

INDUCEMENT AGREEMENT AND PROJECT AGREEMENT

THIS INDUCEMENT AGREEMENT AND PROJECT AGREEMENT RELATING TO THE **1002 OSWEGO STREET, LLC/UNITED AUTO SUPPLY 2022 FACILITY** (the "AGREEMENT") is between the **CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at One Kennedy Plaza, Utica, New York 13502 (the "Agency"), and **1002 OSWEGO STREET, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 1200 State Fair Boulevard, Syracuse, New York 13209 (the "Company").

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this AGREEMENT are the following:

1.01. The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 710 of the Laws of 1981 of the State of New York, as may be amended from time to time (collectively, the "Act") to undertake "Projects" (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are (i) to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State and (ii) to encourage and assist in the providing of industrial pollution control facilities and (iii) to promote the economic welfare and prosperity of the inhabitants of the State. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes.

1.03. (a) The Agency previously provided financial assistance to the Company relating to the (a) acquisition of a 7.00± acre parcel of vacant land formerly known as the Bossert Site located at 1002 Oswego Street, City of Utica, Oneida County, New York (the "Land"); (b) construction on the Land of a 20,000± square foot mixed-use commercial and retail building (the "Commercial Improvements") and acquisition and installation of machinery and equipment in the Commercial Improvements (the "Commercial Equipment") all for the purpose of the distribution of automotive parts and lubricants and providing a regional headquarters for United Auto Supply (the Commercial Improvements and the Commercial Equipment collectively, the "Commercial Facility"); and (c) the proposed construction on a 2.00± acre out-parcel situated on the Land of a commercial/retail structure (the "Retail Improvements") and acquisition and installation of machinery and equipment in the Retail Improvements (the "Retail Equipment") all for providing a retail convenience store or other equivalent retail/commercial use (the Retail Improvements and the Retail Equipment collectively, the "Retail Facility" and together with the Commercial Facility, the "Existing Facility"). The Company leases the Existing Facility to the Agency pursuant to a Lease Agreement dated as of May 1, 2013 (the "Lease Agreement"), and the Agency leases the Existing Facility back to the Company pursuant to a leaseback agreement dated as of May 1, 2013 as amended on February 12, 2014 and September 30, 2016 (collectively, the "Existing Leaseback Agreement"). The Company in turn subleases portions of the Commercial Facility to (a) United Auto Supply of Syracuse, West, Inc. (the "UAS Sublessee"), (b) Upstate Cerebral Palsy (the "UCP Sublessee") and (c) Orkin (the "Orkin

Sublessee”) (each a “Sublessee” and collectively, the “Sublessees”) for operation. The Company makes payments in lieu of taxes pursuant to a PILOT Agreement dated as of May 1, 2013 between the Agency and the Company (the “PILOT Agreement”).

(b) The Company has submitted to the Agency an Application for Financial Assistance dated January 7, 2022, which Application may be amended from time to time prior to closing of the amended lease-leaseback transaction described below (the “Application”) requesting that the Agency support the Existing Facility by assisting in (i) the construction of a 21,600± square foot building (the “Addition”), which Addition will be constructed in lieu of the Retail Improvements; (ii) the renovation of the Commercial Improvements and (iii) the acquisition and installation of equipment in the Addition and the Commercial Improvements (the “Equipment”), all in furtherance of the Existing Facility to allow for the growth and expansion of the Sublessees (the Addition and the Equipment is referred to as the “2022 Facility,” and the construction and equipping of the Addition and the renovation and equipping of the Commercial Facility is referred to as the “2022 Project”). The Company will lease the 2022 Facility to the Agency, and the Agency and the Company will amend the Existing Leaseback Agreement to add and include the 2022 Facility and the 2022 Project.

1.04. The Company hereby represents to the Agency that the 2022 Project (a) will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State or an abandonment of one or more plants of the Company located in the State; (b) is reasonably necessary to discourage the Company from removing such other plant or facility to a location outside the State, or (c) is reasonably necessary to preserve the competitive position of the Company in its industry. The construction, renovation and equipping of the 2022 Facility has not/did not commence(d) as of January 12, 2022.

1.05. The Agency has determined that the construction, renovation and equipping of the 2022 Facility, as described in the Company’s Application will promote and further the purposes of the Act.

1.06. On January 12, 2022, the Agency adopted a resolution (the “Resolution” or the “Inducement Resolution”) agreeing to undertake the 2022 Project in order to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such undertaking and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, to undertake a amended lease-leaseback transaction in connection with the 2022 Project.

