

Lease Agreement

NEW YORK CITY
INDUSTRIAL DEVELOPMENT AGENCY

WAYNE-O, LLC
O'WAYNE ENTERPRISES, INC.
AND
MORRISON'S PASTRY CORP.

LEASE AGREEMENT

Dated as of April 1, 1999

\$3,100,000
New York City Industrial Development Agency
Industrial Development Revenue Bonds
(1999 Morrison's Pastry Corp. Project)

Completion Date + STL Exp = 4/1/00

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- DESCRIPTION OF PROJECT
- DESCRIPTION OF FACILITY REALTY
- DESCRIPTION OF FACILITY EQUIPMENT

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of April 1, 1999, by and between NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "Agency"), having its principal office at 110 William Street, New York, New York, 10038 party of the first part, and WAYNE-O, LLC, a limited liability company organized and existing under and by virtue of the laws of the State of New York ("Wayne-O"), O'WAYNE ENTERPRISES, INC., a corporation organized and existing under and by virtue of the laws of the State of New York ("O'Wayne") and MORRISON'S PASTRY CORP., a corporation organized and existing under and by virtue of the laws of the State of New York ("Morrison's", and together with O'Wayne and Wayne-O, the "Lessees"), each having its principal office at 49-01 Maspeth Avenue, Maspeth, New York, party of the second part:

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, 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") authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes and which may include or mean an industrial pollution control facility to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act the Agency was established by Chapter 1082 of the 1974 Laws of New York, as amended (together with the Enabling Act, the "Act") for the benefit of The City of New York and the inhabitants thereof; and

WHEREAS, to accomplish the purposes of the Act, the Agency has entered into negotiations with Wayne-O, O'Wayne and Morrison's, to induce the Lessees to commence with the acquisition, renovation and equipping of a manufacturing facility (the "Facility") consisting of the acquisition of an approximately 40,000 square foot parcel of real property located at 49-01 Maspeth Avenue, Maspeth, New York, the construction of improvements and renovations to an approximately 30,000 square foot building thereon, and the acquisition and installation of machinery and equipment in connection therewith, all for the manufacturing of baked goods (the "Project") and to locate such Facility within The City of New York, such Facility Realty of the Project to be leased to Wayne-O with a portion of the Facility Equipment to be leased to O'Wayne

and the remainder of the Facility Equipment to be leased to Morrison's, and such Facility Realty to be subleased by Wayne-O to each of O'Wayne and Morrison's (Morrison's and O'Wayne are collectively referred to herein as the "Sublessees"), and in furtherance of said purpose, on January 12, 1999, the Agency adopted a resolution authorizing the Project, and undertaking to permit the issuance of its revenue bonds to finance such Project; and

WHEREAS, Agency financing assistance is necessary to provide employment in, and is beneficial for the economy of, The City of New York and is reasonably necessary to induce the Lessees to proceed with the Project; and

WHEREAS, the Agency, in order to provide funds for a portion of the cost of the Project and for incidental and related costs thereto, will issue and sell its Industrial Development Revenue Bonds (1999 Morrison's Pastry Corp. Project), in the aggregate principal amount of \$3,100,000 (the "Series 1999 Bonds") pursuant to the Act, a resolution of the Agency adopted on January 12, 1999 and an Indenture of Trust of even date herewith by and between the Agency and United States Trust Company of New York, as Trustee, securing said Bonds; and

WHEREAS, concurrently with the execution hereof, (i) the Agency will grant mortgage liens on and security interests in the Facility to the Trustee as security for the Series 1999 Bonds; and (ii) the payment of the principal of, redemption premium, if applicable, and interest on the Series 1999 Bonds, and the payments, obligations, covenants and agreements of the Lessees under the Lease Agreement and the Sublessees under the Sublease Agreement, will be guaranteed by Wayne-O, O'Wayne and Morrison's, and by Wayne Wattenberg, Member of Wayne-O, Director of O'Wayne and President of Morrison's, and by Owen Mester, Member of Wayne-O, President of O'Wayne, all pursuant to the terms of a guaranty agreement with the Trustee dated the date hereof;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not subject the Agency to any pecuniary or other liability nor create a debt of the State of New York or of The City of New York, and neither the State of New York nor The City of New York shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals, revenues and receipts derived from or in connection with the Facility, including moneys received under this Lease Agreement):

ARTICLE I
Definitions and Representations

Section 1.1. Definitions. Terms not otherwise defined herein shall have the same meanings as used in the Indenture or the Tax Regulatory Agreement hereinbelow defined. The following terms shall have the following meanings in this Lease Agreement:

Agency shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agency Mortgage shall mean, collectively, the Agency Mortgage and Security Agreement (Acquisition Loan), the Agency Mortgage and Security Agreement (Building Loan) and the Agency Mortgage and Security Agreement (Indirect Loan), each of even date herewith, from the Agency and the Lessees to the Trustee, and shall include any and all amendments thereof and supplements thereto and assignment of interests therein hereafter made in conformity therewith and with the Indenture.

Agreement shall mean this Lease Agreement, dated as of April 1, 1999, between the Agency and the Lessees, and shall include any and all amendments and supplements thereto hereafter made in conformity herewith and with the Indenture.

Authorized Representative shall mean, (i) in the case of the Agency, the Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel of the Agency, or any officer or employee of the Agency authorized to perform specific acts or to discharge specific duties, (ii) in the case of the Wayne-O, a Member, (iii) in the case of either Morrison's or O'Wayne, its President, any Vice President, Treasurer, Assistant Treasurer, Secretary or Assistant Secretary, and (iv) in the case of the Individual Guarantors, the Individual Guarantors or their duly authorized attorney-in-fact.

Bonds shall mean the Series 1999 Bonds and any Additional Bonds.

Code shall mean the Internal Revenue Code of 1986, as amended, including the regulations thereunder

Eligible Materials shall mean all construction materials used in the construction of the Facility and all tangible personal property in each case acquired by the Lessees as agent for and on behalf of the Agency pursuant to the Sales Tax Letter in connection with the Project on or before the completion of the Project for incorporation in the Facility.

Event of Default shall have the meaning specified in Section 7.1 hereof.

Facility shall mean, collectively, the Facility Realty and the Facility Equipment.

Facility Equipment shall mean those items of equipment the title to which shall be acquired by or on behalf of the Agency for installation or use at the Facility Realty as part of the Project pursuant to Section 2.1 of this Lease Agreement and described in the Description of Facility Equipment (O'Wayne) and the Description of Facility Equipment (Morrison's) in the Appendices attached hereto and made a part hereof, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Equipment shall, in accordance with the provisions of Sections 4.2 and 5.1 of this Lease Agreement, include all property substituted for or replacing items of Facility Equipment and exclude all items of Facility Equipment so substituted for or replaced, and further exclude all items of Facility Equipment removed as provided in Section 4.2 of this Lease Agreement.

Facility Realty shall mean the land described in the Description of Facility Realty in the Appendices hereto, to the Sublease Agreement, to the Indenture and to the Agency Mortgage, and all rights or interests therein or appertaining thereto, together with all structures, buildings, foundations, related facilities, fixtures (other than trade fixtures) and other improvements now or at any time made, erected or situated thereon (including the improvements made pursuant to Section 2.1 hereof), and all replacements, improvements, extensions, substitutions, restorations, repairs or additions thereto; but excluding, however, any real property or interest therein released pursuant to Section 6.4 hereof.

Fiscal Year of the Lessees shall mean a year of 365 or 366 days, as the case may be, commencing on September 1 and ending on August 30, or such other year of similar length as to which the Lessees shall have given prior written notice thereof to the Agency and the Trustee at least ninety (90) days prior to the commencement thereof.

Indenture shall mean the Indenture of Trust of even date herewith by and between the Agency and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with Article XI of the Indenture.

Lessees shall mean, collectively, each of Wayne-O, LLC, a limited liability company organized and existing under and by virtue of the laws of the State of New York, O'Wayne Enterprises, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York and Morrison's Pastry Corp., a corporation organized and existing under and by virtue of the laws of the State of New York, and each of their respective permitted successors and assigns pursuant to Sections 6.1 or 9.3 hereof (including any surviving, resulting or transferee entities as provided in Section 6.1 hereof).

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount from any such proceeds, award, compensation or damages less all expenses (including attorneys' fees and any extraordinary expenses of the Agency or the Trustee) incurred in the collection thereof.

Prohibited Person shall mean:

(i) any Person (A) who is in default or in breach, beyond any applicable grace period, of its obligations under any material written agreement with the City or the Agency, or (B) who directly or indirectly controls, is controlled by, or is under common control with, a Person who is in default or in breach, beyond any applicable grace period, of its obligations under any material written agreement with the City or the Agency, unless such default or breach has been waived in writing by the City or the Agency, respectively;

(ii) any Person (A) who has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or who is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) who directly or indirectly controls, is controlled by, or is under common control with a Person who has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or who is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure;

(iii) any government, or any Person who, directly or indirectly, is controlled (rather than only regulated) by a government, that is finally determined to be in violation of (including, but not limited to, any participant in an international boycott in violation of) the Export Administration Act of 1979, or its successor, or the regulations issued pursuant thereto, or any government, or any Person who, directly or indirectly, is controlled (rather than only regulated) by a government, that is subject to the regulations or controls thereof; or

(iv) any government, or any Person who, directly or indirectly, is controlled (rather than only regulated) by a government, the effects of the activities of which are regulated or controlled pursuant to regulations of the United States Treasury Department or executive orders of the President of the United States of America issued pursuant to the Trading with the Enemy Act of 1917, as amended (including the Arms Export Control Act of 1979, as amended).

Project shall mean the acquisition, renovation and equipping of the Facility more particularly described in the Description of Project in the Appendices hereto.

Sales Tax Benefit shall mean the sales and use tax exemptions conferred upon the Lessees pursuant to the Sales Tax Letter until the earliest of (x) April 1, 2000, and (y) the date of completion of the Project as provided in Section 2.2 of this Agreement or (z) the termination of this Agreement.

Sales Taxes shall mean New York City and New York State sales and/or compensating use taxes imposed pursuant to Sections 1105, 1107, 1109 and 1110 of the New York State Tax Law, as each of the same may be amended from time to time (including any successor provisions to such statutory sections).

Sales Tax Letter shall mean the Letter of Authorization for Sales Tax Exemption, which the Agency shall make available to the Lessees in accordance with and substantially in the form set forth in the appendices to this Agreement.

Series 1999 Bonds shall mean the \$3,100,000 Industrial Development Revenue Bonds (1999 Morrison's Pastry Corp. Project) of the Agency issued, executed, authenticated and delivered under the Indenture.

Sublease Agreement shall mean the Sublease Agreement of even date herewith between Wayne-O and the Sublessees, and shall include any and all amendments thereof and the supplements thereto hereafter made in conformity therewith and with the Indenture.

Sublessees shall mean, collectively, O'Wayne Enterprises, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York, and Morrison's Pastry Corp., a corporation organized and existing under and by virtue of the laws of the State of New York, and their respective permitted successors and assigns pursuant to the Sublease Agreement (including any surviving, resulting or transferee corporation).

Tax Regulatory Agreement shall mean the Tax Regulatory Agreement of even date herewith from the Agency and the Lessees to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Trustee shall mean United States Trust Company of New York, New York, New York, in its capacity as Trustee, and its successors in such capacity and their assigns hereafter appointed in the manner provided in the Indenture.

Section 1.2. Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of the execution and delivery of this Agreement.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

Section 1.3. Representations and Warranties by Agency. The Agency makes the following representations and warranties:

(a) The Agency is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State, and is authorized and empowered to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action of its members, the Agency has duly authorized the execution and delivery of this Agreement.

(b) In order to finance a portion of the cost of the Project, the Agency proposes to issue the Series 1999 Bonds in the aggregate principal amount of \$3,100,000. The Series 1999 Bonds will mature, bear interest, be redeemable and have the other terms and provisions set forth in the Indenture.

(c) Prior to the issuance of the Series 1999 Bonds, the Agency will duly make the election provided for under Section 144(a)(4)(A) of the Code.

Section 1.4. Findings by Agency. The Agency, based upon the representations and warranties of the Lessees contained in this Agreement and the Sublease Agreement and the information contained in the application and other materials heretofore submitted by or on behalf of the Lessees to the Agency, hereby finds and determines that the financing of a portion of the costs of the Project by the Agency and the leasing thereof to the Lessees for sublease to the Sublessees is reasonably necessary to induce the Lessees to proceed with the Project.

Section 1.5. Representations and Warranties by the Lessees. Each Lessee makes the following representations and warranties with respect to its interest:

(a) Wayne-O is a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, is not in violation of any provision of its articles of organization or operating agreement, has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement. Wayne-O is duly qualified to do business in every jurisdiction in which such qualification is necessary.

(b) O'Wayne is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, is not in violation of any provision of its certificate of incorporation or by-laws, has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this

Agreement. O'Wayne is duly qualified to do business in every jurisdiction in which such qualification is necessary.

(c) Morrison's is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, is not in violation of any provision of its certificate of incorporation or by-laws, has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement. Morrison's is duly qualified to do business in every jurisdiction in which such qualification is necessary.

(d) The execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated have been duly authorized by all requisite action on the part of the Lessees and will not violate any provision of law, any order of any court or agency of government, or the articles of organization or operating agreement of Wayne-O or the certificates of incorporation or by-laws of either O'Wayne or Morrison's, or any indenture, agreement or other instrument to which the Lessees are a party or by which they or any of their property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(e) Expenses for supervision by the officers or employees of the Lessees, and expenses for work done by such officers or employees in connection with the Project, will be included as a Project Cost only to the extent that such Persons were specifically employed for such particular purpose, the expenses do not exceed the actual cost thereof and are to be treated on the books of the Lessees as a capital expenditure in conformity with generally accepted accounting principles applied on a consistent basis.

(f) The assistance of the Agency in the financing of a portion of the costs of the Project is reasonably necessary to induce the Lessees to proceed with the Project.

(g) The completion of the Project will not result in the removal of an industrial, manufacturing, warehousing or commercial plant or facility of the Lessees or any Affiliate of any thereof from outside the City (but within the State of New York) to within the City or in the abandonment of one or more of such plants or facilities of the Lessees or any Affiliate of any within the State but outside of the City.

(h) The total cost of the Project being funded with the Series 1999 Bonds is at least \$3,100,000, which represents only a portion of the total cost to the Lessees.

(i) Any costs incurred with respect to that part of the Project paid from the proceeds of the sale of the Series 1999 Bonds shall be capable of being treated on the books of the Lessees as capital expenditures in conformity with generally accepted accounting principles applied on a consistent basis.

(j) The property included in the Facility is either property of the character subject to the allowance for depreciation under Section 167 of the Code, or land.

(k) No part of the proceeds of the Series 1999 Bonds will be used to finance inventory or will be used for working capital.

(l) The Project is included within the definition of "project" under the Act.

(m) This Agreement and the other Security Documents to which the Lessees are a party constitute the legal, valid and binding joint and several obligations of the Lessees enforceable against the Lessees in accordance with their respective terms subject to equitable remedies, creditors rights and bankruptcy.

(n) The Project has been designed, and the operation of the Project will be, in compliance with all applicable Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

(o) There is no action or proceeding pending or to the best knowledge of the Lessees threatened by or against the Lessees by or before any court or administrative agency that might adversely affect the ability of the Lessees to perform their obligations under this Agreement and each other Security Document to which any of the Lessees shall be a party and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Lessees as of the date hereof in connection with the execution and delivery of this Agreement and each other Security Document to which any of the Lessees shall be a party or in connection with the performance of the obligations of the Lessees hereunder and under each of the Security Documents have been obtained.

(p) The Lessees intend to operate the Facility or cause the Facility to be operated in accordance with this Agreement and as a qualified "project" in accordance with and as defined under the Act.

(q) No part of the proceeds of the Series 1999 Bonds will be used to finance a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one third of the total project cost. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under article twenty-eight of the tax primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers.

(r) There is no existing violation against the Facility filed by any court or administrative agency that may prohibit the ability of the Lessees to use or operate the Facility for their intended purposes or for which the Lessees have not agreed or made arrangements to have removed and satisfied of record.

(s) None of Wayne-O, O'Wayne or Morrison's nor any Affiliate of any thereof is a Prohibited Person.

(t) The majority of the equitable and voting ownership interests of Wayne-O are owned by the same individuals who own and control the majority of the equitable and voting ownership interest of O'Wayne and Morrison's.

(u) The aggregate rentable square footage of the improvements constituting part of the Facility is approximately 30,000 rentable square feet.

(v) The aggregate square footage of the unimproved Facility Realty (land) is approximately 10,000 square feet.

(w) The Fiscal of each of the Lessees is that 365 or 366 day period, as the case may be, commencing on September 1, and ending on August 30.

ARTICLE II
The Project

Section 2.1. The Project. (a) Wayne-O shall cause to be conveyed to the Agency at the time of the delivery and payment of the Series 1999 Bonds good and marketable title in fee simple to the Facility Realty and to such items of the Facility Equipment as shall have been acquired at the time of such delivery and payment, in each case free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances, all against payment therefor by the Agency from the proceeds of the Series 1999 Bonds deposited in the Project Fund to the extent permitted in Section 2.2 hereof and Section 5.02 of the Indenture.

(b) As promptly as practicable after receipt of the proceeds of sale of the Series 1999 Bonds and out of said proceeds of sale, the Agency will, subject to the provisions of Section 2.2 hereof, cause the Lessees, on behalf of the Agency, to complete the Project substantially in accordance with the Plans and Specifications. The cost of the Project shall be paid from the Project Fund established under the Indenture or as otherwise provided in Section 2.2 hereof. All contractors, materialmen, vendors, suppliers and other companies, firms or persons furnishing labor, services or materials for or in connection with the Project shall be designated by the Lessees. The Project work shall be supervised by Owen Mester or Wayne Wattenberg, each of whom is hereby appointed the Project Supervisor and, in the event said person resigns or becomes incapable of undertaking or carrying out his duties hereunder, the Agency upon recommendation of the Lessees shall appoint a successor.

(c) In order to accomplish the purposes of the Agency, and to assure the effectuation of the Project in conformity with the requirements of the Lessees, the Lessees have undertaken to proceed with the design of the Project, the preparation of the Facility site and the completion of the Project work. The Lessees agree to complete the Project on behalf of the Agency under the supervision of the Project Supervisor.

(d) The Lessees shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance and transfer of the Facility to the Agency, the delivery of any instruments and documents and their filing and recording, if required, (ii) all taxes and charges payable in connection with such conveyance and transfer, or attributable to periods prior to the conveyance and transfer, to the Agency as set forth in Section 2.1(a) hereof, and (iii) all shipping and delivery charges and other expenses or claims incurred in connection with the Project.

(e) The Lessees covenant that they will obtain or cause to be obtained all necessary approvals from any and all governmental agencies with respect to the Project, all of which will be done in compliance with all Federal, State and local laws, ordinances and regulations applicable thereto and with the conditions and requirements of all policies of insurance with respect to the Facility and this Agreement. Upon completion of the Project, the Lessees will as promptly as practicable obtain or cause to be obtained all required occupancy and operation permits, authorizations and licenses from appropriate authorities, if any be required, authorizing

the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement and shall furnish copies of same to the Agency and the Trustee immediately upon receipt thereof.

