult Population		10,318	34,496	41,687
2009 Total Daytime Population		16,639	44,963	52,660
2009 Total Daytime Work Population		8,417	17,416	20,687
2009 Median Age Total Population		31	35	36
2009 Median Age Adult Population		39	43	43
2009 Age 0-5		1,060	3,142	3,734
2009 Age 6-13		1,378	4,402	5,335
2009 Age 14-17		736	2,352	2,895
2009 Age 18-20		1,077	2,343	2,707
2009 Age 21-24		1,303	3,059	3,489
2009 Age 25-29		936	3,166	3,732
2009 Age 30-34		828	3,096	3,622
2009 Age 35-39		934	3,216	3,850
2009 Age 40-44		899	3,295	4,012
2009 Age 45-49		793	3,061	3,830
2009 Age 50-54		694	2,710	3,420
2009 Age 55-59		546	2,055	2,622
2009 Age 60-64		419	1,649	2,112
2009 Age 65-69		390	1,487	1,876
2009 Age 70-74		437	1,554	1,902
2009 Age 75-79		396	1,593	1,915
2009 Age 80-84		323	1,219	1,457
2009 Age 85+		343	992	1,143
% 2009 Age 0-5		7.86%	7.08%	6.96%
% 2009 Age 6-13		10.21%	9.92%	9.94%
% 2009 Age 14-17		5.46%	5.30%	5.40%
% 2009 Age 18-20		7.98%	5.28%	5.05%
% 2009 Age 21-24		9.66%	6.89%	6.50%
% 2009 Age 25-29		6.94%	7.13%	6.96%
% 2009 Age 30-34		6.14%	6.97%	6.75%
% 2009 Age 35-39		6.92%	7.24%	7.18%
% 2009 Age 40-44		6.66%	7.42%	7.48%
% 2009 Age 45-49		5.88%	6.90%	7.14%
% 2009 Age 50-54		5.14%	6.10%	6.37%
% 2009 Age 55-59		4.05%	4.63%	4.89%
% 2009 Age 60-64		3.11%	3.71%	3.94%
% 2009 Age 65-69		2.89%	3.35%	3.50%
% 2009 Age 70-74		3.24%	3.50%	3.55%
% 2009 Age 75-79		2.94%	3.59%	3.57%
% 2009 Age 80-84		2.39%	2.75%	2.72%
% 2009 Age 85+		2.54%	2.23%	2.13%
2009 White Population		10,860	37,176	46,085
2009 Black Population		1,805	4,949	5,052
2009 Asian/Hawaiian/Pacific Islander		111	369	473
2009 American Indian/Alaska Native		69	166	182
2009 Other Population (Incl 2+ Races)		646	1,732	1,860
2009 Hispanic Population		390	1,532	1,599
2009 Non-Hispanic Population		13,102	42,860	52,053
% 2009 White Population		80.50%	83.74%	85.90%
% 2009 Black Population		13.38%	11.15%	9.42%
% 2009 Asian/Hawaiian/Pacific Islander		0.82%	0.83%	0.88%
% 2009 American Indian/Alaska Native		0.51%	0.37%	0.34%
% 2009 Other Population (Incl 2+ Races)		4.79%	3.90%	3.47%
% 2009 Hispanic Population		2.89%	3.45%	2.98%
% 2009 Non-Hispanic Population		97.11%	96.55%	97.02%
2000 Non-Hispanic White		12,200	39,979	49,047
2000 Non-Hispanic Black		1,823	4,610	4,661

2000 Non-Hispanic Amer Indian/Alaska Native	81	235	243
2000 Non-Hispanic Asian	60	351	492
2000 Non-Hispanic Hawaiian/Pacific Islander	4	9	9
2000 Non-Hispanic Some Other Race	18	38	47
2000 Non-Hispanic Two or More Races	412	895	1,128
% 2000 Non-Hispanic White	83.57%	86.69%	88.17%
% 2000 Non-Hispanic Black	12.49%	10.00%	8.38%
% 2000 Non-Hispanic Amer Indian/Alaska Native	0.55%	0.51%	0.44%
% 2000 Non-Hispanic Asian	0.41%	0.76%	0.88%
% 2000 Non-Hispanic Hawaiian/Pacific Islander	0.03%	0.02%	0.02%
% 2000 Non-Hispanic Some Other Race	0.12%	0.08%	0.08%
% 2000 Non-Hispanic Two or More Races	2.82%	1.94%	2.03%