1.07. In the Resolution, the Agency appointed the Company and its agents and other designees, as its agent for the purposes of constructing, renovating and equipping the 2022 Facility, and such appointment includes the following activities as they relate to the constructing, renovating and equipping of the 2022 Facility, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the 2022 Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with constructing, renovating and equipping the 2022 Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every

kind and description used in connection with constructing, renovating and equipping the 2022 Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the 2021 Facility, including all repairs and replacements of such property. Such agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for completing the 2021 Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf.

1.08. (a) In the Resolution, the Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from sales and use taxes on purchases relating to the 2022 Project, exemptions from mortgage recording taxes, and reduction of real property taxes on the increased assessment resulting from the 2022 Project for a period of five years during which time the Company will pay no increased taxes in year one, 30% of increased taxes in year two, 40% of increased taxes in year three, 50% of increased taxes in year four, and 75% of increased taxes in year five, which represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein (collectively, the "Financial Assistance").

(b) Based upon representations made by the Company in the Application, the value of the Financial Assistance relating to the 2022 Project is described as follows:

Sales and use tax exemptions estimated at \$218,750.00;

Mortgage recording tax exemptions estimated at \$18,750.00

Real property tax abatement estimated at \$149,769.00; and

1.09. It is understood and agreed by the parties that the purpose of the Agency's provision of Financial Assistance with respect to the 2022 Project is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the 2022 Facility to advance job opportunities, health, general prosperity and economic welfare of the people of City of Utica and to otherwise accomplish the public purpose of the Act.

1.10. Attached as Exhibit A to this Agreement is a copy of the First Amended and Restated PILOT Agreement that reflects the Financial Assistance currently contemplated by the Agency in the Resolution. The Company acknowledges that the Agency (a) reserves all rights to amend the First Amended and Restated PILOT Agreement to reflect the terms of the Financial Assistance for which the Agency grants final approval as it authorizes in the final authorizing resolution and (b) is under no obligation to enter into the First Amended and Restated PILOT Agreement unless all conditions described in Section 4.02 hereof are met to the satisfaction of the Agency.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company regarding the 2022 Facility and subject to the conditions set forth herein, the Agency hereby confirms and acknowledges:

2.01. Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, the Agency will (A) adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) an amended lease-leaseback transaction, (ii) the construction, renovation and equipping of the 2022 Facility, and (iii) the leasing of the 2022 Facility to the Company pursuant to the amended Leaseback Agreement, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company and (B) shall enter into a amended lease-leaseback transaction pursuant to the terms of the Act, as then in force, for the purpose of financing certain costs of the 2022 Facility.

2.02. The Leaseback Agreement shall be extended for an additional three (3) year term and shall continue to obligate the Company to make aggregate basic payments in the amount of \$1.00 and annual administrative fee payments of \$3,000.00. The Company shall be entitled to terminate the Agency's leasehold interest in the Facility for an aggregate amount of \$1.00, plus such additional amounts as shall be prescribed in the amended Leaseback Agreement. The amended Leaseback Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

2.03. That all services, costs and expenses of whatever nature incurred in connection with the construction, renovation, equipping, installation, replacement, rebuilding, restoration, repair, maintenance and operation of the 2022 Facility have been and will continue to be undertaken by the Company as agent for the Agency, regardless of whether such services, costs and expenses were undertaken and/or paid in its own name or in the name of the Agency, and the Agency shall furnish to the Company an appropriate letter on Agency letterhead evidencing the authority of the Company to act as agent of the Agency.

2.04. That, in connection with any lease by the Agency to the Company that is, in turn, subleased or leased by the Company, it is the intent of all parties to the transactions that any sublease or lease is undertaken by the Company as agent for the Agency.

2.05. That, at the request of the Company, and subject to the agreement between the Agency and the Company, any future transfers of fee or leasehold interest of any portion of real property upon which the Facility is located and not owned by the Agency, are hereby authorized, such transfers to be from the Company to the Agency, and there shall be no need for any further official action on behalf of the Agency other than the execution of the appropriate documents evidencing such transfer.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency herein and in the Resolution and subject to the conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01. The Company hereby accepts the appointment made by the Agency in the Resolution to be the true and lawful agent of the Agency to (i) construct, renovate, equip, repair and maintain the 2022 Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent of the Agency, and in general to do all things which may be requisite or proper for completing the 2022 Facility, all with the same powers and the same validity as the Agency could do if acting on its own behalf, including the authority to delegate such Agency appointment, as described in the Resolution.