(f) Upon request, the Lessees will extend to the Trustee all vendors' warranties received by the Lessees in connection with the Project, including any warranties given by contractors, manufacturers or service organizations who perform work with respect to the Project.

(g) The Lessees shall take such action and institute such proceedings as shall be reasonably necessary to cause and require all contractors and material suppliers to complete their contracts diligently in accordance with the terms of said contracts, including, without limitation, the correcting of any defective work, with all expenses incurred by the Lessees or the Agency in connection with the performance of their obligations under this Section to be considered a Project Cost. Any amounts in excess of \$100,000 recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, if recovered prior to the date of completion of the Project, shall be deposited into the Project Fund and made available for payment of Project Costs, or if recovered after such date of completion, be deposited in the Redemption Account of the Bond Fund.

Section 2.2. Completion by Lessees. The Lessees unconditionally covenant and agree that they will complete the Project, or cause the Project to be completed, by April 1, 2000 subject to Section 9.2 hereof, and that such completion will be effected in a first-class workmanlike manner, using high-grade materials, free of defects in materials or workmanship (including latent defects), as applicable, and in accordance with this Agreement and the Indenture. In the event that moneys in the Project Fund are not sufficient to pay the costs necessary to complete the Project in full, the Lessees shall pay that portion of such costs of the Project as may be in excess of the moneys therefor in said Project Fund and shall not be entitled to any reimbursement therefor from the Agency, the Trustee or the Holders of any of the Bonds (except from the proceeds of Additional Bonds which may be issued for that purpose), nor shall the Lessees be entitled to any diminution of the rents payable or other payments to be made under this Agreement.

The date of completion for the Project shall be evidenced to the Agency and the Trustee by a certificate of the Project Supervisor stating, except for any costs not then due and payable or the liability for payment of which is being contested or disputed in good faith by the Lessees, (i) the date of completion of the Project, (ii) that the Project has been completed substantially in accordance with the Plans and Specifications and in a workmanlike manner, as evidenced by an architect's or engineer's certificate, and that all labor, services, materials and supplies used therefor have been paid for, (iii) that all other facilities necessary in connection with the Project have been completed and all costs and expenses incurred in connection therewith have been paid, (iv) that based upon the title policy, the Agency has good and valid title to all property constituting part of the Facility and all property of the Facility is subject to this Agreement and the Sublease Agreement and the lien and security interest of the Agency Mortgage, (v) that, in accordance with all applicable laws, regulations, ordinances and guidelines, the Facility has been made ready for occupancy, use and operation for its intended purposes, and (vi) the amount, if

any, required in his opinion for the payment of any remaining part of the costs of the Project. Such certificate shall further certify as to the determination of the Rebate Amount as provided in the Tax Regulatory Agreement and the Indenture and shall direct any transfer to, or make payments of amounts for deposit in, the Rebate Fund. Notwithstanding the foregoing, such certificate shall state (x) that it is given without prejudice to any rights of the Lessees against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and Section 5.02 of the Indenture, and (z) that no Person other than the Agency and the Trustee may benefit therefrom. Such certificate of the Project Supervisor shall be accompanied by (i) a certificate of occupancy or a temporary certificate of occupancy, and any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement; (ii) proof that all real property taxes and assessments, or PILOT payments under Section 4.3 hereof, against the Facility Realty have been paid; (iii) a bill of sale from O'Wayne conveying to the Agency all of O'Wayne's right, title and interest, if any, in the Facility Equipment (O'Wayne) (subject to the rights of Wayne-O in the Facility under the terms of this Agreement, including, without limitation, the provisions of Section 4.2 and 8.1 hereof); (iv) a bill of sale from Morrison's conveying to the Agency all of Morrison's right, title and interest, if any, in the Facility Equipment (Morrison's) (subject to the rights of Wayne-O in the Facility under the terms of this Agreement, including, without limitation, the provisions of Section 4.2 and 8.1 hereof); (v) a certificate of the Lessees that all costs of the Project have been paid in full, and that the Project has been completed substantially in accordance with the Plans and Specifications;

Section 2.3. Issuance of Series 1999 Bonds. Contemporaneously with the execution and delivery of this Agreement, the Agency will sell and deliver the Series 1999 Bonds in the aggregate principal amount of \$3,100,000 under and pursuant to a resolution adopted by the Agency on January 12, 1999 authorizing the issuance of the Series 1999 Bonds and under and pursuant to the Indenture. The proceeds of sale of the Series 1999 Bonds equal to (i) the interest accruing on the Series 1999 Bonds to the date of delivery thereof, if any, shall be deposited in the Interest Account of the Bond Fund, (ii) \$280,575, equal to the Debt Service Reserve Fund Requirement, shall be deposited in the Debt Service Reserve Fund, and (iii) the balance of the proceeds shall be deposited in the Project Fund and applied to the payment of Project Costs in accordance with the provisions of the Indenture. Pending such application, amounts in the Project Fund may be invested as provided in the Indenture.

Section 2.4. Title Insurance. Prior to the delivery of the Series 1999 Bonds to the original purchaser(s) thereof, the Lessees will obtain (a) fee title insurance in an amount not less than \$3,100,000 insuring the Agency's title to the Facility Realty against loss as a result of defects in the title of the Agency, (b) mortgagee title insurance in an amount not less than \$3,100,000 insuring the Trustee's interest under the Agency Mortgage as holder of a mortgage lien on the Facility Realty, and (c) a current survey of the site of the Facility Realty certified to the Agency, the initial Bondholder and the Trustee. The title insurance policies shall be subject only to Permitted Encumbrances. Any proceeds of such fee title insurance shall be paid to the Trustee for deposit in the Renewal Fund and applied to remedy the defect in title. If not so

capable of being applied or if any amounts remain, the amounts in the Renewal Fund shall be deposited by the Trustee in the Redemption Account of the Bond Fund. Any proceeds of such mortgagee title insurance insuring against loss as a result of defects affecting the Trustee's interest as holder of a mortgage lien on the Facility Realty shall be paid to the Trustee and deposited by the Trustee in the Redemption Account of the Bond Fund.

Section 2.5. Labeling of Facility Equipment. The Lessees will cause each major item of machinery, equipment and other property constituting a part of the Facility Equipment to be labeled "Property of New York City Industrial Development Agency" by affixing a plate, stenciling, tagging or other method; provided, however, that no such item need be so labeled where impractical because of its size or its nature or the nature of its operation. The Lessees will also keep on file at the Facility Realty an index of all such machinery, equipment and other property constituting a part of the Facility Equipment.

Section 2.6. Limitation on Sales Tax Exemption. (a) Any exemption from Sales Taxes resulting from or occasioned by the Agency involvement with the Project shall be limited to purchases of Eligible Materials by or for the Lessees as agent for the Agency, it being the intent of the parties that no operating expenses of the Lessees and no purchases of equipment or other personal property (other than Eligible Materials) shall be subject to an exemption from Sales Taxes because of the Agency involvement with the Project.

(b) The Lessees covenant and agree that they shall include the following language (through an attached rider, or by reference to the Sales Tax Letter or otherwise) in and as part of each contract, agreement, invoice, bill or purchase order entered into by the Lessees as agent for the Agency in connection with the Project:

"This [contract, agreement, invoice, bill or purchase order] is being entered into by [Wayne-O, LLC, a limited liability company organized and existing under the laws of the State of New York,] [O'Wayne Enterprises, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York] [Morrison's Pastry Corp., a corporation organized and existing under and by virtue of the laws of the State of New York] (the "Agent"), as agent for and on behalf of the New York City Industrial Development Agency (the "Agency"), in connection with a certain project of the Agency for the Agent consisting of the acquisition of an approximately 40,000 square foot parcel of real property located at 49-01 Maspeth Avenue, Maspeth, New York, the construction of improvements and renovations to an approximately 30,000 square foot building thereon, and the acquisition and installation of machinery and equipment in connection therewith, all for the manufacturing of baked goods (the "Project"), for use and occupancy by O'Wayne Enterprises, Inc. and Morrison's Pastry Corp. The renovation and capital

improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property to be used for the Project which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and the City of New York if effected in accordance with the terms and conditions set forth in the attached Letter of Authorization for Sales Tax Exemption of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Letter of Authorization for Sales Tax Exemption. The liability of the Agency hereunder is limited as set forth in the Letter of Authorization for Sales Tax Exemption. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges the terms and conditions set forth in this paragraph."

If the Lessees shall fail to include, incorporate by reference or otherwise cause the contract, agreement, invoice, bill or purchase order to be subject to the above applicable language in substantially the above form, such contract, agreement, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the benefits able to be conferred by the Agency, and the Lessees shall not claim any sales or use tax benefits or exemptions with respect to any such contract, agreement, invoice, bill or purchase order and the Lessees shall return to the Agency any such benefits or exemptions so taken, together with interest on such amount at the rate of eighteen percent (18%) per annum, from the date of such taking.

(c) Concurrently with the execution of this Agreement, the Agency shall make available to the Lessees the Sales Tax Letter. The Agency, at the sole cost and expense of the Lessees, shall also execute such other authorizations, letters and documents (and such amendments to the Sales Tax Letter) as may be reasonably necessary to permit the Lessees to obtain the intended benefits hereunder. Subject to the terms of this Agreement, it is intended that the aggregate scope of the sales and use tax benefits received by the Lessees pursuant to this Agreement and the Sales Tax Letter shall be limited in both duration and amount as follows:

(i) The Sales Tax Letter shall be dated the date of original issuance of the Series 1999 Bonds and shall be effective for a term commencing on its date and expiring upon the earliest of (1) the termination of this Agreement, (2) April 1, 2000, (3) the completion of the Project as provided in Section 2.2 hereof or (4) the termination of the Sales Tax Letter pursuant to Section 7.2 hereof.

(ii) The authorizations set forth in the Sales Tax Letter shall automatically be suspended after notice to the Lessees that the Lessees shall be in default under this Agreement until the Lessees shall pay any amounts due, and perform all of its obligations, with respect to any such default.

(iii) The sales and use tax exemption to be provided pursuant to the Sales Tax Letter

(A) shall not be available for payment of any costs other than Project Costs for Eligible Materials for incorporation into the Facility,

(B) shall only be utilized for Eligible Materials which shall be purchased, completed or installed for use only by the Lessees at the Facility (and not with any intention to sell, transfer or otherwise dispose of any such Eligible Materials to another Person), it being the intention of the Agency and the Lessees that the sales and use tax exemption shall not be made available with respect to any item of Eligible Materials unless such item is used solely by the Lessees at the Facility,

(C) shall not be available for any item of (i) rolling stock or watercraft, (ii) tangible personal property having a useful life of less than one year, or (iii) computer software unless the computer software is of a type that is capable of being capitalized in accordance with generally accepted accounting principles as a capital expenditure, for use only at the Facility by the Lessees,

(D) shall not be available for any date subsequent to which the Sales Tax Letter shall have been suspended as provided in Section 2.6(c)(ii) hereof; provided, however, that in the event the Lessees shall thereafter cure any defaults under this Agreement, or the Agency shall thereafter waive such suspension, as applicable, the sales and use tax exemption shall again continue from the date of such cure or such waiver,

(E) shall be available only if purchased by the Lessees as agent for the Agency for use by the Lessees at the Facility,

(F) shall not be available for any tangible movable personal property (including computer software) or trade fixture for use by any Person other than the Lessees at the Facility,

(G) shall not be available for any cost of utilities, cleaning service or supplies,

(H) shall not be available for any item the acquisition or leasing of which would otherwise be exempt from Sales Taxes absent involvement by the Agency,

(I) shall not be available subsequent to the termination of this Agreement, and

(J) shall only be available for those costs set forth in Exhibit A to the Sales Tax Letter.

(iv) In the event that the Lessees shall utilize the sales or use tax exemption authorization provided pursuant to the Sales Tax Letter in violation of the provisions of Section 2.6(c)(iii) hereof, the Lessees shall promptly deliver notice of same to the Agency, and the Lessees shall, upon demand by the Agency, pay to or at the direction of the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of eighteen percent (18%) per annum from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Lessees.

(v) The sales and use tax exemption authorizations provided to the Lessees under the Sales Tax Letter and this Agreement availed of by the Lessees shall extend both to those Project Costs the payment for which shall first be made from the proceeds of the Series 1999 Bonds as well as those Project Costs the payment of which is to be reimbursed from the proceeds of the Series 1999 Bonds.

(vi) Upon request by the Agency of, and reasonable notice to, the Lessees, the Lessees shall make available at reasonable times to the Agency all such books and records of the Lessees and require all appropriate officers and employees of the Lessees to respond to reasonable inquiries by the Agency as shall be necessary to indicate in reasonable detail those costs to which the Lessees shall have utilized the Sales Tax Letter and the dates and amounts so utilized.

(d) The Lessees shall observe and comply with the terms and conditions of the Sales Tax Letter.

(e) The Lessees shall, on or before February 28, 2000 and on or before each February 28, thereafter until the completion of the term hereof, annually file a statement with the New York State Department of Taxation and Finance, on a form (Form ST-340 or any successor or additional mandated form) and in a manner and consistent with such regulations as is or may be prescribed by the Commissioner of the New York State Department of Taxation and Finance, of the value of all sales and use tax exemptions claimed by the Lessees or agents of the Lessees in connection with the Project and the Facility as required by Section 874(8) of the New York State General Municipal Law (as the same may be amended from time to time), including, but not limited to, consultants or subcontractors of such agents, under the authority granted pursuant to this Agreement. The Lessees shall furnish a copy of such annual statement to the Agency at the time of filing with the Department of Taxation and Finance. Should the Lessees fail to comply with the foregoing requirement related to a statement filing with the New York State Department of Taxation and finance, the Lessees shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked) without any further action of the parties, the Lessees shall be deemed to have automatically lost their authority as agent of the Agency to purchase Eligible Materials in the Agency's behalf, and

shall desist immediately from all such activity, and shall immediately and without demand return to the Agency the Sales Tax Letter issued to the Lessees by the Agency which is in the Lessees' possession or in the possession of any agent of the Lessees. Nothing herein shall be construed as a representation by the Agency that any property acquired as part of the Project is or shall be exempt from sales taxes or use taxes under the laws of the State. To the extent permitted by applicable law, the Lessees' status as agent of the Agency will be reinstated upon the Lessees' compliance with the requirements hereof and in accordance with the applicable statutory requirements under the Lease.

(f) The Lessees agree to submit to the Agency on August 1 of each year a completed Benefits Report in the form of Schedule A attached hereto to the extent that the Lessees shall have received Sales Tax Savings during the twelve-month period ending on the June 30 immediately preceding such August 1.

(g) Upon the expiration or termination of the Sales Tax Letter pursuant to paragraph (c)(i) of this Section 2.4, the Lessees shall promptly return the original Sales Tax Letter to the Agency for cancellation by the Agency. In the event the original Sales Tax Letter is lost, the Lessee shall provide an affidavit attesting to its loss and any other representations relating to such loss as the Agency may reasonably require.

ARTICLE III
Lease of Facility and Rental Provisions

Section 3.1. Lease of the Facility. The Agency hereby leases to Wayne-O, and Wayne-O hereby leases from the Agency, the Facility Realty, all for and during the term herein provided and upon and subject to the terms and conditions herein set forth. The Agency hereby leases to O'Wayne, and O'Wayne hereby leases from the Agency, a portion of the Facility Equipment (as more particularly described in the Appendices attached hereto under the heading DESCRIPTION OF FACILITY EQUIPMENT (O'WAYNE)), all for and during the term herein provided and upon and subject to the terms and conditions herein set forth. The Agency hereby leases to Morrison's, and Morrison's hereby leases from the Agency, a portion of the Facility Equipment (as more particularly described in the Appendices attached hereto under the heading DESCRIPTION OF FACILITY EQUIPMENT (MORRISON'S)), all for and during the term herein provided and upon and subject to the terms and conditions herein set forth. The Lessees shall at all times during the term of this Agreement occupy, use and operate the Facility, or cause the Facility to be occupied, used and operated, as a manufacturing facility in accordance with the provisions of the Act and for the general purposes specified in the recitals to this Agreement. The Lessees shall not occupy, use or operate the Facility or allow the Facility or any part thereof to be occupied, used or operated for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

Section 3.2. Duration of Term. The term of this Agreement shall commence on the date of execution and delivery of this Agreement and shall expire on June 30, 2025 or such earlier date as this Agreement may be terminated as hereinafter provided. The Agency hereby delivers to the Lessees and the Lessees hereby accept sole and exclusive possession of the Facility.

Wayne-O hereby covenants, simultaneously with its execution and delivery of this Agreement, to enter into, execute and deliver the Sublease Agreement with the Sublessees. Under the terms of the Sublease Agreement, the Sublessees have covenanted, among other things, to keep and perform all of the terms of this Agreement, and the Sublessees have agreed to pay or cause to be paid sublease rentals to Wayne-O in an amount and at the times which will at least equal the lease rentals to be paid by the Lessees hereunder which is an amount sufficient to pay the principal or Redemption Price, if any, and interest on the Bonds as the same become due.

Section 3.3. Rental Provisions; Pledge of Agreement, Sublease Agreement and Rent. (a) The Lessees covenant to make rental payments which the Agency agrees shall be paid by the Lessees directly to the Trustee on each Lease Rental Payment Date for deposit in the Bond Fund in an amount equal to the sum of (i) with respect to interest due and payable on the Bonds, an amount equal to the interest next becoming due and payable on the Bonds on the immediately succeeding Interest Payment Date (less any amount available in the Project Fund or any earnings on the Debt Service Reserve Fund available for transfer to the Interest Account of the Bond Fund), (ii) the principal amount of the Bonds then Outstanding which will become due on the immediately succeeding Interest Payment Date (whether at maturity or by redemption or acceleration as

provided in the Indenture), (iii) the Sinking Fund Installments which will become due on the Bonds on the immediately succeeding Interest Payment Date, and (iv) the principal of and redemption premium, if any, on the Bonds to be redeemed which will become due on the immediately succeeding redemption date together with accrued interest to the date of redemption. The Lessees further agree to pay such additional amounts as set forth in the Indenture with respect to interest on the Series 1999 Bonds in the event of a Determination of Taxability or an Event of Default.

(b) Upon receipt by the Lessees of notice from the Trustee pursuant to Section 5.10(d) of the Indenture that the amount on deposit in the Debt Service Reserve Fund shall be less than the Debt Service Reserve Fund Requirement, the Lessees shall pay to the Trustee for deposit in the Debt Service Reserve Fund within ten (10) days of the date of receipt by the Lessees of notice of such deficiency, or such longer time period as shall be consented to in writing by the Holders of not less than 50% of the aggregate principal amount of Bonds then Outstanding, an amount equal to such deficiency in the Debt Service Reserve Fund unless such deficiency is the result of an investment loss, in which event the Lessees shall replenish an amount equal to such deficiency in the Debt Service Reserve Fund through six (6) equivalent installments over the following six (6) months.

(c) Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in the Bond Fund is not sufficient to pay the principal of, Sinking Fund Installments for, redemption premium, if any, and interest on the Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture), the Lessees shall forthwith pay the amount of such deficiency in immediately available funds to the Trustee for deposit in the Bond Fund and such payment shall constitute rental payments under this Section 3.3.