Population Change

	1-mi.	3-mi.	5-mi.
Total Employees	n/a	n/a	n/a
Total Establishments	n/a	n/a	n/a
2009 Total Population	13,492	44,392	53,652
2009 Total Households	5,579	18,279	22,425
Population Change 1990-2009	-2,777	-6,366	-7,276
Household Change 1990-2009	-737	-856	-732
% Population Change 1990-2009	-17.07%	-12.54%	-11.94%
% Household Change 1990-2009	-11.67%	-4.47%	-3.16%
Population Change 2000-2009	-1,383	-2,911	-3,321
Household Change 2000-2009	-153	156	282
% Population Change 2000-2009	-9.30%	-6.15%	-5.83%
% Households Change 2000-2009	-2.67%	0.86%	1.27%

Housing

	1-mi.	3-mi.	5-mi.
2000 Total Housing Units	6,655	19,894	24,136
2000 Occupied Housing Units	5,780	18,143	22,127
2000 Owner Occupied Housing Units	1,943	10,522	13,338
2000 Renter Occupied Housing Units	3,837	7,621	8,789
2000 Vacant Housing Units	875	1,751	2,009
% 2000 Occupied Housing Units	86.85%	91.20%	91.68%
% 2000 Owner Occupied Housing Units	29.20%	52.89%	55.26%
% 2000 Renter Occupied Housing Units	57.66%	38.31%	36.41%
% 2000 Vacant Housing Units	13.15%	8.80%	8.32%

Income

	1-mi.	3-mi.	5-mi.
2009 Median Household Income	\$26,125	\$34,602	\$35,746
2009 Per Capita Income	\$16,614	\$20,701	\$21,496
2009 Average Household Income	\$40,180	\$50,275	\$51,429
2009 Household Income < \$10,000	1,010	1,963	2,213
2009 Household Income \$10,000-\$14,999	702	1,698	2,000
2009 Household Income \$15,000-\$19,999	584	1,593	1,851
2009 Household Income \$20,000-\$24,999	400	1,456	1,752
2009 Household Income \$25,000-\$29,999	413	1,294	1,607
2009 Household Income \$30,000-\$34,999	354	1,234	1,543
2009 Household Income \$35,000-\$39,999	422	1,341	1,653
2009 Household Income \$40,000-\$44,999	362	1,286	1,586
2009 Household Income \$45,000-\$49,999	361	1,322	1,607
2009 Household Income \$50,000-\$59,999	456	2,005	2,426
2009 Household Income \$60,000-\$74,999	187	1,412	1,959
2009 Household Income \$75,000-\$99,999	190	930	1,320
2009 Household Income \$100,000-\$124,999	47	258	319
2009 Household Income \$125,000-\$149,999	40	200	250
2009 Household Income \$150,000-\$199,999	10	89	106
2009 Household Income \$200,000-\$249,999	6	32	38
2009 Household Income \$250,000-\$499,999	34	163	192
2009 Household Income \$500,000+	n/a	4	4
2009 Household Income \$200,000+	40	199	234
% 2009 Household Income < \$10,000	18.11%	10.74%	9.87%
% 2009 Household Income \$10,000-\$14,999	12.59%	9.29%	8.92%
% 2009 Household Income \$15,000-\$19,999	10.47%	8.71%	8.25%
% 2009 Household Income \$20,000-\$24,999	7.17%	7.96%	7.81%
% 2009 Household Income \$25,000-\$29,999	7.40%	7.08%	7.17%
% 2009 Household Income \$30,000-\$34,999	6.35%	6.75%	6.88%
% 2009 Household Income \$35,000-\$39,999	7.57%	7.34%	7.37%
% 2009 Household Income \$40,000-\$44,999	6.49%	7.04%	7.07%
% 2009 Household Income \$45,000-\$49,999	6.47%	7.23%	7.17%
% 2009 Household Income \$50,000-\$59,999	8.17%	10.97%	10.82%
% 2009 Household Income \$60,000-\$74,999	3.35%	7.72%	8.74%
% 2009 Household Income \$75,000-\$99,999	3.41%	5.09%	5.89%
% 2009 Household Income \$100,000-\$124,999	0.84%	1.41%	1.42%
% 2009 Household Income \$125,000-\$149,999	0.72%	1.09%	1.11%
% 2009 Household Income \$150,000-\$199,999	0.18%	0.49%	0.47%

% 2009 Household Income \$200,000-\$249,999	0.11%	0.18%	0.17%
% 2009 Household Income \$250,000-\$499,999	0.61%	0.89%	0.86%
% 2009 Household Income \$500,000+	0.00%	0.02%	0.02%
% 2009 Household Income \$200,000+	0.72%	1.09%	1.04%