3.02. (a) Under the Existing Leaseback Agreement, the Company is obligated to (i) retain (or cause the Sublessees to retain) 31 full-time equivalent jobs at the Commercial Facility for the duration of the Lease Term and (ii) create (or cause the Retail Sublessee to create) 13 full-time equivalent jobs by the commencement of the third year of the Lease Term following the Completion Date of the Retail Project and maintain them for the duration of the Lease Term (collectively, the "2013 Employment Obligation"). Insofar as the Retail Project will no longer be undertaken, the requirement to create 13 FTEs is no longer applicable and omitted from the 2013 Employment Obligation. The Company acknowledges that the Financial Assistance for the Existing Facility is conditioned upon the Company maintaining the 2013 Employment Obligation for the term of the Leaseback Agreement and failure to do so may result in the termination or recapture of Financial Assistance for the 2013 Facility.

(b) In the Application for the 2022 Facility, the Company represented that, in addition to complying with the 2013 Employment Obligation, it will (i) retain (or cause the Sublessees to retain) an additional 28 full time equivalent positions and create (or cause the Sublessees to create) 10 full time equivalent positions at the Facility two years after completion of the 2022 Project, and maintain all for the duration of the Lease Term as a result of undertaking the 2022 Project (the "2022 Employment Obligation"). The Company acknowledges that the Financial Assistance for the 2022 Project is conditioned upon the Company maintaining the 2022 Employment Obligation for the term of the Leaseback Agreement and failure to do so may result in the termination or recapture of Financial Assistance for the 2022 Project.

(c) For the purposes of measuring compliance, employees will first be applied to the 2013 Employment Obligation and second to the 2022 Employment Obligation.

3.03. The Company will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the construction, renovation and equipping of the 2022 Facility (including any necessary contracts for the acquisition of real property necessary or useful in said 2022 Facility).

3.04. Contemporaneously with the closing of the amended lease-leaseback transaction the Company will enter into an amendment to the Leaseback Agreement with the Agency containing, among other things, the terms and conditions described in Section 2.02 and Section 3.02 hereof.

3.05. (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), any mechanics' or other liens against the Facility for labor or materials furnished in connection with the construction, renovation and equipping of the 2022 Facility. The Company shall forever defend, indemnify and hold the Agency, its members, officers, employees, and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against all costs, losses, expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the construction, renovation and equipping of the 2022 Facility or arising out of any contract or other arrangement therefor (and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this AGREEMENT or otherwise.

(b) The Company shall forever defend, indemnify and hold harmless the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses (including without limitation attorneys' fees) howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company or any sublessee) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Facility including the failure to comply with the provisions of Article 3.05 hereof, or arising, directly or indirectly, out of the ownership, construction, renovation, equipping, acquisition, operation, maintenance, repair or financing of the Facility, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by law. Without limiting the generality of the foregoing, the foregoing indemnifications shall apply to and encompass any action (or alleged failure to act) of the Agency pursuant to the SEQR Act.

(d) The Company shall provide and carry (or cause the Sublessee to provide and carry) workers' compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's

protective for the benefit of the Agency and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

3.06. With the exception of the authorizations required to be adopted by the Agency for the Agency to enter into the amended lease-leaseback transaction, the Company agrees that, as agent for the Agency or otherwise, it will comply with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Facility, the construction, renovation and equipping thereof, the operation and maintenance of the Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this AGREEMENT shall be amended to specifically set forth any such provision or provisions. The Company certifies, under penalty of perjury, that it, and the Sublessee, is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

3.07. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.08. If it should be determined that any State or local sales or compensatory use taxes or similar taxes however denominated are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the 2022 Project, or are in any manner otherwise payable directly or indirectly in connection with the 2022 Project, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.09. The Company shall file with the New York State Department of Taxation and Finance Form ST-340 (Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority), for as long as the Company claims a sales tax exemption, an annual statement of the value of all sales and use tax exemptions claimed in connection with the 2022 Facility, in compliance with Section 874(8) of the New York State General Municipal Law. The Company shall provide the Issuer with a copy of such annual statement at the time of filing with the State Department of Taxation and Finance. Based upon representations made by the Company in the Application, the value of the sales tax to be abated relating to the Project is estimated at \$218,750.00. The Company acknowledges that the financial assistance currently authorized by the Agency is limited to \$218,750.00 and the Agency is required by law to recapture the New York State portion of sales tax of any exemptions claimed by the Company that exceed this amount.