(d) In the event the Lessees should fail to make or cause to be made any of the payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Lessees until the amount not so paid shall have been fully paid.

(e) The Lessees shall have the option to prepay its rental obligation with respect to the Bonds, in whole or in part at the times and in the manner provided in Article VIII hereof as and to the extent provided in the Indenture for redemption of the Bonds.

(f) At its option, to be exercised on or before the forty-fifth (45th) day next preceding the date any Bonds of a Series are to be redeemed from mandatory Sinking Fund Installments, the Lessees may deliver to the Trustee Bonds of such Series which are subject to mandatory Sinking Fund Installment redemption in an aggregate principal amount not in excess of the principal amount of Bonds of such Series to be so redeemed on such date. Each such Bond so delivered shall be credited by the Trustee at one hundred percent (100%) of the principal amount thereof against the obligation of the Agency on such Sinking Fund Installment payment date and any excess over such Sinking Fund Installment shall be credited on future Sinking Fund

Installments in direct chronological order, and the principal amount of Bonds to be redeemed by operation of the mandatory Sinking Fund Installments shall be accordingly reduced.

(g) No further rental payments need be made to the Agency during the term of this Agreement when and so long as the amount of cash and/or Government Obligations on deposit in the Bond Fund is sufficient to satisfy and discharge the obligations of the Agency under the Indenture and pay the Bonds as provided in Section 10.01 of the Indenture.

(h) Pursuant to the Agency Mortgage, the Agency shall grant a lien on and security interest in the Facility prior to the lien of this Agreement and the Sublease Agreement, and pursuant to the Indenture the Agency will pledge and assign to the Trustee as security for the Bonds all of the Agency's right, title and interest in this Agreement (except for the Agency's Reserved Rights) and the Sublease Agreement, including all rental payments hereunder and under Section 5(b) of the Sublease Agreement, and in furtherance of said pledge the Agency will unconditionally assign such rental payments to the Trustee for deposit in the Bond Fund in accordance with the Indenture. The Lessees hereby consent to the above-described lien and security interest, and pledge and assignment of this Agreement and the Sublease Agreement.

(i) The Lessees covenant and agree that they will comply with the provisions of the Indenture with respect to the Lessees and that the Trustee shall have the power, authority, rights and protections provided in the Indenture. The Lessees further covenant to use their best efforts to cause there to be obtained for the Agency any documents or opinions required of the Agency under the Indenture.

Section 3.4. Obligation of Lessees Unconditional. The obligation of the Lessees to pay the rent and all other payments provided for in this Agreement and to maintain the Facility in accordance with Section 4.1 of this Agreement shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Agency, the Trustee or the Holder of any Bond and the obligation of the Lessees shall arise whether or not the Project has been completed as provided in this Agreement. The Lessees will not suspend or discontinue any such payment or terminate this Agreement (other than such termination as is provided for hereunder) for any cause whatsoever, and the Lessees waive all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Lessees under this Agreement or the Facility or any part thereof except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the rentals or other payments hereunder.

Section 3.5. Grant of Security Interest. In order to secure the payment of rentals and all the obligations of the Lessees hereunder and the payment and performances by each obligor of its obligations under the Security Documents, the Lessees hereby grant a security interest to the Agency in all of the Lessees' right, title, if any, and interest in and to the fixtures constituting part of the Facility Realty and the Facility Equipment and the proceeds thereof.

Section 3.6. Assignment of Sublease Agreement. As security for the payment of the Series 1999 Bonds and the payment and performance by each obligor of its obligations under the Security Documents, Wayne-O does hereby assign, transfer and set over to the Agency all of the right, title and interest of Wayne-O in and to the Sublease Agreement, including all sublease rentals, revenues and receipts therefrom, and the right to enforce all of the rights and remedies of Wayne-O thereunder. Wayne-O agrees not to terminate, modify or amend the Sublease Agreement or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof, without the prior written consent of the Agency and the Trustee and that any attempted termination, modification or amendment of the Sublease Agreement without such written consent shall be null and void. In the exercise of the powers herein granted, no liability shall be asserted or enforced against the Agency or the Trustee, all such liability being hereby expressly waived and released by Wayne-O. Neither the Agency nor the Trustee shall be obligated to perform or discharge any obligation, duty or liability under the Sublease Agreement, or under or by reason of this assignment.

ARTICLE IV
Maintenance, Taxes,
Payments in Lieu of Taxes
and Insurance

Section 4.1. Maintenance, Alterations and Improvements. (a) During the term of this Agreement, the Lessees will keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility in the manner for which it was designed and intended and contemplated by this Agreement, and will make all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) reasonably necessary to ensure that the security for the Bonds shall not be materially impaired. All replacements, renewals and repairs shall be substantially equal in quality, class and value to the original work and be made and installed in compliance with the requirements of all governmental bodies. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility and the Lessees hereby agree to assume full responsibility therefor.

(b) The Lessees shall have the privilege of making such alterations of or additions to the Facility or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that (i) the fair market value of the Facility is not reduced below its value immediately before such alteration or addition and the usefulness, structural integrity or operating efficiency of the Facility is not materially impaired, (ii) such additions or alterations are effected with due diligence, in a good and workmanlike manner and in compliance with all applicable legal requirements, (iii) such additions or alterations are promptly and fully paid for by the Lessees in accordance with the terms of the applicable contract(s) therefor, and in order that the Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances, (iv) such additions or alterations are made, in case the estimated cost of such alteration or addition exceeds \$200,000, under the supervision of an Independent Engineer and in accordance with plans, specifications and cost estimates approved by the Agency and the Trustee (which approval shall not be unreasonably withheld and shall be given only at the direction of a majority in aggregate principal amount of the Bonds Outstanding) and only after the Lessees shall have furnished to the Agency and the Trustee, if reasonably requested by the holders of a majority interest in the aggregate principal amount of the Bonds Outstanding, a labor and materials payment bond, or other security, reasonably satisfactory to the Agency and the Trustee, and (v) such additions or alterations do not substantially change the nature of the Facility so that it would not constitute a manufacturing facility and a qualified "project" as defined in and as contemplated by the Act. All such alterations of and additions to the Facility shall constitute a part of the Facility, subject to this Agreement, the Sublease Agreement, the Indenture and the Agency Mortgage, and the Lessees shall deliver or cause to be delivered to the Agency appropriate documents as may be reasonably necessary to convey title to such property to the Agency and to subject such property to this Agreement and the Sublease Agreement and the lien and security interest of the Indenture and the

Agency Mortgage, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Lessees shall have the right to install or permit to be installed at the Facility Realty machinery, equipment and other personal property not constituting part of the Facility Equipment (the "Lessees' Property") without conveying title to such property to the Agency nor subjecting such property to this Agreement or the Sublease Agreement and the lien and security interest of the Agency Mortgage. The Agency shall not be responsible for any loss of or damage to the Lessees' Property. The Lessees shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Lessees' Property.

(d) The Lessees shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the Lessees in the Facility, the Sublease Agreement or this Agreement except for Permitted Encumbrances. The Lessees covenant that they shall take or cause to be taken all action, including all filing and recording, as may be necessary to ensure that the Agency Mortgage shall constitute a mortgage lien on the Facility subject only to Permitted Encumbrances.

(e) To the extent required by the New York State Finance Law §137, prior to executing any contract with any party for any improvement (as such term is defined in the New York Lien Law) in connection with the Project or the Facility or the provision of any goods or services in connection therewith, and prior to authorizing any party to undertake such improvement (or the provision of such goods and services) without a contract, the Lessees shall deliver to the Agency a copy of the proposed contract therefor along with a bond, in compliance with State Finance Law §137 and otherwise satisfactory to the Agency, guaranteeing prompt payment of monies due all persons furnishing labor or materials for the contractor or his subcontractor in the prosecution of his work provided for in such contract. The Agency shall have no liability or responsibility for the cost of such bond(s). Should the Lessees fail to comply with the foregoing requirement, the Lessees shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked, subject to reinstatement upon compliance with such requirements).

Section 4.2. Removal of Property of the Facility. (a) The Lessees shall have the privilege from time to time of removing from the Facility any fixture constituting part of the Facility Realty or any machinery, equipment or other property constituting part of the Facility Equipment (the "Existing Facility Property") and thereby acquiring such Existing Facility Property, provided that:

(i) such Existing Facility Property is substituted or replaced by property (A) having equal or greater fair market value, operating efficiency and/or utility and (B) being free of all mortgages, liens, charges, encumbrances, claims and security interests other than Permitted Encumbrances; or

(ii) if such Existing Facility Property is not to be substituted or replaced by other property but is instead to be sold, scrapped, traded-in or otherwise disposed of in an arms'-length bona fide transaction for consideration in excess of \$50,000, the Lessees shall pay to the Trustee for deposit in the Redemption Account of the Bond Fund the amounts derived from such sale or scrapping, the trade-in value credit received or the proceeds received from such other disposition if the Bonds are subject to optional redemption;

provided, however, no such removal as set forth in paragraph (i) or (ii) above shall be effected if (w) such removal would change the nature of the Facility so it would not constitute a manufacturing facility and a qualified "project" as defined in and as contemplated by the Act, (x) such removal would impair the usefulness, structural integrity or operating efficiency of the Facility, (y) such removal would reduce the fair market value of the Facility below its value immediately before such removal (except by the amount deposited in the Redemption Account of the Bond Fund pursuant to paragraph (ii) above), or (z) if there shall exist and be continuing an Event of Default hereunder. Any amounts received pursuant to paragraph (ii) above which are not in excess of \$50,000 shall be retained by the Lessees.

(b) The Lessees shall deliver or cause to be delivered to the Agency and the Trustee appropriate documents conveying to the Agency title to any property installed or placed upon the Facility Realty pursuant to Section 4.2(a)(i) hereof and subjecting such substitute or replacement property to this Agreement and the Sublease Agreement and the lien and security interest of the Agency Mortgage, and upon written request of the Lessees, the Agency shall deliver to the Lessees appropriate documents conveying to the Lessees title to any property removed from the Facility pursuant to Section 4.2(a) hereof. The Lessees agree to pay all costs and expenses (including reasonable counsel fees and disbursements) incurred in subjecting to this Agreement and the Sublease Agreement and the lien and security interest of the Agency Mortgage of any property installed or placed on the Facility Realty as part of the Facility pursuant to this Section 4.2.

(c) The Lessees shall not, without the prior written consent of the Agency and the Trustee and except as permitted above, part with possession or control of or suffer to allow to pass out of its possession or control any item of the Facility Equipment or change the location of the Facility Equipment or any part thereof from the Facility Realty; provided, however, it is acknowledged that Affiliates of the Lessees may operate or utilize, at the Facility Realty, the Facility Equipment or any part thereof.

(d) The removal from the Facility of any Existing Facility Property pursuant to the provisions of Section 4.2(a) hereof shall not entitle the Lessees to any abatement or reduction in the rentals and other amounts payable by the Lessees under this Agreement.

Section 4.3 Payment in Lieu of Real Estate Taxes.

(a) *Description and Address of Project:*

The Project consists of the acquisition, renovation and equipping of a manufacturing facility consisting of the acquisition of an approximately 40,000 square foot parcel of real property located at 49-01 Maspeth Avenue, Maspeth, New York, the construction of improvements and renovations to an approximately 30,000 square foot building thereon, and the acquisition and installation of machinery and equipment in connection therewith, all for the manufacturing of baked goods (the "Project"). The Facility Realty is located at 49-01 Maspeth Avenue, Maspeth, New York 11378, being Block 2575 and Lot 280.

(b) *Payments Prior to PILOT Commencement Date:*

The PILOT Commencement Date shall be July 1, 2000. Until the PILOT Commencement Date, or such later date as the Facility Realty is determined to be exempt from real estate taxes, the Lessees shall pay to the City all real estate taxes with respect to the Facility Realty at such times, in such manner and in such amounts as would be applicable if the Facility Realty were owned by the Lessees and not owned by the Agency.

(c) *Payments in Lieu of Real Estate Taxes, Generally:*

It is recognized that under the provisions of the Act the Agency is required to pay no real estate taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. The Agency and the Lessees agree, however, that the Lessees shall be required to make payments in lieu of real estate taxes with respect to the Facility Realty, payable to the PILOT Escrow Agent, in the manner and at the time provided in subsection (g) below or at such other times as the Agency may designate in writing. Except as otherwise provided below in this Section 4.3, the Lessees shall make payments in lieu of real estate taxes (i) with respect to the Land constituting part of the Facility Realty, in the amounts as determined in subsection (d) below, and (ii) with respect to the Improvements constituting part of the Facility Realty, in the amounts as determined in subsections (e) and (f) below.

The Agency makes no representation as to the availability of an exemption from real estate taxes for the Facility Realty in the event that the Department of Finance, Assessors' Office of the City, the City Surveyor, or any other relevant official of the City fails to recognize the Agency's exemption from real estate taxes on the basis of a discrepancy existing between the Facility Realty and the tax map of The City of New York or the existence of another impediment to implementation of the Agency's exemption contemplated hereunder.

The Lessees shall take such action as is reasonably necessary in order to correct any defect or deficiency which may prevent the Facility Realty from being recognized as exempt by the City. The Lessees acknowledge that the Agency has not represented the availability of any

such exemption for the Facility Realty, and the Lessees hereby release the Agency from any claim arising from any loss of the benefits which were contemplated hereunder.

The Lessees acknowledge that the PILOT Commencement Date will not be deferred notwithstanding any loss of benefits contemplated hereunder in the event that the City does not recognize the Agency's exemption from real estate taxes on the PILOT Commencement Date.

(d) *Payments in Lieu of Taxes on the Land:*

For the period commencing on the PILOT Commencement Date until the earlier of (i) June 30, 2025 (the "Abatement Termination Date") or (ii) the date on which the Agency no longer owns the Facility Realty, the Lessees shall make payments in lieu of real estate taxes, in accordance with Section 4.3(g) hereof, with respect to the Land constituting part of the Facility Realty (subject to Section 4.3(i) hereof) only to the extent the Full Land Taxes (as defined below) in the respective tax fiscal year of the City shall exceed the following:

<u>Year</u>	<u>Maximum Land Tax Abatement</u>
PILOT Commencement Date - June 30, 2021	\$32,500
July 1, 2021 - June 30, 2022	26,000
July 1, 2022 - June 30, 2023	19,500
July 1, 2023 - June 30, 2024	13,000
July 1, 2024 - June 30, 2025	6,500

Full Land Taxes shall mean that amount of taxes with respect to the Land constituting part of the Facility Realty as the Lessees would otherwise be required to pay from time to time if it were the owner of the Land.

For the period commencing on the Abatement Termination Date until the date on which the Agency no longer owns the Facility Realty, the Lessees shall make payments in lieu of real estate taxes equal to Full Land Taxes with respect to the Land constituting part of the Facility Realty.

(e) *Payments in Lieu of Taxes on the Improvements:*

For the period from the PILOT Commencement Date until the earlier of (i) the Abatement Termination Date or (ii) the date on which the Agency no longer owns the Facility, the Lessees shall make payments in lieu of real estate taxes, in accordance with Section 4.3(g)

hereof, on the Improvements constituting part of the Facility (subject to Section 4.3(i) hereof) pursuant to the following:

(x) from the PILOT Commencement Date through June 30, 2021, the Lessees shall make payments in lieu of real estate taxes on the Improvements in an amount equal to the lesser of CRET (i.e., Current Real Estate Taxes) and SRET (i.e., Stabilized Real Estate Taxes),

(y) from July 1, 2021, through June 30, 2025, and assuming CRET is greater than SRET for the fiscal years occurring within such period, the Lessees shall make payments in lieu of real estate taxes on the Improvements pursuant to the following formula:

<u>Year</u>	<u>Lessees pay:</u>
July 1, 2021 - June 30, 2022	SRET + [CRET less SRET x 0.2]
July 1, 2022 - June 30, 2023	SRET + [CRET less SRET x 0.4]
July 1, 2023 - June 30, 2024	SRET + [CRET less SRET x 0.6]
July 1, 2024 - June 30, 2025	SRET + [CRET less SRET x 0.8]

provided, however, that if for any fiscal year CRET is equal to or is less than SRET, then, the payment in lieu of taxes on the Improvements due for such fiscal year shall equal CRET.

Certain terms used in the above formula are defined as follows:

CRET or "Current Real Estate Taxes" shall mean the then current assessed value of Improvements multiplied by the City's then current real estate tax rate.

SRET or "Stabilized Real Estate Taxes" shall mean the assessed value of the Improvements as of May 25, 1999 multiplied by the City's real estate tax rate as of July 1, 1999.

For the period from the Abatement Termination Date until the date on which the Agency no longer owns the Facility, the Lessees shall make payments in lieu of real estate taxes on the Improvements in those amounts which the Lessees would otherwise be required to pay as if they were the owner of the Improvements.

(f) *Subsequent Alterations and Improvements:*

If, at any time after completion of the Project, the Lessees shall make any alterations of or additions to the Facility Realty (the "Additional Improvements"), the Lessees shall deliver written notice to an Authorized Representative of the Agency of same within thirty (30) days after the completion thereof. The Agency shall thereupon request that the Improvements

constituting a part of the Facility Realty (including any such Additional Improvements) be reassessed by the appropriate officer or officers of The City of New York and the Lessees shall make additional payments in lieu of taxes equal to:

- (1) the amount of increase in assessed valuation of the Facility Realty when the Additional Improvements are first assessed as completed, multiplied by
- (2) the City's real property tax rate prevailing after such first assessment and thereafter,

less any amount which the Lessees would be entitled with respect to the Additional Improvements if the Lessees shall have qualified with respect thereto under the New York Industrial and Commercial Incentive Program.

(g) *General Payment Provisions:*

In order to provide for payments in lieu of taxes payable pursuant to subsections (d), (e) and (f) above, the Lessees agree to pay to the Agency, or, in accordance with the written direction of an Authorized Representative of the Agency delivered to an Authorized Representative of the Lessees, to the PILOT Escrow Agent, by check or bank draft payable at a bank in New York, New York, on the first day of each month of each year commencing January 1, 2000 (such date being six months prior to the PILOT Commencement Date), an amount equal to one-twelfth (1/12th) of the real estate tax or payments in lieu of taxes which are payable during such year for deposit into a special account to be held by the Agency or the PILOT Escrow Agent for application in accordance with this subsection (g) (the "**PILOT Escrow Fund**"). The Agency hereby is, and any PILOT Escrow Agent shall be, appointed by the Lessees to act as the Lessees' attorney-in-fact without power of revocation (which appointment shall be deemed to be an agency coupled with an interest) for purposes of applying moneys on deposit in the PILOT Escrow Fund to the payments in lieu of real estate taxes payable pursuant to subsections (d), (e) or (f) above, and as such shall so apply such moneys. If the moneys on deposit in the PILOT Escrow Fund shall at any time exceed the amount of the payments in lieu of real estate taxes so payable by the Lessees, the Agency, at its sole discretion, or the PILOT Escrow Agent, at the written direction of an Authorized Representative of the Agency, shall (i) return any excess moneys to the Lessees, or (ii) credit such excess against future payments to be made for deposit into the PILOT Escrow Fund. If moneys on deposit in the PILOT Escrow Fund at any time are less than the amount needed to make the payments in lieu of real estate taxes payable pursuant to subsections (d), (e) and (f) above as the same become due, the Lessees shall pay to the Agency, or to the PILOT Escrow Agent, as the case may be, upon written demand of an Authorized Representative of the Agency delivered to an Authorized Representative of the Lessee, an amount which the Agency shall estimate as sufficient to make up the deficiency in the amounts on deposit in the PILOT Escrow Fund. Until expended or applied as above provided, any moneys on deposit in the PILOT Escrow Fund shall be accounted for separately and apart from any other funds of the Agency or the PILOT Escrow Agent, and they shall be pledged solely for the purposes herein provided and shall be held uninvested. The PILOT Escrow Agent may

utilize the services of a mortgage servicing agent in performing its functions under the PILOT Escrow Agreement but the PILOT Escrow Agent shall have full responsibility for the actions of any such agent.