Retail Sales Volume	1-mi.	3-mi.	5-mi.
2009 Children/Infants Clothing Stores	\$1,542,162	\$5,714,793	\$7,097,130
2009 Jewelry Stores	\$1,177,640	\$4,320,500	\$5,354,453
2009 Mens Clothing Stores	\$2,680,173	\$9,359,465	\$11,517,136
2009 Shoe Stores	\$2,325,466	\$8,396,451	\$10,398,073
2009 Womens Clothing Stores	\$5,078,615	\$17,572,510	\$21,621,100
2009 Automobile Dealers	\$26,361,724	\$105,018,258	\$132,347,407
2009 Automotive Parts/Acc/Repair Stores	\$3,635,827	\$13,419,232	\$16,684,164
2009 Other Motor Vehicle Dealers	\$1,169,996	\$4,155,982	\$5,130,557
2009 Tire Dealers	\$935,265	\$3,513,074	\$4,377,714
2009 Hardware Stores	\$375,625	\$1,461,452	\$1,827,398
2009 Home Centers	\$3,257,572	\$12,059,543	\$15,056,187
2009 Nursery/Garden Centers	\$934,611	\$3,579,269	\$4,472,224
2009 Outdoor Power Equipment Stores	\$274,644	\$1,270,258	\$1,641,584
2009 Paint/Wallpaper Stores	\$122,928	\$466,249	\$584,798
2009 Appliance/TV/Other Electronics Stores	\$2,892,212	\$10,314,342	\$12,732,001
2009 Camera/Photographic Supplies Stores	\$472,360	\$1,727,196	\$2,144,943
2009 Computer/Software Stores	\$1,492,053	\$5,453,140	\$6,779,936
2009 Beer/Wine/Liquor Stores	\$1,731,204	\$6,311,522	\$7,819,071
2009 Convenience/Specialty Food Stores	\$3,161,432	\$14,033,665	\$17,606,434
2009 Restaurant Expenditures	\$12,551,874	\$57,622,872	\$73,244,658
2009 Supermarkets/Other Grocery excl Conv	\$20,475,831	\$75,342,591	\$93,692,334
2009 Furniture Stores	\$2,881,927	\$10,625,325	\$13,209,049
2009 Home Furnishings Stores	\$1,927,735	\$6,727,059	\$8,265,527
2009 Gen Merch/Appliance/Furniture Stores	\$26,665,308	\$96,249,263	\$119,217,207
2009 Gasoline Stations w/ Convenience Stores	\$19,179,259	\$66,898,740	\$82,010,518
2009 Other Gasoline Stations	\$16,017,823	\$52,865,073	\$64,404,084
2009 Department Stores excl Leased Depts	\$29,557,518	\$106,563,604	\$131,949,208
2009 General Merchandise Stores	\$23,783,382	\$85,623,936	\$106,008,156
2009 Other Health/Personal Care Stores	\$1,842,633	\$7,034,084	\$8,806,184
2009 Pharmacies/Drug Stores	\$9,994,813	\$36,601,561	\$45,482,038
2009 Pet/Pet Supplies Stores	\$1,499,555	\$5,446,880	\$6,765,980
2009 Book/Periodical/Music Stores	\$974,368	\$2,738,976	\$3,229,781
2009 Hobby/Toy/Game Stores	\$538,010	\$2,407,323	\$3,117,562
2009 Musical Instrument/Supplies Stores	\$246,477	\$944,881	\$1,182,661
2009 Sewing/Needlework/Piece Goods Stores	\$138,990	\$423,207	\$507,885
2009 Sporting Goods Stores	\$1,605,607	\$5,075,787	\$6,068,560
2009 Video Tape Stores - Retail	\$231,772	\$852,947	\$1,059,751



ABOUT ELMIRA

Live, Work, Learn, and Relax in the City of Elmira

Chemung County
New York



Business & Industry

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- Area Attractions
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- Sports & Recreation
- Museums & Culture
- Annual Events
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- Riverfront Planning
- Submit Restaurant
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Welcome

A Great Place to Do Business

A Great Place to Learn

A Great Place to Enjoy

A Great Place to Live

Go To



**Join Us In the Southern Tier | Manufacturing | Commercial Retail
Economic Development | Labor Force**

Join Us In the Southern Tier

The City of Elmira and Chemung County are committed to the process of development and growth while still working to maintain the friendly hometown atmosphere that so many citizens find appealing. Over the years, Chemung County and Elmira have seen great changes in the driving forces behind the local economy and once again are going through another period of change and growth. New businesses are attracted by the benefits of relatively low cost real estate, the friendly and hard working-people, and a community that makes you feel right at home. We welcome you to join us.