3.10. If the 2022 Facility is leased to another party by the Agency and subleased to the Company, then in such event, the Company guarantees all of the covenants, undertakings and indemnities of such other party as set forth in this Article 3.

3.11. The Company shall provide (or cause the Sublessee to provide) annually, to the Agency, a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Facility, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit B contains the form of annual certification as well as additional project assessment information that the Agency requires, on an annual basis, to be submitted to the Agency by the Company.

3.12. In accordance with Section 875(3) of the General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that it may be subject to recapture of any and all Financial Assistance if it is determined by the Agency that:

(a) the Company or its subagents, if any, authorized to make purchases for the benefit of the 2022 Project is not entitled to the sales and use tax exemption benefits; or

(b) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its subagents, if any; or

(c) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the 2022 Project; or

(d) the Company has knowingly made a material false or misleading statement, or knowingly omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(e) the Company fails to meet (or cause the Sublessees to meet) and maintain the Employment Obligation; or

(f) the Company failed to submit (or cause the Sublessees to submit) to the Agency its annual report so that the Agency can confirm that the 2022 Project is achieving the Employment Obligation and other objectives of the 2022 Project.

If the Agency determines to recapture any Financial Assistance, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s), unless agreed to otherwise by any tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax

Commissioner may assess and determine the New York State and local sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

3.13. The Company acknowledges that the Agency's Financial Assistance is considered to be public funds under Section 224-a of the New York State Labor Law ("Prevailing Wage Requirements"). The Agency has determined that the Financial Assistance for the 2022 Project amounts to \$387,269.00 in the aggregate. The Company acknowledges that, if it determines the 2022 Project is a "covered project" under the Prevailing Wage Requirements, the Company is obligated under Subdivision 8(a) of the Prevailing Wage Requirements to certify under penalty of perjury within five (5) days of commencement of construction work whether the 2022 Project is subject to the provisions of the Prevailing Wage Requirements. Compliance with Prevailing Wage Requirements is wholly the obligation of the Company, and failure to comply may result in a stop-work order.

Article 4. General Provisions.

4.01. This AGREEMENT sets forth the terms and conditions under which Financial Assistance shall be provided to the Company relating to the 2022 Project; no Financial Assistance shall be provided to the Company relating to the 2022 Project prior to the effective date of this Agreement. This AGREEMENT shall remain in effect until the amendment to the Leaseback Agreement becomes effective. It is the intent of the Agency and the Company that this AGREEMENT be superseded in its entirety by the amended Leaseback Agreement, as amended, except for the indemnities and guarantee of indemnities contained herein, which shall survive.

4.02. It is understood and agreed by the Agency and the Company that entering into the amended lease-leaseback transaction and the execution of the Leaseback Agreement and related documents are subject to (i) obtaining all necessary governmental approvals, (ii) approval of the Members and/or Managers of the Company, (iii) approval of the members of the Agency, (iv) satisfactory completion of the environmental review of the 2022 Facility by the Agency in compliance with the State Environmental Quality Review Act, (v) agreement by the Agency and the Company upon mutually acceptable terms and conditions for the amendment to the Leaseback Agreement and other documentation usual and customary to transactions of this nature, (vi) the condition that there are no changes in New York State Law which prohibit or limit the Agency from fulfilling its obligation and commitment as herein set forth to enter into the amended lease-leaseback transaction and (vii) payment by the Company of the Agency's transaction fee and the fees and disbursements of bond counsel or transaction counsel.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses that the Agency may incur as a consequence of executing this AGREEMENT or performing its obligations hereunder. Examples of such expenses include, but are not limited to, photocopies, phone and fax charges, postage and other shipping charges incurred in connection with closing the amended lease-leaseback transaction or complying with any requests after closing relating to the lease-leaseback transaction.

4.04. If for any reason the amended lease-leaseback transaction does not close on or before twelve (12) months from the execution hereof, the provisions of this AGREEMENT (other than the provisions of Articles 3.05, 3.06, 3.07 and 3.08 above, which shall survive) shall, unless extended by agreement of the Agency and the Company (whether before or after such original expiration date), terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses which were incurred by the Agency in connection with the 2022 Project;

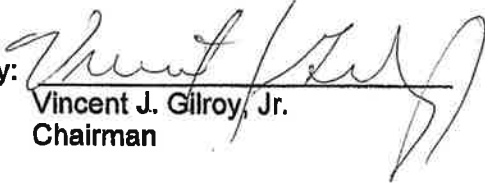
(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the 2022 Project; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and Transaction Counsel incurred in connection with the 2022 Project and will pay the reasonable fees of counsel for the Agency and Transaction Counsel for legal services relating to the 2022 Project or the proposed financing thereof.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have entered into this AGREEMENT to be effective as of January 12, 2022.