Moneys on deposit in the PILOT Escrow Fund shall be applied to installments of payments in lieu of taxes payable pursuant to subsections (d), (e) and (f) above, and amounts sufficient to make such installment payments shall be withdrawn and paid, on or prior to the Business Day immediately prior to each January 1 and July 1, commencing on the PILOT Commencement Date, to United States Trust Company of New York, New York, New York, as PILOT Trustee of the Agency for the purposes of receiving payments in lieu of taxes payable to the Agency, subject in each case to the Lessees' right, to the extent permitted by law, to obtain reductions in the valuation of the Facility Realty or the right to obtain exemptions (and discounts, if any) therefrom and to seek to obtain a refund of any such payments made.

The parties to this Agreement acknowledge and agree that the escrow fund established under the PILOT Escrow Agreement shall constitute the PILOT Escrow Fund and United States Trust Company of New York, New York, New York (or its successors under the terms of the PILOT Escrow Agreement), shall be the PILOT Escrow Agent within the meaning of this Section 4.3.

In the event the Lessees shall fail to make any such installments of payments in lieu of real estate taxes, the amount or amounts so in default shall continue as an obligation of the Lessees until fully paid, and the Lessees agree to pay the same to the Agency, or to the PILOT Escrow Agent, as the case may be. The Lessees shall pay a late payment penalty of five percent (5%) of any amount which is not paid when due under this Section 4.3. In addition, for each month or part thereof that a payment under this Section 4.3 is delinquent beyond the first month, interest shall accrue and be payable by the Lessees on the total amount due as provided above plus a late payment penalty in the amount of one percent (1%) per month for each month or part thereof until the payment is made.

It is agreed that the Agency shall request the respective appropriate officer or officers of the City charged with the duty of levying and collecting such taxes to submit to the Lessees and the PILOT Escrow Agent, if a PILOT Escrow Agent has been appointed, when the respective levies are made for purposes of such taxes, a statement specifying the amount and due date or dates of such taxes and amounts in lieu thereof which the City shall receive hereunder.

(h) *Apportionment of Payments After Transfer:*

The Agency shall cause the Collector of the City to apportion, within a reasonable period of time prior to the date on which the Agency is no longer to be the owner of the Facility Realty, that installment of payment in lieu of real estate taxes paid by the Agency or the PILOT Escrow Agent, as the case may be, to the Collector of the City immediately preceding the date on which the Agency no longer owns the Facility Realty, as of such date, and apply that portion attributable to the period from such date to the end of the period of such installment as a credit

against the amount of real estate tax that would have been due for the period of such installment had the Facility Realty been privately owned on the January 5th (or such other date as may be the City's tax status date) immediately preceding the date of such installment and bill the Lessees for the balance of such installment, which amount shall be paid by the Lessees to the Agency, immediately upon receipt thereof. The Agency shall cause the Collector of the City to return the Facility Realty to the tax rolls as of the date of transfer of title out of the Agency to the new owner of the Facility Realty, who shall pay the remaining installments due for such tax fiscal year.

(i) *Withdrawal of Real Estate Tax Abatements:*

The Lessees understand and agree that the Lessees are required to pay or cause to be paid, as additional payments in lieu of real estate taxes, the amount of taxes that the Lessees would have been required to pay as if it were the owner of the Land and Improvements constituting the Facility Realty for that portion of the Facility Realty, if any, utilized or occupied by any Person other than the Lessees for so long as such utilization or occupation shall continue. The Lessees hereby represent to the Agency that no portion of the Facility Realty is utilized and occupied or is intended to be utilized or occupied by Persons other than the Lessees. The Lessees agree that it shall immediately notify in writing the Agency or cause said written notice to be given in the event that there shall be any change in the portion of the Facility Realty utilized or occupied by any Person other than the Lessees. The Lessees understand and agree that in such event, unless the Agency in its sole discretion shall determine otherwise, the amounts payable by the Lessees as additional payments in lieu of taxes shall be adjusted to an amount equal to the amount of taxes that the Lessees would have been required to pay as if it were the owner of the Facility Realty for that portion of the Facility Realty utilized or occupied by Persons other than the Lessees for so long as such utilization or occupation shall continue. The Lessees further agree to furnish the Agency with a certificate of an Authorized Representative of the Lessees on January 1 of each year setting forth all Persons other than the Lessees, if any, that shall be utilizing or occupying any portion of the Facility Realty, the amount of space so occupied or utilized and the percentage of the available square footage of the Facility Realty represented by such occupation or utilization.

Commencing as of the date on which the Facility is not used in accordance with the Act and this Agreement or upon the occurrence of an Event of Default under this Agreement, the Lessees shall be required to make payments in lieu of real estate taxes on the Land and Improvements constituting a part of the Facility Realty in such amounts as would result from taxes levied on the Facility Realty if the Facility Realty were owned by the Lessees. For purposes of the determination of such payments in lieu of real estate taxes, the tax rate shall be the rate then in effect as shown on the records of the proper City department.

(j) *Survival of Obligations:*

The obligations of the Lessees under this Section 4.3 shall survive the termination or expiration of this Agreement for any reason whatsoever. The Agency, in its sole discretion and in furtherance of the purposes of the Act, may waive, in whole or in part, payments in lieu of taxes set forth in this Section 4.3, for good cause shown.

Section 4.4. Taxes, Assessments and Charges. The Lessees shall pay when the same shall become due all taxes (except to the extent that the Lessees shall have made payments in lieu in respect thereof as provided in Section 4.3 hereof) and assessments, general and specific, if any, levied and assessed upon or against the Facility, this Agreement, the Sublease Agreement, any estate or interest of the Agency or the Lessees in the Facility, or the rentals hereunder or under the Sublease Agreement during the term of this Agreement and the Sublease Agreement, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility, all of which are herein called "Impositions". The Agency shall promptly forward to the Lessees any notice, bill or other statement received by the Agency concerning any Imposition. The Lessees may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

In the event the Facility is exempt from Impositions solely due to the Agency's ownership of the Facility, the Lessees shall pay all Impositions to the appropriate taxing authorities equivalent to the Impositions which would have been imposed on the Facility if the Lessees were the owner of record of the Facility.

None of the foregoing shall prevent the Lessees from contesting in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Lessees, the Agency or the Trustee being in any danger of any civil or any criminal liability other than normal accrual of interest, for failure to comply therewith, and (iii) the Lessees shall have furnished such security, if any, as may be requested by the Agency or the Trustee to protect the security intended to be offered by the Security Documents in a manner such that the lien of the Agency Mortgage is not impaired in any way.

Section 4.5. Insurance.

(a) At all times throughout the term of this Agreement, including without limitation during any period of construction or reconstruction of the Facility, the Lessees shall maintain insurance, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Sublessees, including, without limitation:

(i) To the extent not covered by the public liability insurance referred to below, Owners & Contractors Protective Liability Insurance for the benefit of the Lessees, the Sublessees, the Agency and the Trustee in a minimum amount of \$5,000,000 aggregate coverage for personal injury and property damage;

(ii) Builders' All Risk Insurance written on "100% builders' risk completed value, non-reporting form" including coverage therein for "completion and/or premises occupancy" during any period of construction or reconstruction of the Facility, and coverage for property damage insurance, all of which insurance shall include coverage for removal of debris, insuring the buildings, structures, facilities, fixtures and other property constituting a part of the Facility against loss or damage to the Facility by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Lessees, the Sublessees, the Agency or the Trustee from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than the greater of (A) 80% of the actual replacement value of the Facility as determined by a qualified insurance appraiser or insurer (selected by the Lessees and approved by the Agency and the Trustee) not less often than once every third year or such other period required by the insurer, at the expense of the Lessees, and (B) the principal amount of the Outstanding Bonds; any such insurance may provide that the insurer is not liable to the extent of the first \$50,000 with the result that the Lessees or the Sublessees are their own insurer to the extent of \$50,000 of such risks;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Facility and the business thereby conducted in a minimum amount of \$5,000,000, which insurance (A) will also provide coverage of the Lessees' obligations of indemnity under Section 6.2 hereof, except those obligations which are not insurable and those obligations contained in Section 6.2(c) hereof, (B) may be effected under overall blanket or excess coverage policies of the Lessees or any Affiliate thereof, provided, however, that at least \$500,000 is effected by a comprehensive liability insurance policy, and (C) shall not contain any provisions for a deductible amount in excess of \$10,000;

(iv) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Lessees, the Sublessees or the Agency is required by law to provide covering loss resulting from injury, sickness, disability or death of the employees of the Lessees or the Sublessees or any Affiliate thereof, or any contractor or subcontractor performing work with respect to the Facility; the Lessees shall require that all said contractors and subcontractors shall maintain all forms or types of insurance with respect to their employees required by laws;

(v) Such other insurance in such amounts and against such insurable hazards as the Agency or the Trustee from time to time may reasonably require, provided such insurance is available generally at rates which are commercially reasonable;

(vi) Boiler and machine property damage insurance in respect to any steam and pressure boilers and similar apparatus located at the Facility from risks normally insured against under boiler and machinery policies and in amounts and with deductions customarily obtained for similar business enterprises and in each case approved by the Agency.

(b) All insurance required by Section 4.5(a) above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall

(i) designate (except in the case of workers' compensation insurance) the Lessees, the Sublessees, the Trustee and the Agency as additional insureds as their respective interests may appear;

(ii) provide that all insurance proceeds with respect to loss or damage to the property of the Facility be endorsed and made payable to the Trustee and shall name the Trustee as a loss payee under the standard loss payee clause and as a mortgagee under the terms of a standard mortgagee clause, which insurance proceeds shall be paid over to the Trustee and deposited in the Renewal Fund;

(iii) provide that there shall be no recourse against the Agency or the Trustee for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iv) provide that in respect of the respective interests of the Agency and the Trustee in such policies, the insurance shall not be invalidated by any action or inaction of the Lessees, the Sublessees or any other Person and shall insure the Agency and the Trustee regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

(v) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency or the Trustee to the extent that such other insurance provides the Agency or the Trustee, as the case may be, with contingent and/or excess liability insurance with respect to its respective interest as such in the Facility;

(vi) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency or the Trustee until at least thirty (30) days after receipt by the Agency and the Trustee, respectively, of written notice by such insurers of such cancellation, lapse, expiration or change;

(vii) waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy; and

(viii) contain such other terms and provisions as any owner or operator of facilities similar to the Facility would, in the prudent management of its properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Facility owned or operated by it.

(d) The Net Proceeds of any insurance in excess of \$200,000 received with respect to any loss or damage to the property of the Facility shall be deposited in the Renewal Fund and applied in accordance with Section 5.1 hereof and the Indenture.

(e) Concurrently with the original issuance of the Series 1999 Bonds, the Lessees shall deliver or cause to be delivered to the Agency and the Trustee duplicate copies of insurance policies and/or binders evidencing compliance with the insurance requirements of this Section 4.5. At least seven (7) Business Days prior to the expiration of any such policy, the Lessees shall furnish the Agency and the Trustee with evidence that such policy has been renewed or replaced or is no longer required by this Agreement.

(f) The Lessees shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Agency or the Trustee to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.5. The Lessees shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.5 would or might be suspended or impaired.

(g) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE BUSINESS OR INTEREST OF THE LESSEES OR THE SUBLESSEES.

Section 4.6. Advances by Agency or Bondholders. In the event the Lessees fail to make any payment or perform or observe any obligation required of it under this Agreement, the Agency or any Bondholder, after first notifying the Lessees of any such failure on its part, may (but shall not be obligated to), and without waiver of any of the rights of the Agency or such

Bondholder under this Agreement, the Indenture or any other Security Documents, make such payment or otherwise cure any failure by the Lessees to perform and observe its other obligations hereunder. All amounts so advanced therefor by the Agency or such Bondholder shall become an additional obligation of the Lessees to the Agency or such Bondholder, which amounts, together with interest thereon at the rate of the Trustee's "prime rate" plus two percent (2%) per annum from the date advanced, the Lessees will pay upon demand therefor by the Agency or such Bondholder. Any remedy herein vested in the Agency, the Trustee or Bondholders for the collection of the rental payments or other amounts due hereunder shall also be available to the Agency or such Bondholder for the collection of all such amounts so advanced.

Section 4.7. Compliance with Law. The Lessees agree that they will, throughout the term of this Agreement and at their sole cost and expense, promptly observe and comply, and cause the Sublessees to observe and comply, with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Lessees, the Sublessees, any occupant, user or operator of the Facility or any portion thereof (including without limitation those relating to zoning, land use, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) (the "Legal Requirements"), and will observe and comply, and cause the Sublessees to observe and comply, with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessees will not, without the prior written consent of the Agency and the Trustee, initiate, join in or consent to any private restrictive covenant, zoning ordinance, or other public or private restrictions, limiting or defining the uses which may be made of the Facility or any part thereof. The Lessees shall indemnify and hold harmless the Indemnified Parties (as defined in Section 6.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure to comply with any Legal Requirement or (b) imposed upon the Lessees, the Sublessees or any of the Indemnified Parties by any Legal Requirement; in case any action or proceedings is brought against any of the Indemnified Parties in respect to any Legal Requirement, the Lessees shall upon notice from any of the Indemnified Parties defend such action or proceeding by counsel reasonably satisfactory to the Indemnified Party.

The Lessees may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Lessees, the Sublessees, the Agency or the Trustee being in any danger of any civil or any criminal liability other than normal accrual of interest, for failure to comply therewith, and (iii) the Lessees shall have furnished such security, if any, as may be reasonably requested by the Agency or the Trustee to protect the security intended to be offered by the Security Documents.

ARTICLE V
Damage, Destruction and Condemnation

Section 5.1. Damage, Destruction and Condemnation.

(a) In the event that at any time during the term of this Agreement the whole or part of the Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement between the Agency and those authorized to exercise such right, or if the temporary use of the Facility shall be so taken by condemnation or agreement (a "Loss Event"):

(i) the Agency shall have no obligation to rebuild, replace, repair or restore the Facility,

(ii) there shall be no abatement, postponement or reduction in the rent or other amounts payable by the Lessees under this Agreement, and

(iii) the Lessees will promptly give written notice of such Loss Event to the Agency and the Trustee, generally describing the nature and extent thereof.

(b) Upon the occurrence of a Loss Event, the Net Proceeds in excess of \$200,000 derived therefrom shall be paid to the Trustee and deposited in the Renewal Fund and the Lessees shall either:

(i) at their own cost and expense (except to the extent paid from the Net Proceeds deposited in the Renewal Fund as provided below and in Section 5.03 of the Indenture), promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Lessees shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency, the Trustee or any Bondholder, nor shall the rent or other amounts payable by the Lessees under this Agreement be abated, postponed or reduced, or

(ii) if, to the extent and upon the conditions permitted to do so under Section 8.1 hereof and under the Indenture, exercise its option to purchase the Facility and make advance rental payments to redeem the Bonds in whole.

Not later than ninety (90) days after the occurrence of a Loss Event, the Lessees shall advise the Agency and the Trustee in writing of the action to be taken by the Lessees under this Section 5.1(b), a failure to so timely notify being deemed an election in favor of subdivision (i) above to be exercised in accordance with the provisions of clause (i) above. Net Proceeds in amounts less than \$100,000, derived from the occurrence of a Loss Event shall be paid directly to the Lessees

whereupon the Lessees shall use such Net Proceeds to restore the Facility in accordance with Section 5.1(b)(i) hereof.

If the Lessees shall elect to or shall otherwise be required to rebuild, replace, repair or restore the Facility as set forth in subdivision (i) above, the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in Section 5.03 of the Indenture to pay or reimburse the Lessees, at the election of the Lessees, either as such work progresses or upon the completion thereof, provided, however, the amounts so disbursed by the Trustee to the Lessees shall not exceed the actual cost of such work. If, on the other hand, the Lessees shall, if permitted under this Agreement and the Indenture, exercise their option in subdivision (ii) above, the Trustee shall transfer the Net Proceeds from the Renewal Fund to the Redemption Account of the Bond Fund to be applied to the redemption of the Bonds in accordance with the Indenture.

(c) All such rebuilding, replacements, repairs or restorations shall

(i) automatically be deemed a part of the Facility and owned by the Agency and be subject to this Agreement and the Sublease Agreement and the lien and security interest of the Agency Mortgage,

(ii) be in accordance with plans and specifications and cost estimates approved in writing by the Trustee (which approval shall not be unreasonably withheld),

(iii) not change the nature of the Facility as a qualified "project" as defined in and as contemplated by the Act,

(iv) to the extent required by Section 4.1(e) hereof, be preceded by the furnishing by the Lessees to the Agency and the Trustee of a labor and materials payment bond, or other security, reasonably satisfactory to the Agency and the Trustee,

(v) be effected with due diligence in a good and workmanlike manner, in compliance with all applicable legal requirements and be promptly and fully paid for by the Lessees in accordance with the terms of the applicable contract(s) therefor, and

(vi) if the estimated cost of such rebuilding, replacement, repair or restoration be in excess of \$200,000, be effected under the supervision of an Independent Engineer.

(d) Pending the disbursement or transfer thereof, the Net Proceeds in the Renewal Fund shall be applied and may be invested as provided in the Indenture.

(e) The Agency, the Trustee and the Lessees shall cooperate and consult with each other in all matters pertaining to the settlement, compromising, arbitration or adjustment of any claim or demand on account of any Loss Event, and the settlement, compromising, arbitration or adjustment of any such claim or demand shall be subject to the approval of the Lessees and the Trustee (such approvals not to be unreasonably withheld).

(f) If all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the Lessees as contemplated hereby, the Lessees shall exercise their option to purchase the Facility pursuant to Section 8.1 hereof, and the amount of the Net Proceeds so recovered shall be transferred from the Renewal Fund and deposited in the Redemption Account of the Bond Fund, and the Lessees shall thereupon pay to the Trustee for deposit in the Redemption Account of the Bond Fund an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and to pay the expenses of redemption, the fees and expenses of the Agency, the Bond Registrar, the Trustee and the Paying Agents, together with all other amounts due under the Indenture and under this Agreement, and such amount shall be applied, together with such other available moneys in such Bond Fund, if applicable, to such redemption or retirement of the Bonds on said redemption or maturity date.

(g) The Lessees shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to improvements, machinery, equipment or other property installed on or about the Facility Realty but which, at the time of such damage or taking, is not part of the Facility nor subject to the Agency Mortgage and is owned by the Lessees.