Manufacturing

Manufacturing is a core component of the Chemung County economy today. Access to highways, air and rail service, telecommunication networks, and a diverse work force allows local manufacturers to compete on a global scale. Elmira is strategically located within 200 miles of national and international shipping ports in New York City, Pittsburgh, and Toronto, reducing shipping costs for local manufacturers.

Local manufacturers produce a wide variety of raw goods and finished products that are shipped all over the world:

The **Hilliard Corporation** is an Elmira manufacturer that makes over 16,000 different specialized one-of-a-kind products for businesses all over the world.

Kennedy Valve, a division of McWane Corporation, manufactures valves and fire hydrants at its plant on East Water Street in Elmira.

Eastern Metal, USA Sign, and the Sign Man manufactures interior and exterior signs, including the City of Elmira historical entrance sign, erected on E. Church Street in 2004.

Creative Orthotics and Prosthetics custom designs and manufactures orthotic and prosthetic devices for individuals.

Spanish manufacturer, **CAF**, calls Elmira Heights its headquarters for operations in North America where it constructs rail cars for the transit systems of the cities of Pittsburgh and Sacramento.





Elmira DOWNTOWN

[Home](#) [About Us](#) [Events](#) [Experience Downtown](#) [Programs](#) [News](#) [Links](#)

Downtown Map

The City of Elmira's Downtown Business Improvement District is a 52-block area on both sides of the Chemung River. North of the River, the BID is bordered on the west by Columbia Street; on the north by Clinton Street; and on the east by Madison Avenue. South of the River, the district is bordered by Main Street on the west and Pennsylvania Avenue and Sly Streets on the southeast. All properties within these boundaries, as well as properties situated on the perimeter, are member properties of the Business Improvement District.



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Vulcraft, a division of NuCor, manufactures steel joists, joist girders, steel floors, and roof decks at the new plant in the Town of Chemung.

Hardinge Incorporated is an international company with corporate headquarters located in Horseheads. Hardinge is a world-renowned and respected manufacturer of precision machine tools.

Schweizer Aircraft in nearby Big Flats manufactures helicopters, surveillance aircraft, and aviation parts. Schweizer is a contractor for the federal government, constructing unmanned helicopters for the military.

Also in Big Flats, **Corning Life Sciences** manufactures laboratory glassware, **IST** creates nuclear instrumentation and radiation tolerant cameras, and **Orthstar** is a software engineering company that creates software to automate and simulate systems.

Commercial Retail

Commercial retailers meet consumer needs and fill several shopping plazas and commercial districts throughout the county. Here you will find the perfect mix of city convenience and small-town living with an eclectic collection from hometown mom and pop shops to nationwide retail chain stores. Hot spots for shopping include Downtown Elmira, Tops Plaza in Southside Elmira, Wegmans Plaza in Northside Elmira, Grand Central Plaza in Horseheads, and the Arnot Mall and Consumer Square in Big Flats.

Downtown Elmira



Take a walk through Downtown Elmira and stop into the Community Bookstore to grab coffee and the morning Star-Gazette. Down the block, stop for lunch in Barb's Soups On Kitchen. Pick up a special gift and card inside Cappy's. Find the perfect pair of shoes in Panosian's Shoe Store in Langdon Plaza. Browse the shops along Victorian Row in the Historic Near Westside Neighborhood District. Downtown Elmira is filled with small shops and offices for lawyers, doctors, real estate agents, and financial consultants.

»[Elmira Downtown Development Business Directory](#)

Tops Plaza



Tops Plaza, located at the intersection of South Main Street and Hudson Street, includes Top Friendly Markets grocery store, Hollywood Video, and the Dollar Tree. Across the street is a strip of businesses on South Main Street that includes Gerould's Pharmacy, Kerbein Printing and Signs, Ginos Pizzeria, the China Café, and more.

Wegmans Plaza

Wegmans Plaza, located on Clemens Center Parkway North of Washington Avenue, includes Wegmans Food Markets, the UPS Store, Ray's Jewelers, H&R Block, First Heritage/Corning Credit Union, and more.



Grand Central Plaza

Grand Central Plaza, located at the intersection of Center Street and Route 17 in Horseheads includes K-Mart, Raymour and Flanigan Furniture, Save-A-Lot Grocery Store, Radio Shack, Champion Factory Outlet Store, Peter Harris Clothing, and many more.

Arnot Mall

The Arnot Mall, located in Big Flats off exits 51 and 51A of Interstate 86, includes several large anchor stores such as Sears, JC Penney, Macy's, and Bon Ton, several smaller shops and retail chain stores, a 10 screen movie theater, and food court.