CITY OF UTICA INDUSTRIAL
DEVELOPMENT AGENCY

By: 

Vincent J. Gilroy, Jr.
Chairman

1002 OSWEGO STREET, LLC

By: 

James Ranalli
Member

CERTIFICATION OF PROJECT OPERATOR

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

JAMES RANALLI, being first duly sworn, deposes and says:

1. That I am a Member of 1002 Oswego Street, LLC (the "Company") and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the 2022 Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.



James Ranalli

Subscribed and affirmed to me under penalties of perjury
this 11th day of March 2022.



(Notary Public)

WENDY S. LOUGNOT
Notary Public in the State of New York
Qualified in Oswego County No. 02LO6090224
My Commission Expires April 7, 2023

EXHIBIT A
FIRST AMENDED AND RESTATED PILOT AGREEMENT

Transcript Document No. []

1002 OSWEGO STREET, LLC
and
CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY

FIRST AMENDED AND RESTATED
PAYMENT-IN-LIEU-OF-TAX AGREEMENT

City of Utica Industrial Development Agency
2022 Real Estate Lease Amendment
(1002 Oswego Street, LLC/United Auto Supply Facility Expansion)

Oneida County, City of Utica, Utica City School District

Tax Account No.: 318.055-2-1

**FIRST AMENDED AND RESTATED
PAYMENT-IN-LIEU-OF-TAX AGREEMENT**

THIS FIRST AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of _____ 2022, is by and between **1002 OSWEGO STREET, LLC**, a New York limited liability company with an address of 1200 State Fair Boulevard, Syracuse, New York 13204 (the "Company") and **CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at One Kennedy Plaza, Utica, New York 13502 (the "Agency").

W I T N E S S E T H:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 710 of the Laws of 1981 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, Agency previously provided financial assistance to the Company relating to the (a) acquisition of a 7.00± acre parcel of vacant land formerly known as the Bossert Site located at 1002 Oswego Street, City of Utica, Oneida County, New York (the "Land"); (b) construction on the Land of a 20,000± square foot mixed-use commercial and retail building (the "Commercial Improvements") and acquisition and installation of machinery and equipment in the Commercial Improvements (the "Commercial Equipment") all for the purpose of the distribution of automotive parts and lubricants and providing a regional headquarters for United Auto Supply (the Commercial Improvements and the Commercial Equipment collectively, the "Commercial Facility"); and (c) the proposed construction on a 2.00± acre out-parcel situated on the Land of a commercial/retail structure (the "Retail Improvements") and acquisition and installation of machinery and equipment in the Retail Improvements (the "Retail Equipment") all for providing a retail convenience store or other equivalent retail/commercial use (the Retail Improvements and the Retail Equipment collectively, the "Retail Facility" and together with the Commercial Facility, the "Existing Facility"); and

WHEREAS, the Company leases the Existing Facility to the Agency pursuant to a Lease Agreement dated as of May 1, 2013 (the "Lease Agreement"), and the Agency leases the Existing Facility back to the Company pursuant to a leaseback agreement dated as of May 1, 2013 as amended on February 12, 2014 and September 30, 2016 (collectively, the "Existing Leaseback Agreement"); and

WHEREAS, the Company in turn subleases portions of the Commercial Facility to (a) United Auto Supply of Syracuse, West, Inc. (the "UAS Sublessee"), (b) Upstate Cerebral Palsy (the "UCP Sublessee") and (c) Orkin (the "Orkin Sublessee") for operation (each a "Sublessee" and collectively, the "Sublessees"); and

WHEREAS, the Company is now requesting to amend the transaction relating to the Existing Facility such that the Agency will assist in (i) the construction of a 21,600 ± square foot building (the "Addition"), which Addition will be constructed in lieu of the Retail Improvements; (ii) the renovation of the Commercial Improvements and (iii) the acquisition and installation of equipment in the Addition and the Commercial Improvements (the "Equipment"), all in furtherance of the Existing Facility to allow for the growth and expansion of the Sublessees (the Addition and the Equipment is referred to as the "2022 Facility," and the construction and equipping of the Addition and the renovation and equipping of the Commercial Facility is referred to as the "2022 Project"); and

