

1046 OLD SENECA TURNPIKE LLC

TO

ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

LEASE AGREEMENT

Street Address:

1046 Old Seneca Turnpike LLC
Town of Skaneateles
Onondaga County, New York

Tax Map Number:

028.-01-03.0

Dated:

As of January 1, 2023

LEASE AGREEMENT
(Company to Agency)

THIS LEASE AGREEMENT, dated as of January 1, 2023 (the "Lease Agreement"), is by and between **1046 OLD SENECA TURNPIKE LLC**, a New York limited liability company having an office for the transaction of business located at 505 E. Fayette Street, Syracuse, New York 13202 (the "Company") and the **ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York with offices at 333 W. Washington Street, Suite 130, Syracuse, New York 13202 (the "Agency").

W I T N E S S E T H:

The Company desires to rent to the Agency the real property, including any buildings, structures or improvements thereon, described in **Exhibit A** attached hereto (the "Leased Premises") pursuant to the terms contained herein, during the term of a certain Leaseback Agreement, dated as of January 1, 2023, among the Agency and the Company (the "Leaseback Agreement").

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Granting Clause.** The Company hereby leases to the Agency the Leased Premises, upon the terms and conditions of this Lease Agreement.
2. **Warranty of Title.** The Company warrants that it has a valid and enforceable fee interest to the Leased Premises and forever warrants its interest to the Leased Premises.
3. **Term.** The term of this Lease Agreement shall be coterminous with the term of the Leaseback Agreement (the "Lease Term").
4. **Rent.** The Agency agrees that it will pay to the Company, for the use of the Leased Premises, rent of One Dollar (\$1.00) per annum the receipt and sufficiency of which are hereby acknowledged.
5. **Taxes.** The Company agrees to pay all taxes to be assessed on, or charges or expenses incurred with respect to, the Leased Premises during the Lease Term.
6. **Maintenance and Insurance of Premises.** The Company shall maintain and insure the Leased Premises. The Agency shall not be required to maintain the Leased Premises or incur any costs with respect to the Leased Premises. All insurance or condemnation proceeds shall be distributed and governed by the Leaseback Agreement.
7. **Lease Expiration.** At the expiration of the Lease Term the Agency will surrender the Leased Premises to the Company, pursuant to the terms and conditions of both this Lease Agreement and the Leaseback Agreement, in the then condition of the Leased Premises.

8. Hold Harmless. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its officers, members, employees, agents (except the Company), representatives, successors and assigns harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project Facility (as defined in the Leaseback Agreement) or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Project Facility or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, constructing, rehabilitating, renovation, equipping, owning and leasing of the Project Facility, including, without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or officers, members, employees, agents (except the Company), representatives, successors and assigns and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified hereunder.

9. Subordination of Lease Agreement to Mortgage(s). The Agency agrees that this Lease Agreement shall be subordinate to all mortgages hereafter placed on the Leased Premises with the consent of the Agency and any approved mortgagee, but that under no circumstances shall the Agency be required to mortgage, grant a security interest in, or assign its rights to receive the rentals described in Section 2.6 of the Leaseback Agreement, or its rights to be indemnified under Sections 1.2(d), 1.2(g), 2.1, 3.1(a) and 5.2 of the Leaseback Agreement.

10. Notices. All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, addressed as follows:

To the Agency: Onondaga County Industrial Development Agency
333 W. Washington Street, Suite 130
Syracuse, New York 13202
Attn: Executive Director

With copies to: Harris Beach PLLC
333 W. Washington Street, Suite 200
Syracuse, New York 13202
Attn: Christopher A. Andreucci, Esq.

To the Company: 1046 Old Seneca Turnpike LLC
505 E. Fayette Street
Syracuse, New York 13202
Attn: Rob Kelsey, CFO

With copies to: Barclay Damon LLP
 125 East Jefferson Street
 Syracuse, New York 13202
 Attn: Kevin R. McAuliffe, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

11. No Recourse; Special Obligation.

(a) The obligations and agreements of the Agency contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of its officers, members, employees, agents (except the Company), representatives, successors and assigns, and its officers, members, employees, agents (except the Company), representatives, successors and assigns 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.

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or of Onondaga County, New York and neither the State of New York nor Onondaga 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 sale or other disposition of the Leased Premises (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined within the Leaseback Agreement).