»[Visit the Arnot Mall website](#)

Consumer Square



Consumer Square, located off exit 51 of Interstate 86, is a retail center with several large anchor stores including Wal-Mart, Sam's Club, Tops, Dick's Sporting Goods, Staples, Barnes and Noble, and Lowes surrounded by smaller retail shops.



Business Directories

For more information on businesses and retailers in the Elmira area, use these resources:

- » [Elmira Downtown Development Downtown Directory](#)
- » [Chamber of Commerce Directory](#)
- » [Yahoo Business Directory](#)

Economic Development

Development in the area is guided by City and County leaders working together with local economic development organizations such as Southern Tier Economic Growth, Elmira Downtown Development, and the CCC Small Business Development Center. We pride ourselves on operating the way businesses do - proactively anticipating opportunities and quickly responding to challenges in innovative ways.

Elmira Empire Zone Benefits

The Elmira Empire Zone provides incentives to manufacturers, and commercial retailers to locate a new business within the Empire Zone. Incentives include Tax Reduction Tax Credits, Real Property Tax Credits, Sales Tax Exemptions, Sales Tax Refunds, Wage Tax Credits, and discounts on utilities.

- » [more from Southern Tier Economic Growth](#)
- » [more from New York Empire Development](#)



The Elmira Empire Zone has a very successful record of drawing new businesses into Chemung County. The Empire Zone has been effectively used to fill Trinity Industrial Park, build a **Vulcraft** plant in the **Town of Chemung**, construct a 72,000 square foot manufacturing facility for SYNTHE USA, and open the **First Arena** hockey and entertainment arena in Downtown Elmira. The Elmira Empire Zone has resulted in the establishment of 59 new businesses, the retention of 23 existing businesses, and the creation or retention of 7,263 jobs in the City of Elmira.

Southern Tier Economic Growth



STEG plans, promotes, and implements economic development programs and services in Chemung County. STEG and the City of Elmira work together to administer the Elmira Empire Zone and provide financial assistance to new and existing businesses. The Commercial Loan Program provides low interest loans to businesses in the City of Elmira that create full-time jobs for low to moderate income individuals. STEG is also responsible for marketing the Elmira region to attract new businesses and developers to invest in our region.

- » [more from Southern Tier Economic Growth](#)



Elmira Downtown Development

EDD provides technical and financial assistance to businesses located within the 52 block area known as the Elmira Downtown Development District. EDD supports downtown businesses through façade enhancement, sign design, filling vacant properties, and planning special events to attract shoppers into the Downtown District. Some of EDD's special events include Wisner Market, the Downtown Showcase, Music on the Riverfront, and Downtown CleanUp. The goal of EDD is to make Downtown Elmira more attractive and viable for business development.

- » [more from Elmira Downtown Development](#)



Chemung County Chamber of Commerce

The Chamber of Commerce represents the business community in the

promotion of the prosperity and the quality of life throughout Chemung County. The Chamber sponsors events to attract tourists and consumers into Chemung County. The Chamber also sponsors events to allow business owners to network with other business owners to make connections and discover new opportunities.

[»more from the Chemung County Chamber of Commerce](#)

CCC Small Business Development Center



Corning Community College's Small Business Development Center specializes in providing direct one-to-one confidential management counseling to entrepreneurs and business owners. Technical, managerial, marketing, or financial advice is available without a charge to any new or existing business.

[»more from CCC Small Business Development Center](#)

Available Properties

There are several online resources available to find a property to rent or lease to start a small business, expand an existing business, establish a corporate headquarters, or build a new manufacturing facility. Elmira Downtown Development maintains a current listing of Available Properties in the downtown district on their website. This listing can be searched and sorted to more easily find the property that suits your needs. Southern Tier Economic Growth maintains a listing of available sites in the Empire Zone on their website.

[»Elmira Downtown Development Available Properties](#)

[»STEG Available Sites](#)

Labor Force

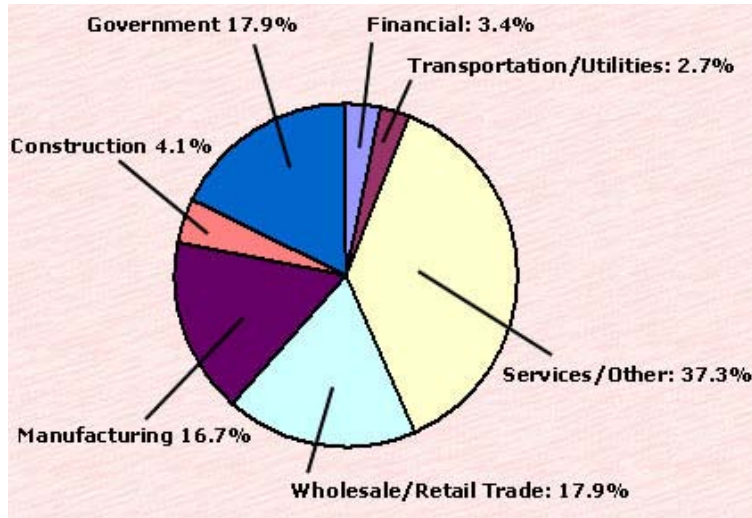
The workforce is known for its outstanding work ethic, perseverance and pride. Several businesses which located here in the late 1970's have been stable employers into the 21st Century and are very pleased with their workforce.