WHEREAS, in order to induce the Company to develop the 2022 Facility in furtherance of the Existing Facility, the Agency is willing to accept a leasehold interest in the 2022 Facility pursuant to a Lease Agreement dated of even date herewith and amend the Leaseback Agreement to lease the 2022 Facility and the Existing Facility (collectively, the "Facility") back to the Company; and

WHEREAS, the Agency has agreed to accept a leasehold interest in the 2022 Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, _____ (the "Bank") intends to finance a portion of the costs of the 2022 Facility by making a loan to the Company in the principal amount of \$2,500,000.00, to be secured by a Mortgage (the "Mortgage") from the Agency and the Company to the Bank; and

WHEREAS, the Existing Facility has been exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company commencing August 1, 2013, the taxable status date, (the "Exempt Taxes"), because the Agency has a leasehold interest in the Facility and the Facility is used for a purpose within the meaning of the applicable Constitutional and

statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, the Company and the Agency entered into a Payment-In-Lieu-of-Tax Agreement dated as of May 1, 2013 (the "PILOT Agreement") making provision for payments in lieu of the Exempt Taxes (the "PILOT Payments"); and

WHEREAS, payments under the PILOT Agreement are secured by a PILOT Mortgage dated September 30, 2016 (the "PILOT Mortgage") from the Company and the Agency to the Agency on behalf of the Tax Authorities (as defined below); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this amended agreement making provision for PILOT Payments and such assessments relating to the 2022 Facility by the Company to the City of Utica, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Oneida County, Utica City School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Facility is or is to be located; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the Leaseback Agreement from the first date of the Exemption Term through the term of the Leaseback Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule B attached hereto (each year being referred to as an "Exemption Year"); and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for PILOT Payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority:
 - (a) all taxes that are due with respect to the Facility prior to the Exemption Term, no later than the last day during which such payments may be made without penalty; and

(b) all special assessments and ad valorem taxes coming due and payable during the term of the Leaseback Agreement and the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.

2. (a) The Company shall pay to each Taxing Authority as set forth on Schedule A attached hereto and made a part hereof an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:

With respect to the Existing Facility:

- (i) For the first Exemption Year: 100% of Exempt Taxes; and
- (ii) From the second through and including the fourth Exemption Year: fifty percent (50%) of Exempt Taxes; and
- (iii) For the fifth Exemption Year: fifty-five percent (55%) of Exempt Taxes; and
- (iv) For the sixth Exemption Year: sixty percent (60%) of Exempt Taxes; and
- (v) For the seventh Exemption Year: sixty-five percent (65%) of Exempt Taxes; and
- (vi) For the eighth Exemption Year: seventy percent (70%) of Exempt Taxes; and
- (vii) For the ninth Exemption Year: seventy-five percent (75%) of Exempt Taxes; and
- (viii) For the tenth Exemption Year: eighty percent (80%) of Exempt Taxes; and
- (ix) For the eleventh Exemption Year: eighty-five percent (85%) of Exempt Taxes; and
- (x) After the eleventh Exemption Year: one hundred percent (100%) of all Exempt Taxes.

With respect to the 2022 Facility:

- (i) For the tenth Exemption Year: no Exempt Taxes; and

(ii) For the eleventh Exemption Year: thirty percent (30%) of Exempt Taxes; and

(iii) For the twelfth Exemption Year: forty percent (40%) of Exempt Taxes; and

(iv) For the thirteenth Exemption Year: fifty percent (50%) of Exempt Taxes; and

(v) For the fourteenth Exemption Year: seventy-five percent (75%) of Exempt Taxes; and

(vi) After the fourteenth Exemption Year: one hundred percent (100%) of all Exempt Taxes.

Notwithstanding anything herein to the contrary, as it pertains to the 2022 Facility the term "Exempt Taxes" is intended to mean only the increase in real property taxes attributable to the 2022 Project. The Company shall continue to pay taxes, or make PILOT Payments, on the Existing Facility as described herein.

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Leaseback Agreement shall terminate and the Agency shall terminate its leasehold interest in the Facility pursuant to the Leaseback Agreement. The benefits under this Agreement are subject to termination or recapture as described in the Leaseback Agreement.

(b) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, the Company shall henceforth pay as PILOT Payments one hundred (100%) percent of the Exempt Taxes together with interest at the rate of nine (9%) percent per annum on any delinquent PILOT Payments together with expenses of collection, including but not limited to, payment of attorneys' fees; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. The Company will make PILOT Payments to each Taxing Authority hereunder for each Exemption Year by making the required payment to such Taxing Authority no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Agency did not have a leasehold or other interest in the Facility.