(h) The Lessees hereby waive the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE VI
Particular Covenants

Section 6.1. Restrictions on Lessees. The Bonds will be payable by the Agency as to principal, interest and redemption premium, if any, out of the revenue derived from the leasing of the Facility, including all revenues and rental income derived from or in connection with the Facility and moneys received under this Agreement, and the parties hereto understand that the purchasers of the Bonds will make their purchase in reliance in part upon the credit and financial condition of the Lessees.

(a) Wayne-O agrees that at all times during the term of this Agreement it will (i) maintain its existence, (ii) continue to be an entity subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not sell, transfer, pledge or otherwise encumber all or substantially all of the assets which constitute the Facility; (iv) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the execution and delivery of this Agreement, and (v) not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it. Wayne-O may, however, without violating the foregoing, consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such entity (and thereafter liquidate, wind-up or dissolve or not, as Wayne-O may elect) if (i) Wayne-O is the surviving, resulting or transferee entity, as the case may be, and the resulting entity has a net worth at least equal to that of Wayne-O prior to such merger or consolidation, or otherwise acceptable to the Agency and a majority in interest of the Bondholders Outstanding or (ii) in the event that Wayne-O is not the surviving, resulting or transferee entity, as the case may be, such entity (A) is a solvent entity subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (B) assumes in writing all of the obligations of Wayne-O contained in this Agreement and all other Security Documents to which Wayne-O shall be a party, and (1) in the Opinion of Counsel, (x) such entity shall be bound by all of the terms applicable to Wayne-O of this Agreement and all other Security Documents to which the predecessor lessee shall have been a party, and (y) such action does not legally impair the security for the Holders of the Bonds afforded by the Security Documents, and (2) in the Opinion of Nationally Recognized Bond Counsel, such merger, consolidation, sale or transfer will not cause the interest on the Bonds to become includable in gross income for Federal income tax purposes, and (C) has a net worth (as determined in accordance with generally accepted accounting principles and compiled for the company by an accountant), if required by a majority interest of the Bondholders Outstanding after the merger, consolidation, sale or transfer at least equal to that of Wayne-O immediately prior to such merger, consolidation, sale or transfer. Wayne-O further covenants and agrees that it is and throughout the term of this Agreement will (y) continue to be duly qualified to do business in the State and that any entity succeeding to the rights of Wayne-O under this Agreement shall be and continue to be duly qualified to do business in the State and (z) not constitute a Prohibited Person.

(b) O'Wayne agrees that at all times during the term of this Agreement it will (i) maintain its existence, (ii) continue to be an entity subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not sell, transfer, pledge or otherwise encumber all or substantially all of the assets which constitute the Facility Equipment (O'Wayne); (iv) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the execution and delivery of this Agreement, and (v) not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it. O'Wayne may, however, without violating the foregoing, consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such entity (and thereafter liquidate, wind-up or dissolve or not, as O'Wayne may elect) if (i) O'Wayne is the surviving, resulting or transferee entity, as the case may be, and the resulting entity has a net worth at least equal to that of O'Wayne prior to such merger or consolidation, or otherwise acceptable to the Agency and a majority in interest of the Bondholders Outstanding or (ii) in the event that O'Wayne is not the surviving, resulting or transferee entity, as the case may be, such entity (A) is a solvent entity subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (B) assumes in writing all of the obligations of O'Wayne contained in this Agreement and all other Security Documents to which O'Wayne shall be a party, and (1) in the Opinion of Counsel, (x) such entity shall be bound by all of the terms applicable to O'Wayne of this Agreement and all other Security Documents to which the predecessor lessee shall have been a party, and (y) such action does not legally impair the security for the Holders of the Bonds afforded by the Security Documents, and (2) in the Opinion of Nationally Recognized Bond Counsel, such merger, consolidation, sale or transfer will not cause the interest on the Bonds to become includable in gross income for Federal income tax purposes, and (C) has a net worth (as determined in accordance with generally accepted accounting principles and compiled for the company by an accountant), if required by a majority interest of the Bondholders Outstanding after the merger, consolidation, sale or transfer at least equal to that of O'Wayne immediately prior to such merger, consolidation, sale or transfer. O'Wayne further covenants and agrees that it is and throughout the term of this Agreement (y) will continue to be duly qualified to do business in the State and that any entity succeeding to the rights of O'Wayne under this Agreement shall be and continue to be duly qualified to do business in the State and (z) not constitute a Prohibited Person.

(c) Morrison's agrees that at all times during the term of this Agreement it will (i) maintain its existence, (ii) continue to be an entity subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not sell, transfer, pledge or otherwise encumber all or substantially all of the assets which constitute the Facility Equipment (Morrison's); (iv) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the execution and delivery of this Agreement, and (v) not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it. Morrison's may, however, without violating the foregoing,

consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its property, business or assets to another such entity (and thereafter liquidate, wind-up or dissolve or not, as Morrison's may elect) if (i) Morrison's is the surviving, resulting or transferee entity, as the case may be, and the resulting entity has a net worth at least equal to that of Morrison's prior to such merger or consolidation, or otherwise acceptable to the Agency and a majority in interest of the Bondholders Outstanding or (ii) in the event that Morrison's is not the surviving, resulting or transferee entity, as the case may be, such entity (A) is a solvent entity subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (B) assumes in writing all of the obligations of Morrison's contained in this Agreement and all other Security Documents to which Morrison's shall be a party, and (1) in the Opinion of Counsel, (x) such entity shall be bound by all of the terms applicable to Morrison's of this Agreement and all other Security Documents to which the predecessor lessee shall have been a party, and (y) such action does not legally impair the security for the Holders of the Bonds afforded by the Security Documents, and (2) in the Opinion of Nationally Recognized Bond Counsel, such merger, consolidation, sale or transfer will not cause the interest on the Bonds to become includable in gross income for Federal income tax purposes, and (C) has a net worth (as determined in accordance with generally accepted accounting principles and compiled for the company by an accountant), if required by a majority interest of the Bondholders Outstanding after the merger, consolidation, sale or transfer at least equal to that of Morrison's immediately prior to such merger, consolidation, sale or transfer. Morrison's further covenants and agrees that it is and throughout the term of this Agreement (y) will continue to be duly qualified to do business in the State and that any entity succeeding to the rights of Morrison's under this Agreement shall be and continue to be duly qualified to do business in the State and (z) will not constitute a Prohibited Person.

Section 6.2. Indemnity. (a) The Lessees shall at all times protect and hold the Agency, the PILOT Trustee, the Trustee, the Bond Registrar and the Paying Agents (collectively, the "Indemnified Parties") harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to any Indemnified Party, losses arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or about the Facility or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Facility and the marketing, issuance, sale and remarketing of the Agency's Bonds for such purpose, (ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, (iii) any defects (whether latent or patent) in the Facility, (iv) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion thereof, or (v) this Agreement, the Indenture or any other Security Document or other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby. Such indemnification set forth above shall be binding upon the Lessees for any and all claims, demands, expenses,

liabilities and taxes set forth herein and shall survive the termination of this Agreement. No Indemnified Party shall be liable for any damage or injury to the person or property of the Lessees or their directors, officers, employees, agents or servants or persons under the control or supervision of the Lessees, or any other Person who may be about the Facility, due to any act or negligence of any Person other than for the gross negligence or willful misconduct of such Indemnified Party.

(b) The Lessees release each Indemnified Party from, and agrees that no Indemnified Party shall be liable for and agrees to indemnify and hold each Indemnified Party harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by such Indemnified Party with respect to any of the matters set forth in subdivision (i) through (v) of Section (a) hereof or at the direction of the Lessees with respect to any of such matters above referred to. An Indemnified Party shall promptly notify the Lessees in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessees pursuant to this Section 6.2; such notice shall be given in sufficient time to allow the Lessees to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessees under this Section 6.2.

(c) In addition to and without limitation of all other representations, warranties and covenants made by the Lessees under this Agreement, the Lessees further represent, warrant and covenant that the Lessees have not used Hazardous Materials (as defined hereinafter) on, from, or affecting the Facility in any manner which violates Federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, except as set forth in a certain Phase I Environmental Site Assessment, dated November 9, 1998, prepared by Langan Engineering & Environmental Services, Inc., true and correct copies of which the Lessees have delivered to the Agency (the "Audit"), to the best of the Lessees' knowledge, no prior owner of the Facility or any tenant, subtenant, prior tenant or prior subtenant have used Hazardous Materials on, from, or affecting the Facility in any manner which violates Federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. Without limiting the foregoing, the Lessees shall not cause or permit the Facility or any part of either thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Federal, state and local laws or regulations, nor shall the Lessees cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessees or any tenant or subtenant, a release of Hazardous Materials onto the Facility or onto any other property. The Lessees shall comply with and ensure compliance by all tenants and subtenants with all applicable Federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Lessees shall (i) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials, on, from,

or affecting the Facility (x) in accordance with all applicable Federal, state and local laws, ordinances, rules, regulations, and policies, (y) to the satisfaction of the Agency and the Trustee, and (z) in accordance with the orders and directives of all Federal, state and local governmental authorities, and (ii) defend, indemnify, and hold harmless each Indemnified Party from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (w) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (x) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (y) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or (z) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Agency or the Trustee, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. In the event the Agency Mortgage is foreclosed, or a deed in lieu of foreclosure is tendered, or this Agreement is terminated, the Lessees shall deliver the Facility free of any and all Hazardous Materials so that the conditions of the Facility shall conform with all applicable Federal, state and local laws, ordinances, rules or regulations affecting the Facility. For purposes of this paragraph, "Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et. seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Lessees may have to any Indemnified Party at common law, and shall survive the termination of this Agreement.

The parties hereto agree that the reference in this Section 6.2(c) to the Audit is not intended, and should not be deemed to intend, to modify, qualify, reduce or diminish the Lessees' obligations to carry out and perform all of the covenants stated throughout this Section 6.2, including but not limited to, those covenants wherein the Lessees are obligated to indemnify each Indemnified Party and comply with all laws, ordinances, rules and regulations pertaining to Hazardous Materials.

(d) The indemnifications and protections set forth in this Section 6.2 shall be extended, with respect to each Indemnified Party, to its members, directors, officers, employees, agents and servants and persons under its control or supervision.

(e) To effectuate the purposes of this Section 6.2, the Lessees will provide for and insure, in the public liability policies required in Section 4.5 hereof, not only its own liability in respect of the matters therein mentioned but also the liability pursuant to this Section 6.2,

except those obligations herein which are not insurable and those obligations contained in Section 6.2(c) hereof. Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessees contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions herein specified.

(f) For the purposes of this Section 6.2, the Lessees shall not be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Section 6.3. Compensation and Expenses of Trustee, Bond Registrar, Paying Agents and Agency. The Lessees shall, to the extent not paid out of the proceeds of the Bonds as financing expenses, pay the following annual fees, charges and expenses and other amounts (i) the initial and annual fees of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, including fees and expenses as Bond Registrar and in connection with preparation of new Bonds upon exchanges or transfers or making any investments in accordance with the Indenture, (ii) the reasonable fees and charges of the Trustee and any Paying Agents on the Bonds for acting as paying agents as provided in the Indenture, including the reasonable fees of its counsel, (iii) the reasonable fees and charges of the Trustee for extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture, including reasonable counsel fees, and (iv) the reasonable fees, costs and expenses of the Bond Registrar, and the fees, costs and expenses (including legal, accounting and other administrative expenses) of the Agency. The Lessees shall further pay the reasonable fees, costs and expenses of the Agency together with any reasonable fees and disbursements incurred by the Agency's Bond Counsel and General Counsel in performing services for the Agency in connection with this Agreement or the Indenture or any other Security Document.

The Lessees further agree to pay, as an annual administrative servicing fee to the Agency, the amount of \$500 payable initially on the sale and delivery by the Agency of the Series 1999 Bonds and on every January 1 thereafter beginning on January 1, 2000 until the termination of this Agreement. The Lessees also agree to pay, as an administrative issuance fee to the Agency, the amount of \$31,000 (less the \$2,500 application fee), which amount shall be paid on the date the Series 1999 Bonds are issued.

Section 6.4. Retention of Title to Facility; Grant of Easements; Release of Certain Land. The Agency shall not sell, assign, encumber (other than Permitted Encumbrances), convey or otherwise dispose of the Facility or any part thereof or interest therein during the term of this Agreement, except as set forth below and in Sections 4.2 and 7.2 hereof, without the prior written consent of the Lessees and the Trustee and any purported disposition without such consent shall be void.

The Agency will, however, at the written request of the Lessees, so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or

under, the Facility Realty, or grant such permits or licenses in respect to the use thereof, free from the leasehold estate of this Agreement and the lien of the Agency Mortgage, as shall be necessary or convenient for the operation or use of the Facility, provided that such leases, rights-of-way, easements, permits or licenses shall not adversely affect the use or operation of the Facility, and provided, further, that any consideration received by the Agency or the Lessees from the granting of said leases, rights of way, easements, permits or licenses shall be paid to the Trustee and deposited in the Redemption Account of the Bond Fund. The Agency agrees, at the sole cost and expense of the Lessees, to execute and deliver and to cause and direct the Trustee to execute and deliver any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license and to release the same from the leasehold estate of this Agreement and the lien of the Agency Mortgage.

Notwithstanding any other provision of this Agreement, so long as there exists no Event of Default hereunder, the Lessees may from time to time request in writing to the Agency the release of and removal from this Agreement and the leasehold estate created hereby and the release from the lien of the Agency Mortgage of any unimproved part of the Facility Realty (on which none of the improvements, including the buildings, structures, improvements, related facilities, major appurtenances, fixtures or other property comprising the Facility are situated) provided that such release and removal will not adversely affect the use or operation of the Facility. Upon any such request by the Lessees, the Agency shall, at the sole cost and expense of the Lessees, execute and deliver and cause and direct the Trustee to execute and deliver any and all instruments necessary or appropriate to so release and remove such portion of the Facility Realty and convey title thereto in fee simple to Wayne-O, subject to the following: (a) any liens, easements, encumbrances and reservations to which title to said property was subject at the time of recording of this Agreement; (b) any liens, easements and encumbrances created at the request of the Lessees or to the creation or suffering of which the Lessees consented; (c) any liens and encumbrances or reservations resulting from the failure of the Lessees to perform or observe any of the agreements on its part contained in this Agreement; (d) Permitted Encumbrances (other than the lien of this Agreement and the Agency Mortgage); and (e) any liens for taxes or assessments not then delinquent; provided, that, no such release shall be effected unless there shall be deposited with the Trustee the following:

(1) A certificate of an Independent Engineer, dated not more than sixty (60) days prior to the date of the release, stating that, in the opinion of the person signing such certificate, the portion of the Facility Realty and the release so proposed to be made is not needed for the operation of the Facility, will not adversely affect the use or operation of the Facility and will not destroy the means of ingress thereto and egress therefrom; and

(2) An amount of cash for deposit in the Redemption Account of the Bond Fund equal to the greatest of (A) the original cost of such portion of the Facility Realty so released, such cost to be determined by the appraisal of an independent real estate brokerage firm of recognized standing within the City, (B) the fair market value of such portion, such value to be determined by the appraisal of an independent real estate brokerage firm of recognized standing within the City, and (C) if such portion is released

in connection with the sale of such portion, the amount received by the Lessees upon such sale.

No conveyance or release effected under the provisions of this Section 6.4 shall entitle the Lessees to any abatement or diminution of the rents payable under Section 3.3 hereof or the other payments required to be made by the Lessees under this Agreement.

Section 6.5. Lessees' Covenant as to Tax Exemption. (a) The Lessees covenant with the Agency, with the Trustee and with each of the Holders of the Bonds, that they will comply with all of the terms, provisions and conditions set forth in the Tax Regulatory Agreement, including, without limitation, the making of any payments and filings required thereunder.

(b) The representations, warranties, covenants and statements of expectation of the Lessees set forth in the Tax Regulatory Agreement are by this reference incorporated in this Agreement as though fully set forth herein.

(c) If any Bondholder receives from the Internal Revenue Service a notice of assessment and demand for payment with respect to interest on any Bond (except a notice and demand based upon the assertion that the Bondholder is a Substantial User or Related Person), an appeal may be taken by the Bondholder at the option of either the Bondholder or the Lessees. In either case all expenses of the appeal including reasonable counsel fees shall be paid by the Lessees, and the Bondholder and the Lessees shall cooperate and consult with each other in all matters pertaining to any such appeal, except that no Bondholder shall be required to disclose or furnish any non-publicly disclosed information, including, without limitation, financial information and tax returns. Before the taking of any appeal, however, the Bondholder shall have the right to require the Lessees to pay the tax assessed and conduct the appeal as a contest for reimbursement.

(d) Not later than one hundred twenty (120) days following a Determination of Taxability, the Lessees shall pay or cause to be paid to the Trustee an amount sufficient, when added to the amount then in the Bond Fund and available for such purpose, to retire and redeem all Bonds then Outstanding, in accordance with Section 2.03(f) of the Indenture.

(e) The obligation of the Lessees to make the payments provided for in this Section shall be absolute and unconditional, and the failure of the Agency, the Trustee or any other Person to execute or deliver or cause to be delivered any documents or to take any action required under this Agreement or otherwise shall not relieve the Lessees of its obligation under this Section.

Section 6.6. Financial Statements; No-Default Certificates. (a) The Lessees agree to furnish to the Trustee and any Holder of at least 50% of the aggregate principal amount of the Bonds then Outstanding (and to the Agency but only upon request by the Agency therefor), (i) as soon as available and in any event within one hundred twenty (120) days after the close of each fiscal year of Wayne-O, O'Wayne and Morrison's, a copy of the annual financial statements of Wayne-O, O'Wayne and Morrison's, including balance sheets as at the end of such year, and the related statements of income, balances, earnings, retained earnings and changes in financial position for such fiscal year, prepared in accordance with generally accepted accounting principles and practices, and compiled on behalf of the company by an independent public accountant, and (ii) as soon as available and in any event within one hundred twenty (120) days after the close of each of the first three quarters of each fiscal year of the Wayne-O, O'Wayne and Morrison's, a copy of the unaudited financial statements of the Wayne-O, O'Wayne and Morrison's, including balance sheets as at the end of such quarter, and the related statements of income, balances, earnings, retained and changes in financial position for such quarter, prepared in accordance with generally accepted accounting principles and practices, certified by a Member of Wayne-O, the President of O'Wayne and the President of Morrison's, respectively.