Major Employers in the Elmira-Chemung County Region

Elmira City School District	Primary and Secondary Education	1500
Arnot Ogden Medical Center	Hospital and Medical Services	1400
Horseheads School District	Primary and Secondary Education	850
Elmira Correctional Facility	Corrections	850
St. Joseph's Hospital	Hospital and Medical Services	780
Hardinge Brothers, Inc.	Machine Tool Manufacturing	580
General Revenue Corp.	Debt Collection Services	500
Schweizer Aircraft	Aircraft Construction	470
Southport Correctional Facility	Corrections	450
Hilliard Corp.	Manufacturing	436
SCT BOCES	Education & Career Training	400
Elmira College	Higher Education	400
Chemung Canal Trust Company	Banking and Financial Services	400
Kennedy Valve	Fire Hydrant Manufacturing	400
Anchor Glass Container Corp.	Bottle Manufacturing	370
Elcor Health Services	Medical Services	300
Dalrymple Contracting	Mining	300
Corning Inc.	Labware, Scientific Apparatus	300
Capabilities Inc.	Human Services	300
Chemung ARC	Human Services	300
Thomas & Betts	Electronics & Manufacturing	280
F.M. Howell & Company	Paper and plastic packaging	265
Synthes USA	Healthcare products	250

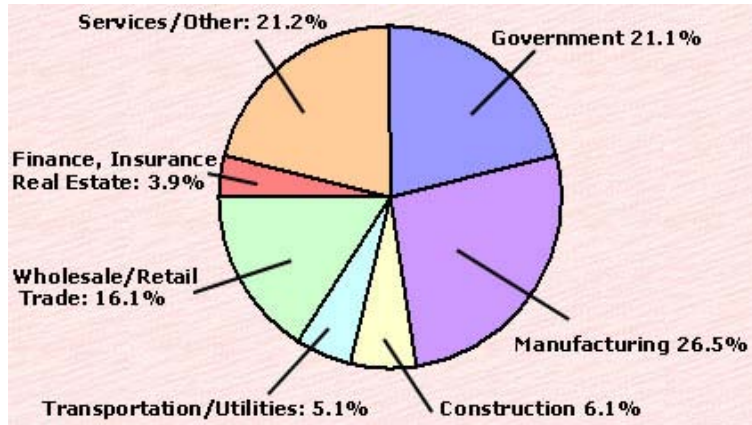
Source: Chemung County

Employment by Industry



Source: NYS Department of Labor 2002

Annual Payroll by Sector



Source: NYS Department of Labor 2000

Labor Force and Employment (Average Annual)

Year	Civilian Labor Force	Employed	Unemployed	Unemployment Rate
1998	45,000	43,100	1,900	4.2
1999	44,300	42,200	2,200	4.9
2000	42,800	40,700	2,100	4.8
2001	42,000	39,800	2,200	5.3
2002	43,200	40,200	3,000	6.8

Source: NYS Department of Labor 2002

Field of Employment (Employed Persons 16 and Over - 2000)

Management/Business	3,760	9.2%
Professional & Related	7,210	17.7%
Technicians	1,463	3.6%
Sales	4,430	10.9%
Administrative Support	5,469	13.4%

Service	7,518	18.5%
Production	4,047	9.9%
Transportation	2,174	5.3%
Construction	2,908	7.1%
Farm/Fishing/Forestry	241	0.6%
Other	1,480	3.6%

Source: NYS Department of Labor 2000

Industry Profile

2001 Annual Average	Employees	Establishments	Payroll (\$M)	Wages
Total	41,004	2,024	1,176	\$28,668
Manufacturing	7,934	110	289	\$36,384
Durables	6,873	85	257	\$37,349
Nondurables	1,060	25	32	\$30,147
Services	13,953	712	368	\$26,353
Retail Trade	8,350	576	126	\$15,128
Wholesale Trade	1,882	129	66	\$34,867
FIRE	1,405	180	46	\$32,810
Government	3,267	41	125	\$38,169
Construction	2,018	153	78	\$38,782
Trans/Public Utilities	1,937	81	73	\$37,841