4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on

the Facility leased to the Company by the Leaseback Agreement if the Agency did not have a leasehold or other interest in the Facility.

5. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.

6. This Agreement shall be binding upon the successors and assigns of the parties.

7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's interest in the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company.

8. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority and will be payable in such lawful money of the United

States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

9. (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.

(b) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

(c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the Agency or the Company, as the case may be, addressed as follows:

To the Agency: City of Utica Industrial Development Agency
One Kennedy Plaza
Utica, New York 13502
Attn.: Executive Director

With a Copy To: Bond, Schoeneck & King, PLLC
501 Main Street
Utica, New York 13501
Attn.: Linda E. Romano, Esq.

To the Company: 1002 Oswego Street, LLC
1200 State Fair Boulevard
Syracuse, New York 13209
Attn.: James P. Ranalli

With a Copy To: Costello, Cooney & Fearon, PLLC
221 West Jefferson Street
Syracuse, New York 13202
Attn.: Robert J. Smith, Esq.

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

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(f) This Agreement is intended to supercede in its entirety the PILOT Agreement dated as of May 1, 2013 between the Agency and the Company, effective immediately.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this **First Amended and Restated PILOT Agreement** as of the date first above written.

1002 OSWEGO STREET, LLC

By: _____
James P. Ranalli
Member

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

On the _____ day of _____ 2022 before me, the undersigned a notary public in and for said state, personally appeared **James P. Ranalli**, 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

**SECOND SIGNATURE PAGE TO FIRST AMENDED AND RESTATED PILOT
AGREEMENT BETWEEN CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY
AND 1002 OSWEGO STREET, LLC**

CITY OF UTICA INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Vincent J. Gilroy, Jr.
Chairman

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

On the ____ day of _____ 2022 before me, the undersigned a notary public in and for said state, personally appeared **Vincent J. Gilroy, Jr.**, 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

COUNTY OF ONEIDA
Receiver of Taxes
800 Park Avenue
Utica, New York 13501

CITY OF UTICA
Receiver of Taxes
One Kennedy Plaza
Utica, New York 13502
Attn.: City Treasurer

UTICA CITY SCHOOL DISTRICT
Receiver of Taxes
929 York Street
Utica, New York 13502

SCHEDULE B

EXEMPTION YEARS

Exemption Year (Assessment Roll Year)	County Taxes	City Taxes	School Taxes
Year One (08/01/2013)	01/01/2014 – 12/31/2014	04/01/2014 – 03/31/2015	07/01/2014 – 06/30/2015
Year Two (08/01/2014)	01/01/2015 – 12/31/2015	04/01/2015 – 03/31/2016	07/01/2015 – 06/30/2016
Year Three (08/01/2015)	01/01/2016 – 12/31/2016	04/01/2016 – 03/31/2017	07/01/2016 – 06/30/2017
Year Four (08/01/2016)	01/01/2017 – 12/31/2017	04/01/2017 – 03/31/2018	07/01/2017 – 06/30/2018
Year Five (08/01/2017)	01/01/2018 – 12/31/2018	04/01/2018 – 03/31/2019	07/01/2018 – 06/30/2019
Year Six (08/01/2018)	01/01/2019 – 12/31/2019	04/01/2019 – 03/31/2020	07/01/2019 – 06/30/2020
Year Seven (08/01/2019)	01/01/2020 – 12/31/2020	04/01/2020 – 03/31/2021	07/01/2020 – 06/30/2021
Year Eight (08/01/2020)	01/01/2021 – 12/31/2021	04/01/2021 – 03/31/2022	07/01/2021 – 06/30/2022
Year Nine (08/01/2021)	01/01/2022 – 12/31/2022	04/01/2022 – 03/31/2023	07/01/2022 – 06/30/2023
Year Ten (08/01/2022)	01/01/2023 – 12/31/2023	04/01/2023 – 03/31/2024	07/01/2023 – 06/30/2024
Year Eleven (08/01/2023)	01/01/2024 – 12/31/2024	04/01/2024 – 03/31/2025	07/01/2024 – 06/30/2025
Year Twelve (08/01/2024)	01/01/2025 – 12/31/2025	04/01/2025 – 03/31/2026	07/01/2025 – 06/30/2026
Year Thirteen (08/01/2025)	01/01/2026 – 12/31/2026	04/01/2026 – 03/31/2027	07/01/2026 – 06/30/2027
Year Fourteen (08/01/2026)	01/01/2027 – 12/31/2027	04/01/2027 – 03/31/2028	07/01/2027 – 06/30/2028