(b) The Lessees shall deliver to the Trustee with each delivery of annual financial statements required by Section 6.6(a)(i) hereof, and to the Agency but only upon request therefor by the Agency, (i) a certificate of an Authorized Representative of the Lessees as to whether or not, as of the close of such preceding Fiscal Year of the Lessees, and at all times during such Fiscal Year, the Lessees were in compliance with all the provisions which relate to the Lessees in this Agreement and in any other Security Document to which it shall be a party, and as to whether or not a Determination of Taxability has occurred, and if such Authorized Representative shall have obtained knowledge of any default in such compliance or notice of such default or Determination of Taxability, he shall disclose in such certificate such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed to be taken by the Lessees with respect thereto, (ii) a certificate of an Authorized Representative of the Lessees that the insurance it maintains complies with the provisions of Section 4.5 of this Agreement, that such insurance has been in full force and effect at all times during the preceding Fiscal Year of the Lessees, and that duplicate copies of all policies or certificates thereof have been filed with the Agency and the Trustee and are in full force and effect, and (iii) an affidavit of an Authorized Representative of the Lessees swearing that, through the date of such affidavit, all costs for which the Lessees have obtained sales tax exemption by reason of Agency authorization (copies of the invoices for which shall be attached) were proper Project Costs. In addition, upon twenty (20) days prior request by the Agency or the Trustee, the Lessees will execute, acknowledge and deliver to the Agency and the Trustee a certificate of an Authorized Representative of the Lessees either stating that to his knowledge no default or breach exists hereunder or specifying each such default or breach of which he has knowledge.

(c) The Lessees shall immediately notify the Agency and the Trustee of the occurrence of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under any Security Document of which it has knowledge. Any

notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Lessees and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Lessees shall state this fact on the notice.

Section 6.7. Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "Liens"), whether or not valid, is made against the Facility or any part thereof or the interest therein of the Agency, the Lessees, the Sublessees or the Trustee or against any of the rentals or other amounts payable under this Agreement or the Sublease Agreement or the interest of the Lessees or the Sublessees under this Agreement or the Sublease Agreement other than Liens for Impositions (as defined in Section 4.4) not yet payable, Permitted Encumbrances, or Liens being contested as permitted by Section 6.7(b), the Lessees within 30 days of receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and the Trustee and take all action (including the payment of money and/or the securing of a bond) at their own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Facility.

(b) The Lessees may at their own expense contest (after prior written notice to the Agency and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Facility or any part thereof or interest therein, or in the Lease Agreement or the Sublease Agreement, of the Agency, the Lessees, the Sublessees or the Trustee or against any of the rentals or other amounts payable under this Agreement or the Sublease Agreement, (2) neither the Facility nor any interest therein would be in any danger of being sold, forfeited or lost, (3) neither the Lessees, the Sublessees, the Agency nor the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (4) the Lessees shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Trustee to protect the security intended to be offered by the Indenture and the Agency Mortgage.

Section 6.8. Agency's Authority; Covenant of Quiet Enjoyment. The Agency covenants and agrees that it has full right and lawful authority to enter into this Agreement for the full term hereof, including the right to grant the options to purchase herein contained, and that, subject to the terms and provisions of the Agency Mortgage, the Indenture and Permitted Encumbrances, so long as the Lessees shall pay the rent and all other sums payable by it under this Agreement and shall duly observe all the covenants, stipulations and agreements herein contained obligatory upon it and an Event of Default shall not exist hereunder, the Lessees shall

have, hold and enjoy, during the term hereof, peaceful, quiet and undisputed possession of the Facility, and the Agency (at the sole cost and expense of the Lessees) shall from time to time take all necessary action to that end, subject to Permitted Encumbrances.

Section 6.9. No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE LESSEES OR THE SUBLESSEES OR THE EXTENT TO WHICH PROCEEDS DERIVED FROM THE SALE OF THE BONDS WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. O'WAYNE AND MORRISON'S ACKNOWLEDGE THAT THE AGENCY IS NOT THE MANUFACTURER OF THE FACILITY EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE LESSEES ARE SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR ITS PURPOSES AND THE PURPOSES OF THE SUBLESSEES. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEES OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 6.10. Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in the Earnings Fund, the Rebate Fund, the Debt Service Reserve Fund, the Bond Fund, the Project Fund or the Renewal Fund upon the expiration or sooner termination of the term of this Agreement as provided in this Agreement, after payment in full of the Bonds (in accordance with Section 10.01 of the Indenture), the fees, charges and expenses of the Trustee, the Bond Registrar, the Paying Agents and the Agency in accordance with the Indenture and after all rents and all other amounts payable hereunder, shall have been paid in full, and after all amounts required to be rebated to the Federal government pursuant to the Tax Regulatory Agreement or the Indenture shall have been so paid, shall belong to and be paid to the Lessees by the Trustee as overpayment of rents.

Section 6.11. Issuance of Additional Bonds. The Agency and the Lessees recognize that under the provisions of and subject to the conditions set forth in the Indenture, the Agency is authorized, with the consent of the Holders of at least sixty-six and two-thirds percent (66 2/3 %) in aggregate principal amount of the Bonds Outstanding, to enter into a Supplemental Indenture and issue one or more series of Additional Bonds on a parity with the Series 1999 Bonds for the purpose of (i) completing the Project, (ii) providing funds in excess of the Net Proceeds of insurance or eminent domain to repair, relocate, replace, rebuild or restore the Facility in the

event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions or improvements to the Facility, or (iv) refunding Outstanding Bonds. If the Lessees are not in default hereunder, the Agency will consider the issuance of Additional Bonds in a principal amount as is specified in a written request in accordance with the applicable provisions set forth in the Indenture. If Additional Bonds are to be issued pursuant to the Indenture, the Agency and the Lessees shall enter into an amendment to this Agreement, and Wayne-O and the Sublessees shall enter into an amendment to the Sublease Agreement, providing, among other things, for the payment by Wayne-O and the Sublessees of such additional rentals as are necessary in order to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith.

Any such completion, repair, relocation, replacement, rebuilding, restoration, additions, extensions or improvements shall become a part of the Facility and shall be included under this Agreement to the same extent as if originally included hereunder.

Section 6.12. Employment Information, Opportunities and Guidelines.

(a) Annually, by August 1 of each year, during the term of this Agreement and upon the termination of this Agreement, the Lessees shall submit to the Agency an employment report relating to the period commencing July 1 of the previous year and ending June 30 of the year of the obligation of the filing of such report, substantially in the form of Schedule B hereto, certified as to accuracy by the Lessees. Upon the termination of this Agreement, the Lessees shall file with the Agency an Employment Report in substantially the form attached hereto as Schedule B annexed hereto covering the period from the last submitted Employment Report to the last payroll date of the prior calendar month.

(b) The Lessees shall ensure that all employees and applicants for employment by the Lessees or its Affiliates with regard to the Facility are afforded equal employment opportunities without discrimination. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Facility Realty is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Lessees agree, where practicable, to first consider, and cause each of its Affiliates at the Facility to first consider, persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

(c) The Lessees hereby authorize any private or governmental entity, including but not limited to The New York State Department of Labor ("DOL"), to release to the Agency and/or the New York City Economic Development Corporation ("EDC"), and/or to the successors and assigns of either (collectively, the "Information Recipients"), any and all employment information under its control and pertinent to the Lessees and the employees of the Lessees to

enable the Agency and/or EDC to comply with its reporting requirements, applicable laws, rules or regulations and to determine compliance of the Project with this Section. In addition, upon the Agency's request, the Lessees shall provide to the Agency any employment information in the possession of the Lessees which is pertinent to the Lessees and the employees of the Lessees to enable the Agency and/or EDC to comply with its reporting requirements required by New York City Local Law 69 and any other applicable laws, rules or regulations. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Lessee, or any information previously released as provided by all or any of the foregoing parties (collectively, "Employment Information") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or The City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of this Agreement.

(d) The Lessees covenant and agree that within sixty (60) days after the date of original issuance of the Series 1999 Bonds, an Employment Plan substantially in the format set forth in Schedule C attached hereto (the "Employment Plan") created in connection with the Project shall be submitted to the Agency. Upon receipt thereof, the Agency shall cause the Employment Plan to be listed with (i) the Job Service Division of the New York State Department of Labor; (ii) the administrative entity of the service delivery area created pursuant to the federal Job Training Partnership Act (Pub L. No. 97-300) in which the Project is located; and (iii) the regional office of the New York State Department of Economic Development in the locality in which the Project is located.

The Lessees covenant and agree that within sixty (60) days after the date of original issuance of the Series 1999 Bonds it shall agree to a meeting between the representative of the local service delivery area, the job service superintendent and the Lessees for the purpose of supplying information about projected permanent positions created in connection with the Project ("New Employment Opportunities"). The Lessees shall provide notice, in advance, to the Regional Office of the New York State Department of Economic Development of the time and location of such meeting.

The Agency shall maintain the Lessee's Employment Plan on file in its offices as part of the record in connection with the issuance of the Series 1999 Bonds. Such records may be required to be produced for the Commissioner of the New York State Department of Economic Development at anytime.

On or before February 10th of each year, the Agency shall report to the New York State Department of Economic Development regarding the status of the Employment Plan of the Lessee. The Lessees shall provide data on or before January 1 of each year for inclusion in such report. Such data shall include the number of New Employment Opportunities created, the

number listed and the number filled, in the form attached hereto as Schedule D. All reports and records required to be submitted pursuant to this Section 6.12 shall be filed with the New York State Department of Economic Development, Regional Technical Services, One Commerce Plaza, Albany, New York 11245. The Lessees agree to utilize their best efforts to comply with the Employment Plan, nevertheless, failure to comply with the terms of the Employment Plan shall not be grounds for termination of this Lease Agreement by the Agency or for any remedy other than specific performance.

(e) Nothing in this Section shall be construed to require the Lessees to violate any existing collective bargaining agreement with respect to hiring new employees.

Section 6.13. Redemption Under Certain Circumstances; Special Covenants.

(a) Upon the determination by resolution of the members of the Agency that the Lessees are operating the Facility or any portion thereof, or is allowing the Facility or any portion thereof to be operated, in violation of applicable material law or not as a qualified "project" in accordance with the Act and the failure of the Lessees within sixty (60) days (or such longer period as may be established pursuant to the proviso to this sentence) of the receipt by the Lessees of written notice of such noncompliance from the Agency to cure such noncompliance together with a copy of such resolution (a copy of which notice shall be sent to the Trustee), the Lessees covenant and agree that they shall, on the immediately succeeding Interest Payment Date following the termination of such sixty (60) day (or longer) period, pay to the Trustee advance rentals in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of 100% of the aggregate principal amount of the Outstanding Bonds together with interest accrued thereon to such Interest Payment Date, provided, however, that if such noncompliance cannot be cured within such period of sixty (60) days with diligence (and is capable of being cured) and the Lessees promptly commence the curing of such non-compliance and thereafter prosecutes the curing thereof with diligence and to the Agency's reasonable satisfaction, such period of time within which the Lessees may cure such failure shall be extended for such additional period of time as may be necessary to cure the same with diligence and the Agency shall notify the Trustee and the Bondholders of any such extension. The Agency shall give prior written notice of the meeting at which the members of the Agency are to consider such resolution to the Lessees and the Trustee, which notice shall be no less than sixty (60) days prior to such meeting.

(b) In the event (x) the Lessees fail to obtain or maintain the public liability insurance with respect to the Facility required under Section 4.5 hereof, or (y) any of Wayne-O, O'Wayne or Morrison's or any Affiliate of any thereof shall be a Prohibited Person, and the Lessees shall fail to cure such noncompliance within 10 days, in the case of clause (x), or 30 days in the case of clause (y), of the receipt by the Lessees of written notice of such noncompliance from the Agency and a demand by the Agency on the Lessees to cure such noncompliance, upon notice or waiver of notice as provided in the Indenture, the Lessees shall pay to the Trustee advance rentals in immediately available funds in an amount sufficient to redeem all Bonds then Outstanding at the Redemption Price of one hundred per centum (100%) of the unpaid principal amount of the Bonds, together with interest accrued thereon to the date of redemption.

(c) Upon the circumstances set forth in Sections 2.03(c), (d), (e) and (f) of the Indenture, the Lessees shall pay or cause the prepayment of its lease rental obligation upon the circumstances and in the manner set forth in the Indenture.

Section 6.14. Further Assurances. The Lessees will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including Uniform Commercial Code financing statements, at the sole cost and expense of the Lessees, as the Agency or the Trustee deems reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and the Sublease Agreement and any rights of the Agency or the Trustee hereunder, under the Sublease Agreement, under the Indenture or under the Agency Mortgage.

Section 6.15. Recording and Filing. This Agreement as originally executed or a memorandum thereof shall be recorded by the Lessees subsequent to the recordation of the Agency Mortgage and the Indenture, in the appropriate office of the Register of The City of New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof. The security interest of the Agency created herein and the assignment of such security interest to the Trustee shall be perfected by the filing of financing statements by the Lessees which fully comply with the New York State Uniform Commercial Code - Secured Transactions in the office of the Secretary of State of the State, in the City of Albany, New York and in the appropriate office of the Register of The City of New York. The Lessees shall file or cause to be filed all necessary continuation statements (and additional financing statements) within the time prescribed by the New York State Uniform Commercial Code - Secured Transactions in order to continue (or attach and perfect) the security interest created by this Agreement and the Sublease Agreement, to the end that the rights of the Agency, the Holders of the Bonds and the Trustee in the Facility shall be fully preserved as against creditors or purchasers for value from the Agency or the Lessees. The Agency and the Trustee are authorized, if permitted by applicable law, to file one or more Uniform Commercial Code financing statements disclosing any security interest in the Facility, this Agreement, the Sublease Agreement and the sums due under this Agreement and the Sublease Agreement, without the signature of the Lessees or signed by the Agency or the Trustee as attorney-in-fact for the Lessees. The Lessees agree to perform all acts (including the payment of all costs) necessary in order to enable the Agency to comply with Section 7.08 of the Indenture.

Section 6.16. Right to Cure Agency Defaults. The Agency hereby grants the Lessees full authority for account of the Agency to perform any covenant or obligation the non-performance of which is alleged to constitute a default in any notice received by the Lessees, in the name and stead of the Agency, with full power of substitution.

Section 6.17. Current Facility Equipment Description. The Lessees covenant and agrees that throughout the term of this Agreement, including upon the completion of the Project or of any replacement, repair, restoration or reconstruction of the Facility pursuant to Section 5.1 hereof, it will cause the Description of Facility Equipment (O'Wayne) and Description of Facility Equipment (Morrison's), each attached as part of the Appendices to this Agreement, to be an

accurate and complete description of all current items of Facility Equipment. To this end, the Lessees covenant and agree (i) that no requisition shall be submitted to the Trustee for moneys from the Project Fund for the acquisition or installation of any item of Facility Equipment, (ii) that no item of Facility Equipment shall be substituted or replaced by a new item of machinery or equipment pursuant to Section 4.2(a) or 5.1 hereof, and (iii) that no item of Facility Equipment shall be delivered and installed at the Facility Realty as part of the Facility, unless in each case such item of machinery or equipment shall be accurately and sufficiently described in the Description of Facility Equipment (O'Wayne) and Description of Facility Equipment (Morrison's), each attached as part of the Appendices of this Agreement, and the Lessees shall from time to time prepare and deliver to the Agency and the Trustee supplements to such Appendix in compliance with the foregoing. Such supplements shall be executed and delivered by the appropriate parties and, at the Agency's or the Lessees' request, duly recorded by the Lessees, and, at the Agency's request, additional financing statements with respect thereto shall be duly filed by the Lessees.

Section 6.18. Obligations of the Lessees. The obligations of each of Wayne-O, O'Wayne and Morrison's under this Lease Agreement are joint and several except where expressly stated herein to the contrary.

Section 6.19. Subtenant Survey. The Lessee shall deliver to the Agency on January 1 of each year a completed subtenant survey in the form attached hereto as Schedule E.

ARTICLE VII
Events of Default; Remedies

Section 7.1. Events of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure of the Lessees to pay any rental that has become due and payable by the terms of Section 3.3 hereof which results in a default in the due and punctual payment of the principal of, Sinking Fund Installments for, redemption premium, if any, or interest on any Bond;

(b) Failure of the Lessees to pay any amount (except as set forth Section 7.1(a) or (f) hereof) that has become due and payable or to observe and perform any covenant, condition or agreement on its part to be performed under Sections 4.4 or 4.5 hereof and continuance of such failure for a period of thirty (30) days after receipt by the Lessees of written notice specifying the nature of such default from the Agency, the Trustee or the Holders of more than twenty-five per centum (25%) in aggregate principal amount of the Bonds Outstanding;

(c) Failure of the Lessees to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 7.1(a), (b) or (f) hereof) and (1) continuance of such failure for a period of thirty (30) days after receipt by the Lessees of written notice specifying the nature of such default from the Agency, the Trustee or the Holders of more than twenty-five per centum (25%) in aggregate principal amount of the Bonds Outstanding, or (2) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Lessees fail to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same;

(d) Wayne-O, O'Wayne or Morrison's shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) take any action for the purpose of effecting any of the foregoing, or (vii) be adjudicated a bankrupt or insolvent by any court;

(e) A proceeding or case shall be commenced, without the application or consent of Wayne-O, O'Wayne or Morrison's, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of Wayne-O, O'Wayne or Morrison's or of all or any substantial part of their respective assets, (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or

adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing against Wayne-O, O'Wayne or Morrison's shall be entered and continue unstayed and in effect, for a period of ninety (90) days or (iv) Wayne-O, O'Wayne or Morrison's shall fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code; the terms "dissolution" or "liquidation" of Wayne-O, O'Wayne or Morrison's as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof;

(f) Failure of the Lessees to pay the amount required of it under Section 3.3(b) hereof when required thereunder;

(g) Any representation or warranty made (i) by or on behalf of the Lessees in the application, commitment letter and related materials submitted to the Agency or the initial purchaser(s) of the Series 1999 Bonds for approval of the Project or its financing, or (ii) by the Lessees herein or in any of the other Security Documents or (iii) in the Letter of Representation and Indemnity Agreement delivered to the Agency, the Trustee and the original purchaser(s) of the Series 1999 Bonds, or (iv) in the Tax Regulatory Agreement, or (v) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing shall prove to be false, misleading or incorrect in any material respect as of the date made; or

(h) An "Event of Default" under the Indenture or under any other Security Document shall occur and be continuing.

Section 7.2. Remedies on Default. Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Agency, or the Trustee where so provided, may, take any one or more of the following remedial steps:

(a) The Trustee, as and to the extent provided in Article VIII of the Indenture, may cause all principal installments of rent payable under Section 3.3 hereof for the remainder of the term of this Agreement to be immediately due and payable, whereupon the same, together with the accrued interest thereon, shall become immediately due and payable; provided, however, that upon the occurrence of an Event of Default under Section 7.1(d) or (e) hereof, all principal installments of rent payable under Section 3.3 hereof for the remainder of the term of this Agreement, together with the accrued interest thereon, shall immediately become due and payable without any declaration, notice or other action of the Agency, the Trustee, the Holders of the Bonds or any other Person being a condition to such acceleration;

(b) The Agency, with the prior written consent of the Trustee, or the Trustee, may re-enter and take possession of the Facility without terminating this Agreement, and sublease the Facility for the account of the Lessees, holding the Lessees liable for the difference in the rent and other amounts payable by the sublessee in such subletting, and the rents and other amounts payable by the Lessees hereunder;

(c) The Agency, with the prior written consent of the Trustee, or the Trustee, may terminate this Agreement, and exclude the Lessees from possession of the Facility, in which case this Agreement and all of the estate, right, title and interest herein granted or vested in the Lessees shall cease and terminate. No such termination of this Agreement shall relieve the Lessees of their liability and obligations hereunder and such liability and obligations shall survive any such termination;

(d) The Agency or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to collect the rent then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the Lessees under this Agreement;

(e) The Trustee may take any action permitted under the Indenture with respect to an Event of Default thereunder; and

(f) The Agency, without the consent of the Trustee or any Bondholder, may proceed to enforce the Agency's Reserved Rights by (i) an action for damages, injunction or specific performance, and/or (ii) conveying all of the Agency's right, title and interest in the Facility Realty to Wayne-O which the Agency may accomplish by executing and recording, at the sole cost and expense of Wayne-O, a deed therefor as required by law, and Wayne-O hereby waives delivery and acceptance of such deed as a condition to its validity, and appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such deed, and/or (iii) conveying all of the Agency's right, title and interest in the Facility Equipment (O'Wayne) to O'Wayne which the Agency may accomplish by executing and recording, at the sole cost and expense of O'Wayne, a bill of sale, and O'Wayne hereby waives delivery and acceptance of such bill of sale as a condition to its validity, and/or (iv) conveying all of the Agency's right, title and interest in the Facility Equipment (Morrison's) to Morrison's which the Agency may accomplish by executing and recording, at the sole cost and expense of Morrison's, a bill of sale, and Morrison's hereby waives delivery and acceptance of such bill of sale as a condition to its validity, and/or (v) requiring the surrender by the Lessees to the Agency of the Sales Tax Letter for suspension or cancellation.