Source: NYS Department of Labor 2001

Educational Profile

Total HS Enrollment	13,472
Dropout Rate	6.5%
Graduates Post HS Plans	
-4 Year School in NY	23.9%
-4 Year School outside NY	12.9%
-2 Year School in NY	37.7%
-2 Year School outside NY	1.5%
-Employment	14.8%
-Military Service	4.7%
-Other	2.4%



Source: NYS Department of Education 2000-2001

The information provided on these pages is for informational purposes and should not be considered an endorsement by the City of Elmira. If you believe we missed something or you have information that could be added to these pages, please email the webmaster by [clicking here](#).



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Environment Programs

GRANTS FOR DOWNTOWN BUSINESSES!

Elmira Downtown Development offers 2 grant programs for owners interested in improving their properties. Applications for both programs are now available.

The goal of these program is to eliminate the cluttered and blighting effect of inappropriate facades;

to enhance the streetscape; and to leverage private improvements while making revitalization efforts affordable, creative, and community-based. The programs offer matching grants to assist building and business owners in making permanent exterior improvements to their properties.

Grants are available up to 50%; all projects MUST meet program guidelines.

Related Events

[Downtown Clean-up](#)

[Operation Green Streets](#)

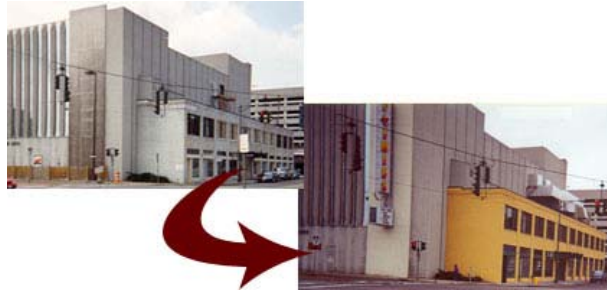




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Façade Improvement Program



This program makes funds available for larger-scale building improvements. Applicants are eligible for up to \$5,000 in matching funds in order to improve the appearance of building facades in downtown Elmira. Design assistance is also available. This program is also funded by the City of Elmira.

Examples of eligible work include the following:

- Masonry Cleaning
- Graffiti Removal
- Wall Repair (inc. decorative details)
- Painting
- Window Repair & Replacement
- Cornice Restoration

Additionally, minor building improvements necessitated by the facade project may be eligible. For a copy of the program guidelines and an application, please visit our office.

Applicants are required to meet with staff for a consultation.



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Signage Improvement Program



Applicants are eligible for up to \$1,500 in matching funds in order to improve the appearance of signs and awnings in downtown Elmira. Design assistance is also available. This program is funded by the City of Elmira and is administered by EDD.

Examples of eligible work include the following:

- new signs
- repair of existing signs
- replacement of signs
- removal of signs
- awnings
- window enhancements
- lighting associated with sign projects

Additionally, minor building improvements necessitated by the sign project may be eligible. For a copy of the program guidelines and an application, please visit our office. Applicants are required to meet with staff for a consultation.



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New York Main Street Program

The New York Main Street provides financial resources and technical assistance to communities to strengthen the economic vitality of the State's traditional Main Streets and neighborhoods. The NY Main Street grant program provides funds from the New York State Housing Trust Fund Corporation (HTFC) to units of local government, business improvement districts, and other not-for-profit organizations that are committed to revitalizing historic downtowns, mixed-use neighborhood commercial districts, and village centers.



Learn more at www.dhcr.state.ny.us



Chemung County Chamber of Commerce
 400 East Church Street Elmira, NY 14901-2803
 Phone: 607.734.5137 Fax: 607.734.4490
 info@ChemungChamber.org

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The Chamber is Wired...Join the Chemung County Chamber of Commerce Today...click on the JOIN tab to become a part of the more than 700 Chamber of Commerce member

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Real Estate - Commercial & Residential

Homes...residential & commercial real estate & construction. Excellence in the areas of health care, education, housing, culture & recreation offer Chemung County residents a quality lifestyle that must be experienced to be appreciated.