EXHIBIT B

FORM OF ANNUAL REPORT TO AGENCY

[SEE ATTACHED]

2017 ANNUAL PROJECT REPORT



DUE BY: February 2, 2018
Utica Industrial Development Agency

A. Business Information: <i>Please fill in blanks or change as necessary</i>			
Organization Name:		Organization Name Change: (if applicable)*	
Project Address:		Address Change (if applicable)*	
Contact Person:		Contact Person Change: (if applicable)	
Name:		Name:	
Phone:		Phone:	
Fax:		Fax:	
E-mail:		E-mail	
Mailing Address (if different from Organization Address):		Mailing Address Change: (if applicable)	
Not For Profit (Yes or No)			
B. Project Information:			
Project Name:		Project ID:	
Project Description:			
C. Tax Exemptions: <i>Please fill in blanks</i>			
If you claimed exemption from New York State Sales Tax or Mortgage Tax during 2017, please answer the following questions. If not applicable to your project, please indicate by responding with an "N/A" in the blanks provided.			
Total Sales Tax exemption from 1/1/17 – 12/31/17 (Actual tax savings, NOT total purchases):		Attach a copy of NYS Form ST-340 on which you reported the value of sales and use tax exemptions for your project. <i>New York State requires that a company receiving sales tax exemptions file an ST-340 no later than the end of February following the year in which the exemption was claimed.</i>	
Value of 2017 Mortgage Recording Tax Exemption (0.75% of the mortgage amount):			
D. Employment Data:			
<i>2017 employment (only for the location that is receiving IDA benefits) PLEASE REFER TO the definition of Full-Time Equivalent Jobs.</i>			
Job Classification	Number of Full-Time Equivalent Employees (as of 12/31/17)	Average annual salary of Full-Time Equivalent employees (Reported in prior column)	Average annual salary and benefits of Full-Time Equivalent employees
Executive Management (Owner / CEO / Management)			
Production / Manufacturing			
Clerical / Administrative			
Other			
Definition of Full Time Equivalent Jobs: Full-time jobs, plus the combination of two or more part-time jobs that, when combined together, constitute the equivalent hours of a full-time position (35 or more hours).			

Please attach copies of your NYS-45 Quarterly Combined Withholding, Wage Reporting & Unemployment Insurance Return for each quarter in 2017. (Please note that benefits will be terminated if these reports are not submitted.) Report the total number of full-time and part-time covered employees for the third month of the fourth quarter as shown on the NYS-45: _____.

If you are a new Company and a NYS-45 is not available, please check here

Number of Full-Time Equivalent Construction Jobs created during 2017 : _____

If the NYS-45 includes multiple locations, please attach a separate sheet that certifies the job information specific to the project location.

E. Housing Projects: Please complete this section if your project involves housing.

Number of rental/housing units projected in original application:

Number of rental/housing units actually created as a result of the project:

F. Capital Investments:

Please list investments directly related to the project described in Section B made during the period of January 1 – December 31, 2017. Do not include investments from previous reporting periods or operating expenses.

	As Reported on original Application	Reported on Previous Report (Cumulative)	Actual Expense in 2017 (Related to the project defined in section B)		As Reported on original Application	Reported on Previous Report (Cumulative)	Actual Expense in 2017 (Related to the project defined in section B)
Building Cost: (Construction)				Other: (Renovations of existing space)			
Land & Building: (Real Estate.)				Total Investment:			
Production Equip.: (Not Sales Taxable)				Total Amount Financed:			
Other Equipment: (Sales taxable equip.)				Mortgage Amt.:			

Please reference the original project application and explain any variances from the original project estimates: _____

Do you anticipate relocating, expanding your business or purchasing equipment within the next 12 months?
YES _____ NO _____

If yes, please explain _____

G. Signature: Report will not be considered complete unless signature is provided

An Authorized Company Official must certify the information provided by completing the following:

Termination of benefits is possible if the information submitted is determined to be incorrect or if the information is not submitted by the requested date. The UIDA reserves the right to complete an examination of back-up documentation related to the company's reported project information at any time should the UIDA have reasonable cause to do so.

I hereby attest that the information contained in this report is true and correct to the best of my knowledge.

Signature (Authorized Company Official) _____

Date _____

Please Print (Name and Title) _____