(c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (i) 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 (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (ii) the Agency refuses to comply with such request and the Agency's refusal to comply is based on its expectation that it will incur fees and expenses, the party seeking such order or decree shall place, in an account with the Agency, an amount or undertaking sufficient, determined in the sole discretion of the Agency, to cover such fees and expenses, and (iii) the Agency refuses to comply with such request and the Agency's refusal to comply is based on its expectation that it or its members, officers, employees, agents (other than the Company), representatives, successors, and assigns shall be subject to potential liability, the party seeking such order or decree shall agree to indemnify and hold harmless the Agency and its members, officers, employees, agents (other than the

Company), representatives, successors, and assigns against all liability expected to be incurred as a result of compliance with such request.

12. Execution of Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[The Balance of This Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Company and the Agency have caused this Lease Agreement to be executed in their respective names, all as of the date first above written.

1046 OLD SENECA TURNPIKE LLC

By: 
Name: Norman E. Swanson
Title: Sole Member

**ONONDAGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

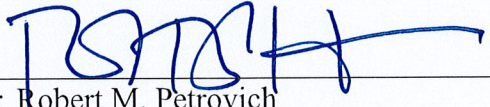
By: _____
Name: Robert M. Petrovich
Title: Executive Director

IN WITNESS WHEREOF, the Company and the Agency have caused this Lease Agreement to be executed in their respective names, all as of the date first above written.

1046 OLD SENECA TURNPIKE LLC

By: _____
Name: Norman E. Swanson
Title: Sole Member

**ONONDAGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
Name: Robert M. Petrovich
Title: Executive Director

STATE OF NEW YORK
COUNTY OF ONONDAGA

)
) ss.:
)

On the 27th day of January in the year 2023, before me, the undersigned, personally appeared **NORMAN E. SWANSON**, 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

FRANCIS STINZIANO, JR.
Notary Public, State of New York
No. 01ST5006193
Qualified in Onondaga County
My Commission Expires Oct. 6, 2025

STATE OF NEW YORK
COUNTY OF ONONDAGA

)
) ss.:
)

On the ____ day of January in the year 2023, before me, the undersigned, personally appeared **ROBERT M. PETROVICH**, 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

STATE OF NEW YORK
COUNTY OF ONONDAGA

)
) ss.:
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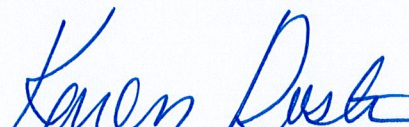
On the ____ day of January in the year 2023, before me, the undersigned, personally appeared **NORMAN E. SWANSON**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed 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

STATE OF NEW YORK
COUNTY OF ONONDAGA

)
) ss.:
)

On the 30th day of January in the year 2023, before me, the undersigned, personally appeared **ROBERT M. PETROVICH**, 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

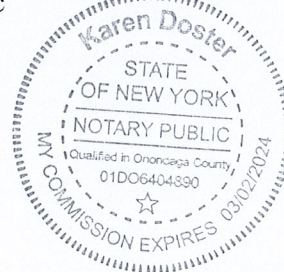


EXHIBIT A

Legal Description of Leased Premises

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Skaneateles, County of Onondaga and State of New York and being a part of Lot No. 19 in said Town bounded and described as follows:

BEGINNING in the center of the State Road (so called) leading northerly from Skaneateles past the former residence of Henry H. Vary, at the northeast corner of lands formerly owned by Daniel Earll, now by Jewett; thence North 56° west 16 chains and 40 links to the center of the road leading from the former residence of Henry H. Vary to Willow Glen past the former residence of Daniel Earll; thence north $43\frac{3}{4}^{\circ}$ east along the center of said last mentioned road 5 chains and 36 links; thence north $52\frac{1}{2}^{\circ}$ west 29 chains 55 links; thence north $34\frac{1}{4}^{\circ}$ east 73 links; thence north $54\frac{1}{2}^{\circ}$ west 9 chains and 20 links; thence north $33\frac{3}{4}^{\circ}$ east 4 chains and 39 links; thence north $44\frac{1}{2}^{\circ}$ east 5 chains and $21\frac{1}{2}$ links; thence south $47^{\circ} 20'$ east 47 chains 68 links to the center of the first mentioned road and thence south $3\frac{1}{4}^{\circ}$ west along the center of said road 12 chains and 11 links to the place of beginning.