In the event that the Lessees fail to make any rental payment required in Section 3.3 hereof, the installment so in default shall continue as an obligation of the Lessees until the amount in default shall have been fully paid.

No action taken pursuant to this Section 7.2 (including repossession of the Facility or termination of this Agreement pursuant to this Section 7.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessees from the Lessees' obligations hereunder, all of which shall survive any such action.

Section 7.3. Reletting of Facility. If the right of the Lessees to the occupancy, use and possession of the Facility shall be terminated in any way, the Agency may relet the same or any part thereof for the account and benefit of the Lessees for such rental terms to such Persons and for such period or periods as may be fixed and determined by the Agency after notice to and approval by the Bondholders, but the Agency shall not unreasonably refuse to accept or receive any suitable occupant or tenant offered by the Lessees; *provided* that such occupant or tenant is not a Prohibited Person, and *provided*, further, that such reletting shall not adversely affect the tax-exempt status of the Bonds. The Agency and the Trustee shall not otherwise be required to do any act whatsoever or exercise any diligence whatsoever to mitigate the damages to the Lessee, and if a sufficient sum shall not be received from any reletting to satisfy the rental payments hereby agreed to be made by the Lessee, after paying the expenses of reletting and collection, then the Lessees hereby agree to pay and satisfy any such deficiency if, as and when the same exists; provided, however, any excess rentals from any such reletting shall be credited to any rental due or to become due by the Lessees.

Section 7.4. Remedies Cumulative. The rights and remedies of the Agency or the Trustee under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency or the Trustee allowed by law with respect to any default under this Agreement. Failure by the Agency or the Trustee to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessees hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Lessees with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessees be continued or repeated, or of the right to recover possession of the Facility by reason thereof.

Section 7.5. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and/or the Trustee and the Lessees or any delay or omission on the part of the Agency and/or the Trustee in exercising any rights hereunder or under the Indenture or under any other Security Document shall operate as a waiver. To the extent permitted by applicable law, the Lessees hereby waive the benefit and advantage of, and covenants not to assert against the Agency or the Trustee, any valuation, inquisition, stay, appraisal, extension or redemption laws now existing or which may hereafter exist which, but for this provision, might be applicable to any sale or reletting made under the judgment, order or decree of any court or under the powers of sale and reletting conferred by this Agreement or otherwise.

Section 7.6. Effect on Discontinuance of Proceedings. In case any proceeding taken by the Trustee under the Indenture or this Agreement or under any other Security Document on account of any Event of Default hereunder or under the Indenture shall have been discontinued

or abandoned for any reason or shall have been determined adversely to the Trustee, then, and in every such case, the Agency, the Trustee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Trustee shall continue as in effect prior to the commencement of such proceedings.

Section 7.7. Agreement to Pay Attorneys' Fees and Expenses. In the event the Lessees should default under any of the provisions of this Agreement, and the Agency, the Trustee or any Bondholder should employ attorneys or incur other expenses for the collection of rentals or other amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Lessees herein contained or contained in any other Security Document, the Lessees agree that it will on demand therefor pay to the Agency, the Trustee or such Bondholder the reasonable fees and disbursements of such attorneys and such other expenses so incurred.

ARTICLE VIII
Options

Section 8.1. Options. (a) The Lessees have the option to make advance rental payments for deposit in the Redemption Account of the Bond Fund to effect the retirement of the Bonds in whole or the redemption in whole or in part of the Bonds, all in accordance with the terms of the Indenture; provided, however, that no partial redemption of the Bonds may be effected through advance rental payments hereunder if there shall exist and be continuing an Event of Default. The Lessees shall exercise their option to make such advance rental payments by delivering a written notice of an Authorized Representative of the Lessees to the Trustee in accordance with the Indenture, with a copy to the Agency, setting forth (i) the amount of the advance rental payment, (ii) the principal amount of Bonds Outstanding requested to be redeemed with such advance rental payment (which principal amount shall be in such minimum amount or integral multiple of such amount as shall be permitted in the Indenture), and (iii) the date on which such principal amount of Bonds are to be redeemed. Such advance rental payment shall be paid to the Trustee in legal tender on or before the redemption date and shall be an amount which, when added to the amount on deposit in the Bond Fund and available therefor, will be sufficient to pay the Redemption Price of the Bonds to be redeemed, together with interest to accrue to the date of redemption and all expenses of the Agency, the Bond Registrar, the Trustee and the Paying Agents in connection with such redemption. In the event the Bonds are to be redeemed in whole or otherwise retired, the Lessees shall further pay on or before such redemption date, in legal tender, to the Agency, the Trustee, the Bond Registrar and the Paying Agents, as the case may be, all fees and expenses owed such party or any other party entitled thereto under this Agreement or the Indenture together with (i) all other amounts due and payable under this Agreement and the other Security Documents, and (ii) any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement.

(b) The Lessees shall have the option to terminate this Agreement commencing on that date upon which the Bonds may first optionally be redeemed in whole and on any date thereafter permitted therefor as provided in the Indenture.

(c) The Lessees shall also have the option to terminate this Agreement on any date during the term of this Agreement within ninety (90) days of the occurrence of any of the following events:

(1) The Facility shall have been damaged or destroyed to such extent that as evidenced by a certificate of an Independent Engineer filed with the Agency and the Trustee (A) the Facility cannot be reasonably restored within a period of one year from the date of such damage or destruction to the condition thereof immediately preceding such damage or destruction, (B) the Lessees are thereby prevented or likely to be prevented from carrying on its normal operation of the Facility for a period of one year from the date of such damage or destruction, or (C) the restoration cost of the Facility would exceed the total amount of all insurance proceeds, including any deductible amount, in respect of such damage or destruction; or

(2) Title to, or the temporary use of, all or substantially all of the Facility shall have been taken or condemned by a competent authority which taking or condemnation results, or is likely to result, in the Lessees being thereby prevented or likely to be prevented from carrying on its normal operation of the Facility for a period of one year from the date of such taking or condemnation, as evidenced by a certificate of an Independent Engineer filed with the Agency and the Trustee; or

(3) As a result of changes in the Constitution of the United States of America or of the State or of legislative or executive action of the State or any political subdivision thereof or of the United States of America or by final decree or judgment of any court after the contest thereof by the Lessees, this Agreement or the Sublease Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed herein or unreasonable burdens or excessive liabilities are imposed upon the Lessees by reason of the operation of the Facility.

(d) The Lessees, in exercising its option to terminate this Agreement pursuant to Section 8.1(c) hereof, shall file with the Agency and the Trustee the certificate prescribed by Section 8.1(c)(1) or (2) hereof together with a certificate of an Authorized Representative of the Lessees stating that, as a result of the occurrence of the event giving rise to the exercise of such option, the Lessees have discontinued, or at the earliest practicable date will discontinue, the operation of the Facility for its intended purposes, and in the case of Section 8.1(b) or 8.1(c) hereof, the Lessees shall pay to the Trustee, in legal tender, advance rental payments, for deposit in the Bond Fund (if payment in full of the principal of or the Redemption Price, if any, as the case may be, of, and interest on, all the Outstanding Bonds, and the interest thereon at maturity or upon earlier redemption has not yet been made) equal to the sum of the following:

(1) an amount which, when added to the amount on deposit in the Bond Fund and available therefor, will be sufficient to pay, retire and redeem the Outstanding Bonds in accordance with the provisions of the Indenture, including, without limitation, the principal of or the Redemption Price (as the case may be) of, together with interest to maturity or redemption date (as the case may be) on, the Outstanding Bonds;

(2) expenses of redemption, the fees and expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents and all other amounts due and payable under this Agreement and the Indenture;

(3) any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement; and

(4) one dollar.

(e) Upon the payment in full of the principal of and interest on the Outstanding Bonds (whether at maturity or earlier redemption), Wayne-O shall have the option to purchase the Facility Realty and shall exercise such option by (1) delivering to the Agency prior written notice

of an Authorized Representative of the Wayne-O no more than thirty (30) days prior to the exercise of such option to purchase, which notice shall set forth a requested closing date for the purchase of the Facility which shall be not later than sixty (60) days after the date of delivery of such notice, and (2) paying on such closing date a purchase price equal to the sum of one dollar, the fees and expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents and all other amounts due and payable under this Agreement or the Indenture, together with any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement. Upon the written request of the Lessees, the Agency may approve the extension or waiver of any of the time periods set forth in this paragraph.

(f) Wayne-O shall not, at any time, assign or transfer its option to purchase the Facility Realty as contained in this Section 8.1 separate and apart from a permitted assignment of this Agreement pursuant to Section 9.3 hereof without the prior written consent of the Agency and the Trustee.

Section 8.2. Conveyance on Exercise of Option to Purchase. At the closing of any purchase of the Agency's interest in the Facility pursuant to Section 8.1 hereof, the Agency will, upon payment of the purchase price, deliver or cause to be delivered to Wayne-O (a) a release, satisfaction or termination of the mortgage lien and security interest of the Agency Mortgage on the Facility Realty and (b) other documents conveying to O'Wayne good and marketable title to the machinery, equipment and other personal property constituting part of the Facility Equipment (O'Wayne), (c) other documents conveying to Morrison's good and marketable title to the machinery, equipment and other personal property constituting part of the Facility Equipment (Morrison's), (d) by bargain and sale deed without covenant against grantor's acts, good and marketable title in fee simple to the real property of the Facility Realty being purchased to Wayne-O, as all such property then exists, and all rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or anywise appertaining, subject to the following: (1) the nature, quality and extent to which title to said property shall have been vested in the Agency; (2) any Permitted Encumbrances to which title to said property was subject when conveyed to the Agency; (3) any liens, easements, security interests, claims, charges and encumbrances created at the request of the Lessees or to the creation or suffering of which the Lessees consented; (4) any liens, security interests, claims, charges and encumbrances resulting from the failure of the Lessees to perform or observe any of the agreements on its part contained in this Agreement; (5) any liens for taxes or assessments not then delinquent; and (6) the rights, if any, of any condemning authority, and (e) documents releasing and conveying to the Lessees all of the Agency's rights and interests in and to any rights of action (other than the Agency's Reserved Rights), or any insurance proceeds (other than liability insurance) or condemnation award, with respect to the Facility. Concurrently with the delivery of such title documents, there shall be delivered by the Agency to the Trustee any instructions or other instruments required by Section 10.01 of the Indenture to defease and pay the Bonds.

Upon conveyance of the Facility pursuant to this Section 8.2, this Agreement and all obligations of the Lessees hereunder shall be terminated except the obligations of the Lessees

under Sections 4.3 (until such time as the Wayne-O shall again pay taxes as the record owner of the Facility Realty), 6.2, 8.5 and 9.17 hereof shall survive such termination.

Section 8.3. Option to Purchase or Invite Tenders of Bonds. The Lessees shall have the option, at any time during the term of this Agreement, to purchase Bonds for their own account, whether by direct negotiation, through a broker or dealer, or by making a tender offer to the Holders thereof. The Bonds so purchased by the Lessees or by any Affiliate thereof shall be delivered to the Trustee for cancellation within fifteen (15) days of the date of purchase. The Agency shall at all times make available or cause to be made available to the Lessees its registration books (maintained at the principal corporate trust office of the Trustee) containing the names and addresses of the Bondholders if known.

Section 8.4. Termination of Agreement. After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with Section 10.01 of the Indenture, the Lessees may terminate this Agreement by paying the fees and expenses of the Agency, the Trustee, the Bond Registrar and the Paying Agents and all other amounts due and payable under this Agreement and the other Security Documents, together with any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement, and by giving the Agency notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to the survival of the obligations of the Lessees under Sections 4.3 (until such time as Wayne-O shall again pay taxes as the record owner of the Facility Realty), 6.2, 8.5 and 9.17 hereof.

Section 8.5. Recapture of Agency Benefits. (a) It is understood and agreed by the parties to this Agreement that the Agency is issuing the Series 1999 Bonds to finance part of the costs of the Project and is entering into this Agreement in order to accomplish the public purposes of the Act. In consideration therefor, the Lessees hereby agree as follows:

(i) If there shall occur a Recapture Event (as defined below) prior to the completion of the Project and occupancy of the Facility Realty by the Lessees, and the Lessees thereafter sell all or substantially all of the Facility or cause all or substantially all of the Facility to be sold within two years of the exercise of such option to purchase, the Lessees shall pay to the Agency, as a return of public benefits conferred by the Agency, all Benefits as defined below.

(ii) If there shall occur a Recapture Event after the date on which the Project shall have been substantially completed, which shall be that date as stated in the certificate of the Project Supervisor delivered to the Agency pursuant to Section 2.2 hereof, but not later than April 1, 2000 (the "Operations Commencement Date"), the Lessees shall pay to the Agency as a return of public benefits conferred by the Agency, the amounts set forth in paragraph (iii) of this Section 8.5.

1. one hundred percent (100%) of the Benefits if the Recapture Event occurs within the first six (6) years after the Operations Commencement Date;

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2. eighty percent (80%) of the Benefits if the Recapture Event occurs during the seventh (7th) year after the Operations Commencement Date;
3. sixty percent (60%) of the Benefits if the Recapture Event occurs during the eighth (8th) year after the Operations Commencement Date;
4. forty percent (40%) of the Benefits if the Recapture Event occurs during the ninth (9th) year after the Operations Commencement Date;
5. twenty percent (20%) of the Benefits if the Recapture Event occurs during the tenth (10th) year after the Operations Commencement Date.

The term "Benefits" shall mean, collectively,

1. all real estate tax benefits which have accrued to the benefit of the Lessees during such time as the Agency was the owner of the Facility Realty by reason of the Agency's ownership, such tax benefits to be computed by subtracting the payments in lieu of taxes paid under Section 4.3 hereof from those payments which the Lessees would have been required to pay during the lease term had the City determined the amount of such real estate taxes as would be due if the Lessees had been the owner of the Facility Realty during such lease term; and
2. all miscellaneous benefits derived from the Agency's participation in the financing of the costs of the Project including, but not limited to, exemption from mortgage recording tax, transfer tax, sales or use tax, and filing and recording fees; and
3. one-half of the amount (but not less than 0) derived by subtracting the aggregate of the interest portions of the installments of rent paid by the Lessees during the lease term from the net earnings (i.e., any income or interest earned by, or increment to, the proceeds of the Series 1999 Bonds, net of any losses or expenses suffered as a result of such investments) derived from the investment of the proceeds of the Series 1999 Bonds.

The term "Recapture Event" shall mean any of the following events:

1. The Lessees shall have liquidated their operations and/or assets or shall have ceased all or substantially all of its operations at the Facility (whether by relocation to another facility or otherwise, or whether to another facility either within or outside of the City);
2. The Lessees shall have leased all or any portion of the Facility in violation of the limitations imposed by Section 9.3 hereof, without the prior written consent of the Agency;

3. The Lessees or the Sublessees shall have effected substantial changes in the scope and nature of the Lessees' or the Sublessees' operations at the Facility;
4. The Lessees shall have transferred all or substantially all of its employees to a location outside of the City; or
5. The Lessees shall have sold, leased, transferred or otherwise disposed of all or substantially all of its interest in the Facility.

Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a direct immediate result of (i) a taking or condemnation by governmental authority of all or substantially all of the Facility, or (ii) the inability at law of the Lessees to rebuild, repair, restore or replace the Facility after the occurrence of a Loss Event to substantially its condition prior to such Loss Event, which inability shall have arisen in good faith through no fault on the part of the Lessees or the Sublessees.

(b) The Lessees covenant and agree to furnish the Agency with written notification upon any Recapture Event occurring within ten (10) years of the Operations Commencement Date, which notification shall set forth the terms thereof. The provisions of this Section 8.5 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

(c) In the event any payment owing by the Lessees under this Section 8.5 shall not be paid on demand by the Lessees, such payment shall bear interest from the date of such demand at the then current interest rate imposed by the City's Department of Finance on delinquent payments until the Lessees shall have paid such payment in full, together with such accrued interest to the date of payment, to the Agency.

(d) The Agency, in its sole discretion, may waive all or any portion of any payment owing by the Lessees under this Section 8.5.

(e) The Lessees covenant and agree to furnish the Agency with written notification upon any such disposition of the Facility or any portion thereof made within ten (10) years of its completion, which notification shall set forth the terms of such sale. The provisions of this Section 8.5 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

Section 8.6 Energy Cost Savings Program. The Lessees may qualify for certain energy cost savings pursuant to an Energy Cost Savings Program (the "Program") currently administered by the New York City Economic Development Corporation ("EDC"). If the Lessees have applied for Energy Cost Benefits pursuant to the terms of the Program, the Lessees agree to promptly deliver to the Agency a certificate of the Lessees, in form satisfactory to the Agency, stating that a sum equal to twenty (20%) percent of the current assessed value of the Facility Realty at the time of the commencement of the term of this Agreement has been expended in

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improvements to the Facility Realty as part of the Project. The Agency shall forward such certificate to the appropriate department or individual at EDC. The Agency makes no representation regarding the availability of benefits under the Program or of the suitability of the Lessees or of improvements made by the Lessees for qualification in the Program.

ARTICLE IX
Miscellaneous

Section 9.1. Indenture; Amendment. The Lessees shall have and may exercise all the rights, powers and authority stated to be in the Lessees in the Indenture and in the Bonds, and the Indenture and the Bonds shall not be modified, altered or amended in any manner which adversely affects such rights, powers and authority so stated to be in the Lessees or otherwise adversely affects the Lessees without the written consent of the Lessees.

Section 9.2. Force Majeure. In case by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Lessees to make the rental payments or other payments required under the terms hereof, or to comply with Sections 4.5 or 6.2 hereof), so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of existing or impending strikes, lockouts or other industrial disturbances shall be entirely within the discretion of the party having the difficulty and that the above requirements that any force majeure shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be fulfilled even though such existing or impending strikes, lockouts and other industrial disturbances may not be settled but could have been settled by acceding to the demands of the opposing person or persons.