11 Markets With Highest Home Appreciations

First American CoreLogic Inc., in its latest study, identified the best-performing markets in the U.S. for 2008. In many cases, the markets that made the list are areas that never enjoyed significant increases in value over the last decade -- but neither did they lose value over the last three years. Nationwide, American CoreLogic, which predicts loan performance for banks, reported housing prices were down 11.1 percent last year. It predicts that home values will continue to decline through 2010. In the fourth quarter of 2008, the report found that home price declines accelerated in some states where home values previously had been fairly stable, including Maine, Pennsylvania, Arkansas, Oregon and Rhode Island. "The geographic breadth of price declines rapidly expanded in the second half of 2008, which means that housing wealth losses are broadening across much of the country," says Mark Fleming, Chief Economist for First American CoreLogic.

The 11 cities with the highest home price appreciation in 2008 are:

1. Cedar Rapids, IA 8.83 %
2. Binghamton, NY 7.78 %
3. Amsterdam, NY 7.89 %
4. Malone, NY 7.60 %
5. Bay City, MI 6.87 %
6. College Station-Bryan, TX 6.78 %
7. Rocky Mount, NC 6.69 %
8. Auburn, NY 6.51 %
9. Lebanon, PA 6.41 %
10. **Elmira, NY 6.28 %**
11. Johnstown, PA 6.20 %

Listed below are links to real estate firms and others than can assist in relocation in and around Chemung County. [Click here to view additional information on relocation.](#)

[A to Z Rental](#)
[Arnot Realty Corporation](#)
[Career Dimensions](#)
[Coldwell Banker Horizons Realty](#)
[Conifer Village at Horseheads](#)
[Corning Enterprises](#)
[Dimon & Bacorn, Inc.](#)
[EDC Management](#)
[Elmira Colony Park Luxury Apartments](#)
[Elmira Downtown Development, Inc.](#)
[Equilibrium Equities, Inc.](#)
[Gough Holding Corporation](#)
[Grand Central Plaza, Inc.](#)
[Hatfield Real Estate of Southern Tier, LLC](#)
[Hickory Grove Apartments](#)
[Ivy Street Development](#)
[Kimball Realty Group, Inc.](#)
[L Enterprises, LLC](#)
[Magee Point Associates LLC](#)
[Pyramid Brokerage Company](#)
[RE/MAX Solutions](#)
[Realty USA](#)
[Regional Economic Development & Energy Corp.](#)
[Southern Tier Economic Growth, Inc.](#)
[Southern Tier Logistics](#)
[Yunis Realty, Inc.](#)





Available Properties

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Search for

Use this page to access information about properties available for sale or lease in the downtown district. Information is supplied by building owners and their agents; you may contact them directly or EDD for additional information. Click the headings below to sort by property name, location, size, or salestype. Use this page's search engine if you have a specific requirement, including building use, size, or amenities.

JENNIFER HERRICK
Executive Director
Featured Business
Allcom Commercial Brokerage,
LLC



607.737.5280
111 North Main Street

Available For Rent
112 Lake Street



112 Lake Street
1,400 Square Feet

[Click here for 31 more properties available now in Downtown Elmira](#)

Come Visit Us



Commerce Center
Corner of East Church St and Lake St in Downtown Elmira

PROPERTY - CLICK FOR MORE INFO	STREET	SQFT	RENT/SALE
112 Lake Street	Lake Street	1,400	R
200 William Street	William Street	17,096	R
214 South Main Street	Main Street	8,210	R
218-220 South Main Street	Main Street	4,776	R
227 West Water Street	Water Street	7,800	R
319 W. Water Street	Water Street	2,800	R
352 State Street	State Street	32,200	R
409 William Street	William Street	34,000	R
458 E. Church Street	Church Street	2,968	R
623 Baldwin Street	Baldwin Street	13,400	R
Aarons Rental Space	Main Street	5,875	R
Blue Cross Building	Church Street	7,957	R
Carpenter's Local 532	Church Street	2,856	S
Elm Chevrolet Annex	Church Street	540	R
Former Mexican Restaurant/Office Space	Main Street	4,000	R/S
Former Patsys Lunch	Lake Street	1,400	R
Former Pineapple House	Main Street	1,700	R/S
Former Shreibman Jewelers	Baldwin Street	3,500	R
Former Swan Building	Main Street	24,000	R/S
HSBC Bank Building	Lake Street	5,900	R
Midtown Building- Office	Main Street	3,000	R
Midtown Building- Restaurant	Main Street	370	R
Mohawk Building	Lake Street	8,000	R
Newland & Associates Building	Church Street	4,000	R/S
Post Office & Courthouse	Church Street	42,166	R/S
Strathmont Plaza	Main Street	5,000	R
Three Clemens Square	Clemens Square	2,451	R
Two Clemens Square	Clemens Square	1,225	R
Video Loft	Main Street	3,160	R
Water Street Place	Water Street	17,769	R
Williams Building	Water Street	700	R
Yunis Building	Church Street	12,000	R

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