EXCEPTING AND RESERVING THEREFROM, ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Skaneateles, County of Onondaga and State of New York, being part of Lot No. 19 in said Town, bounded and described as follows:

BEGINNING at a point in the center line of New York State Route No. 321, which is South 48' West 1172 feet from the intersection with the Old Seneca Turnpike center line east of Route No. 321, and being the northeast corner of the premises described in a deed from George Lewis to Albert Lewis and Abbie S. Lewis, his wife, dated March 31, 1920 and recorded in the Onondaga County Clerk's Office, March 31, 1920 in Book 476 of Deeds at page 180; running thence South 48' West along center of said New York State Route No. 321 a distance of 503.3 feet to a point; running thence North $60^{\circ} 48' 50''$ West through an iron pipe located on the westerly side of said highway Route 321, a distance of 568.67 feet to an iron pipe; running thence North $26^{\circ} 03' 30''$ East a distance of 199.6 feet to an iron pipe; thence running North $49^{\circ} 18' 30''$ West a distance of 277.26 feet through an iron pipe located on the southeasterly line of Old Seneca Turnpike Highway to the center of Old Seneca Turnpike Highway; running thence North $36^{\circ} 07' 20''$ East along the center of Old Seneca Turnpike Highway a distance of 157.75 feet; thence continuing along the center of said Old Seneca Turnpike Highway North $30^{\circ} 45'$ East 150 feet to a point; thence running South $49^{\circ} 27'$ East through an iron pipe in the southeasterly side of Old Seneca turnpike highway 600.6 feet through an iron pipe located on the westerly side of New York State Route 321, to the center of said New York State Route 321 and the place of beginning, according to a survey made by Jack W. Cottrell, Licensed Surveyor, dated November 1, 1961.

ALSO EXCEPTING AND RESERVING THEREFROM premises known as Tax Parcel 028.-02-03.

THE ABOVE DESCRIBED PREMISES are more recently described by the following surveyor's description:

ALL THAT TRACT OF PARCEL OF LAND, situated in the Town of Skaneateles, County of Onondaga and State of New York, being Part of the original Lot 19 of the said Town of Skaneateles and being more particularly described as follows:

BEGINNING at a point falling on the centerline of Old Seneca Turnpike Road, said point being the intersection of said centerline with the southerly line of a parcel of land described in a deed conveyed to Dale Clifford Abrams and recorded in the Onondaga County Clerk's Office in Book 3318 Page 334;

Running-thence along said centerline S 26°12'34" W, a distance of 144.38';

Thence along said centerline S 28°54'16" W, a distance of 71.69';

Thence along said centerline S 32°17'24" W, a distance of 146.04';

Thence along said centerline S 33°57'15" W, a distance of 65.16' to the intersection of said centerline with the northerly line of a parcel of land described in a deed conveyed to Old Seneca Heights, LLC and recorded in the Onondaga County Clerk's Office in Book 4938 Page 325;

Thence along said northerly line of N 59°54'56" W, a distance of 1955.61' to an iron pipe found falling on an easterly line of a parcel of land described in a deed conveyed to Jeff C. Baker and Amy N. Baker and recorded in the Onondaga County Clerk's Office in Book 3821 Page 93;

Thence N 24°51'09" E along an easterly line of said Baker, a distance of 46.36' to an iron pipe found marking an northeasterly corner of said Baker;

Thence N 62°26'56" W along a northerly line of said Baker, a distance of 610.45' to an iron pipe found marking a corner of said Baker;

Thence N 26°57'33" E along an easterly line of said Baker, a distance of 291.54' to an iron rod found marking a corner of said Baker and a corner of Lot 2 of Daggett Subdivision as shown on a map filed in Onondaga County Clerk's as Filed Map #11366;

Thence N 36°44'12" E along the easterly line of said Lot 1 and the easterly line of Lot 2 of said subdivision, a distance of 346.57' to an iron pipe found marking a southwesterly corner of a parcel of land described in a deed conveyed to WA Service Company, Inc. and recorded in the Onondaga County Clerk's Office in Book 4761 Page 121;

Thence S 54°47'52" E, along the said southerly line of said WA Service Company, Inc., a distance of 2554.40' to the point of beginning, this course being further marked by an iron rod found near the road boundary.

Together with the benefits and subject to the burdens of an access and utility easement agreement dated 3/8/2021 and recorded 8/6/2021 in the Onondaga County Clerk's Office in Instrument No. 2021-00037313.

Property Address: 1046 Old Seneca Turnpike, Skaneateles, NY 13152

Town: Skaneateles

County: Onondaga

SBL No.: 028.-01-03.0