Section 9.3. Assignment or Sublease. The Lessees may not at any time assign or transfer this Agreement, or sublet the whole or any part of the Facility, other than pursuant to the Sublease Agreement, without the prior written consent of the Agency and the Trustee (which consents shall not be unreasonably withheld); provided further, that, (1) the Lessees shall nevertheless remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other Security Document to which any of the Lessees shall be a party, (2) any assignee or transferee of the Lessees in whole of the Facility shall have assumed in writing and have agreed to keep and perform all of the terms of this Agreement on the part of the Lessees to be kept and performed, shall be jointly and severally liable with the Lessees for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the

State, (3) in the Opinion of Counsel, such assignment, transfer or sublease shall not legally impair in any respect the obligations of the Lessees for the payment of all rents nor for the full performance of all of the terms, covenants and conditions of this Agreement or of any other Security Document to which the Lessees shall be a party, nor impair or limit in any respect the obligations of any obligor under any other Security Document, (4) any assignee, transferee or sublessee shall utilize the Facility as a qualified "project" within the meaning of the Act and shall not constitute a Prohibited Person, (5) such assignment, transfer or sublease shall not violate any provision of this Agreement, the Indenture or any other Security Document, (6) with respect to any subletting in part, the term of each such sublease does not exceed five (5) years and at any given date, no more than an aggregate of twenty percent (20%) of such space would be subleased by the Lessees, (7) such assignment, transfer or sublease shall in no way diminish or impair the Lessees' obligation to carry the insurance required under Section 4.5 of this Agreement and the Lessees shall furnish written evidence satisfactory to the Agency and the Trustee that such insurance coverage shall in no manner be limited by reason of such assignment, transfer or sublease, (8) each such assignment, transfer or sublease contains such other provisions as the Agency or the Trustee may reasonably require, and (9) in the opinion of Nationally Recognized Bond Counsel, such assignment, transfer or sublease shall not cause the interest on the Bonds to be includable in gross income for Federal income taxes. The Lessees shall furnish or cause to be furnished to the Agency and the Trustee a copy of any such assignment, transfer or sublease in substantially final form at least thirty (30) days prior to the date of execution thereof.

Any consent by the Agency or the Trustee to any act of assignment, transfer or sublease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessees, or the successors or assigns of the Lessees, to obtain from the Agency and the Trustee consent to any other or subsequent assignment, transfer or sublease, or as modifying or limiting the rights of the Agency or the Trustee under the foregoing covenant by the Lessees.

If the Facility or any part thereof be sublet or occupied by any Person other than the Lessees or the Sublessees, the Agency, in the event of the Lessees' default in the payment of rent may, and is hereby empowered to, collect rent from the undertenant or occupant during the continuance of any such default. In either of such events, the Agency may apply the net amount received by it to the rent herein provided, and no such collection shall be deemed a waiver of the covenant herein against assignment, transfer or sublease of this Agreement, or constitute the acceptance of the under-tenant or occupant as tenant, or a release of the Lessees from the further performance of the covenants herein contained on the part of the Lessees.

Section 9.4. Priority of Agency Mortgage. Pursuant to the Agency Mortgage, the Agency will grant mortgage liens on and security interests in the Facility, and pursuant to the Indenture, the Agency will pledge and assign the rentals and certain other moneys receivable under this Agreement and the Sublease Agreement to the Trustee as security for payment of the principal or Redemption Price, if applicable, of and interest on the Bonds, and this Agreement and the Sublease Agreement shall be subject and subordinate to the Agency Mortgage and the Indenture, and such mortgage liens, security interests, pledges and assignments thereunder.

Section 9.5. Benefit of and Enforcement by Bondholders. The Agency and the Lessees agree that this Agreement is executed in part to induce the purchase by others of the Bonds and for the further securing of the Bonds, and accordingly all covenants and agreements on the part of the Agency and the Lessees as set forth in this Agreement are hereby declared to be for the benefit of the Holders from time to time of the Bonds and may be enforced as provided in Article VIII of the Indenture on behalf of the Bondholders by the Trustee.

Section 9.6. Amendments. This Agreement may be amended only with the concurring written consent of the Trustee given in accordance with the provisions of the Indenture and only if the Lessees shall assume in writing the obligations of such amended Agreement; provided, however, that any amendment of Section 4.3 hereof shall not require the consent of the Trustee.

Section 9.7. Notices. All notices, certificates or other communications hereunder shall be sufficient if sent by registered or certified United States mail, postage prepaid, addressed, if to the Agency, to the Chairman, New York City Industrial Development Agency, 110 William Street, New York, New York 10038 with a copy to the Deputy Executive Director of the Agency at the same address, if to the Lessees, c/o Morrison's Pastry Corp., 49-01 Maspeth Avenue, New York 11378, Attention: Wayne Wattenberg, and if to the Trustee, to United States Trust Company of New York, Corporate Trust and Agency Group, 114 West 47th Street, New York, New York 10036. A copy of each notice to the Lessees also shall be required to be sent to the Lessees' counsel, Louis Perfetto, Esq., Stadtmauer Bailkin LLP, 850 Third Avenue, New York, New York 10022. The Agency, the Lessees and the Trustee may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given as of the date it shall have been mailed.

Section 9.8. Prior Agreements Superseded. This Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral (other than any Security Documents), between the Agency and the Lessees relating to the Facility.

Section 9.9. Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 9.10. Inspection of Facility. The Lessees will permit the Trustee, or its duly authorized agents, at all reasonable times upon written notice to enter upon the Facility Realty and to examine and inspect the Facility and exercise their rights hereunder, under the Indenture and under the other Security Documents with respect to the Facility. The Lessees will further permit the Agency, or its duly authorized agent, at all reasonable times to enter upon the Facility but solely for the purpose of assuring that the Lessees are operating the Facility, or is causing the Facility to be operated, as a qualified "project" under the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency,

and not for any purpose of assuring the proper maintenance or repair of the Facility as such latter obligation is and shall remain solely the obligation of the Lessees.

Section 9.11. Effective Date; Counterparts. This Agreement shall become effective upon its delivery. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.12. Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Lessees and their respective successors and assigns.

Section 9.13. Net Lease. It is the intention of the parties hereto that this Agreement be a "net lease" and that all of the rent be available for debt service on the Bonds, and this Agreement shall be construed to effect such intent.

Section 9.14. Law Governing. This Agreement shall be governed by, and construed in accordance with, the laws of the State.

Section 9.15. Investment of Funds. Any moneys held as part of the Rebate Fund, the Debt Service Reserve Fund, the Earnings Fund, the Project Fund, the Bond Fund or the Renewal Fund or in any special fund provided for in this Agreement or in the Indenture to be invested in the same manner as in any said Fund shall, at the written request of an Authorized Representative of the Lessees, be invested and reinvested by the Trustee as provided in the Indenture (but subject to the provisions of the Tax Regulatory Agreement). Neither the Agency nor the Trustee nor any of their members, directors, officers, agents, servants or employees shall be liable for any depreciation in the value of any such investments or for any loss arising therefrom.

Interest and profit derived from such investments shall be credited and applied as provided in the Indenture, and any loss resulting from such investments shall be similarly charged.

Section 9.16. Investment Tax Credit. It is the intention of the parties that any investment tax credit or comparable credit which may ever be available accrue to the benefit of the Lessees and the Lessees shall, and the Agency upon advice of counsel may, make any election and take other action in accordance with the Code as may be necessary to entitle the Lessees to have such benefit.

Section 9.17. Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Facility or any matters whatsoever arising out of or in any way connected with this Agreement.

The provision of this Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Agreement.

Section 9.18. Non-Discrimination. (a) At all times during the construction, maintenance and operation of the Facility, the Lessees shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Lessees shall use their best efforts to ensure that employees and applicants for employment with the Lessees or any subtenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The Lessees shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessees or the Sublessees, state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Lessees shall furnish to the Agency all information required by the Agency pursuant to this Section and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section.

(d) The Agency and the Lessees shall, from time to time, mutually agree upon goals for the employment, training, or employment and training of members of minority groups in connection with performing work with respect to the Facility.


Section 9.19. No Recourse under This Agreement or on Bonds. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing the Bonds.

Section 9.20. Date of Agreement for Reference Purposes Only. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was executed and delivered on the date of original issuance and delivery of the Series 1999 Bonds.


IN WITNESS WHEREOF, the Agency has caused its corporate name to be hereunto subscribed by its duly authorized General Counsel, Chairman, Vice Chairman, Deputy Executive Director or Deputy Executive Director and attested under the seal of the Agency by its Assistant Secretary and the Lessees have caused their names to be subscribed hereto by an authorized signatory for each of Wayne-O, O'Wayne and Morrison's, respectively, all being done as of the year and day first above written.

(SEAL)

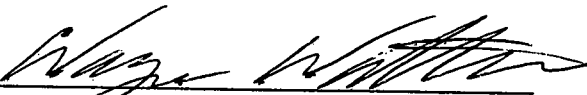
Attest:


Assistant Secretary

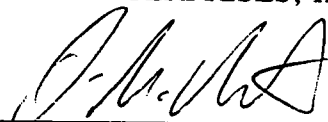
NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By 
Carolyn A. Edwards
Deputy Executive Director

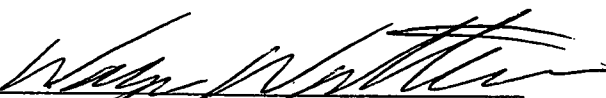
WAYNE-O, LLC

By 
Wayne Wattenberg
Member

O'WAYNE ENTERPRISES, INC.

By 
Owen Mester
President

MORRISON'S PASTRY CORP.

By 
Wayne Wattenberg
President

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

On the 15th day of April, in the year one thousand nine hundred and ninety-nine, before me the undersigned, a Notary Public in and from said State, personally appeared, Carolyn A. Edwards, 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, the individual, or the person upon the behalf of whom the individual acted, executed the instrument.



Notary Public

CAROLYN YI
Notary Public, State of New York
No. 01YI6013752
Qualified in Queens County
Commission Expires Sept. 28, 2000

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

On the 15th day of April, in the year one thousand nine hundred and ninety-nine, before me, the undersigned, a Notary Public in and from said State, personally appeared Wayne Wattenberg, 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 the behalf of whom the individual acted, executed the instrument.

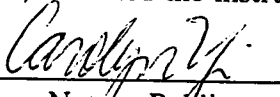


Notary Public

CAROLYN YI
Notary Public, State of New York
No. 01YI6013752
Qualified in Queens County
Commission Expires Sept. 28, 2000

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

On the 15th day of April, in the year one thousand nine hundred and ninety-nine, before me, the undersigned, a Notary Public in and from said State, personally appeared Owen Mester, 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 the behalf of whom the individual acted, executed the instrument.



Notary Public

CAROLYN YI
Notary Public, State of New York
No. 01YI6013752
Qualified in Queens County
Commission Expires Sept. 28, 2000

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

On the 15th day of April, in the year one thousand nine hundred ninety-nine before me, the undersigned, a Notary Public in and from said State, personally appeared Wayne Wattenberg, 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 the behalf of whom the individual acted, executed the instrument.



Notary Public

CAROLYN YI
Notary Public, State of New York
No. 01YI6013752
Qualified in Queens County
Commission Expires Sept. 28, 2000

APPENDICES

DESCRIPTION OF PROJECT

The acquisition, renovation and equipping of a manufacturing facility (the "Facility") consisting of the acquisition of an approximately 40,000 square foot parcel of real property located at 49-01 Maspeth Avenue, Maspeth, New York, the construction of improvements and renovations to an approximately 30,000 square foot building thereon, and the acquisition and installation of machinery and equipment in connection therewith, all for the manufacturing of baked goods.

DESCRIPTION OF FACILITY REALTY

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Queens, City, County, and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of Maspeth Avenue (60' wide) distant 277.57 feet westerly from the corner formed by the intersection of the westerly side of Railroad Place, formerly known as 49th Lane, (60' wide) with the northerly side of Maspeth Avenue;

RUNNING THENCE northerly at right angles to the northerly side of Maspeth Avenue, 239.85 feet;

THENCE westerly at right angles to the last mentioned course, and part of the distance through a party wall, 166.26 feet;

THENCE southerly at right angles to the northerly side of Maspeth Avenue, and part of the distance through another party wall, 239.85 feet to the northerly side of Maspeth Avenue;

THENCE easterly along the northerly side of Maspeth Avenue, 166.26 feet to the point or place of BEGINNING.

DESCRIPTION OF FACILITY EQUIPMENT (O'WAYNE)



O'Wayne Enterprise Inc.

ITEM

DESCRIPTION

1 SMC Model SOFD #4 Single Sigma Arm Mixer (Sanitary Open Frame Design)

For mixing 1,200 pound batches of muffin batter dough (under proper conditions).

Complete with:

- 30/15 HP High Torque TEFC Direct "Eurodrive" Single End Drive Motor
- 220 Volt, 3 Phase, 60 Hertz
- 40/20 RPM Dual Speed Agitator
- Sanitary Open Frame Design with Stainless Steel Tubular Frame
- Solid Stainless Steel Single Sigma Arm Agitator Assembly
- 95° Hydraulic Bowl Tilt
- Solid Stainless Steel Bowl and Canopy
- DT Series 1500 Color Operator Interface with Cutler Hammer D300 Controller and Cutomer Hammer "Advantage Starters"
- Two (2) 2" Diameter Liquid Inlets
- Sanitary Easy to Remove Agitator Shaft Seal Assembly
- Built to BISSC and UL Standards

04/06/1999 12:03 7189375391
EST-10 98 11:12 EST-10 98 11:12

DOUGLAS MACHINES CORP.
7101 Calumet Street
Clearwater, FL 34625
(800)-331-6870

REVISED

SOLD TO:
O'Wayne Enterprises, Inc.
54-18 43rd Street
Maspeth, NY 11378

ITEMS AND DESCRIPTION:

One infrared gas heated, "DOUGLAS" Model 2048 Rack, Pan and Utensil Washer complete with:
Stainless Steel Rinse Tank and Electric Booster Heater
Special Stainless Steel Muffin Pan Rack
One Pit Grid
3 Way-Wash Cycle Selector Switch

TO: O'Wayne Enterprise, Inc.
54-18 43rd Street
Maspeth, NY 11378

PROPOSAL NO: 99-025110

Att: Owen Mester

QTY	
1	<p data-bbox="735 451 1420 567">GOODWAY UNIVERSAL PISTON DEPOSITOR UPF-40 Installation Drawing # B1310</p> <p data-bbox="949 577 1181 630"><u>SPECIFICATIONS</u></p> <ul data-bbox="528 577 1478 1260" style="list-style-type: none"> - Stainless Steel Hopper 100 quart capacity. - Pneumatically operated for ease of operation, cleaning and maintenance. - Sanitary, quick take-apart design. - Designed for depositing cake, muffin or other flowable batters into pans up to 16" wide. - Programmable Logic Controller can accommodate multiple pan configurations. Allen Bradley - NEMA 4 Pan Sensor to activate deposit cycle. - Unit mounted on 6" heavy duty table top conveyor with aluminum side frames and stainless steel support legs with locking casters. - AC Variable Speed Conveyor Drive. - Stainless steel catch pan underneath deposit zone for cleaning in place. - Adjustable Pan Guide. - 115/1/60 power required. - Requires 10 CFM @ 80 PSI - 4 product pistons, up to 8 oz. each or to customer specifications. - 4 piston center to center dimensions: 4 1/8" (extra pistons and custom centers available upon request). - Matching Rotary Valve - Extra large ports for gentle handling of products.

ESTIMATED SHIPPING DATE: 10-12 Weeks from the receipt of info
Shipping estimates are subject to change and can be confirmed just prior
TERMS OF PAYMENT: 50% with order; 40% prior to shipment; 10%

Customer Signature
Accepted By


Goodway Sales
Authorized Signatory

All products covered by this proposal are subject to the Terms and Conditions listed on the reverse side of this quotation and Technical Services Data Sheet. Prices are valid for 90 days from issue date of quotation.

TO: O'Wayne Enterprise, Inc.
54-18 43rd Street
Maspeth, NY 11378

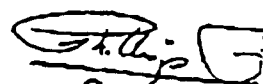
PROPOSAL NO: 99-015110

Att: Owen Mester

QTY	GOODWAY UNIVERSAL PISTON DEPOSITOR UPF-40 <u>Options</u>
0	- Meet CE Specifications
0	- Custom Rotary Valve
0	- Custom Die Plate*
0	- Set of knobs (must be purchased if die plates are needed)*
1	- 140 Quart Hopper (in place of standard hopper)
0	- Additional pistons
0	- Piston plugs
1	- Upgrade from 6' to 12' conveyor. (ref installation drawing # B1229)
0	- "J" Section with 180 degree turn and 12' straight return to create "U" shaped conveyor system. (ref installation drawing # BC1058)
0	- 220 Volt 50 HZ 1 PHASE
0	- Depositor mounted on heavy duty stainless steel cantilever frame on casters. (ref installation drawing # B1287)
1	- Cleaning kit, including: long handled scraper, piston brush, valve brush, and grease gun.
0	- Positive shutoff outlet valve for diving head outlet.
0	- Diving head outlet assembly (4 nozzles).
	*PLEASE NOTE LOOSE BATTERS MAY REQUIRE A DIE PLATE.
	*NOTE: THE NUMBER AND CENTERS OF EXTRA PAN SPECIFIC OPTIONS CAN BE DETERMINED AFTER THE RECEIPT OF THE PANS.
	TOTAL

ESTIMATED SHIPPING DATE: 10-12 Weeks from the receipt of initial order.
Shipping estimates are subject to change and can be confirmed just prior to shipment.
TERMS OF PAYMENT: 50% with order; 40% prior to shipment; 10% on delivery.

Customer Signature
Accepted By


Goodway Sales
Authorized Signatory

All products covered by this proposal are subject to the Terms and Conditions listed on the reverse side of this quotation and Technical Services Data Sheet. Prices are valid for 90 days from issue date of quotation.

Goodway Sales, Inc.
Phone (516) 667-2929

175 Orville Drive
info@goodwaysales.com

PROPOSAL NO: 99-015029

TO : O'Wayne Enterprise, Inc.
54-18 43rd Street
Maspeth, NY 11378

Att: Owen Mester

Qty	
1	<p>GOODWAY AUTOMATIC PAPER CUP PLACER MODEL CP-40 TABLE TOP Installation Drawing # B-1230</p> <p style="text-align: center;">SPECIFICATIONS</p> <ul style="list-style-type: none"> - Includes one 4 row vacuum head. - One trough assembly for paper cups - Heavy duty aluminum side frames. - Stainless Steel guards over drive mechanism. - Lexan guards around actuator arm with safety interlock. - Cycle rate of up to 50 rows/minute. - Air driven reciprocating arm with cam track for oscillating motion. - Vacuum head and trough assembly can be changed without tools. - All electrical components to be housed in stainless steel Nema 4 electrical enclosure. - Individual pneumatic vacuum generator for each vacuum nozzle. - All functions controlled by programmable logic controller (Allen Bradley). - Mounted to heavy duty cantilever frame with vertical adjustment. <p style="text-align: center;">OPTIONS</p> <ul style="list-style-type: none"> 0 - CE guarding 0 - 6 foot table top conveyor with heavy duty aluminum side frames and full length stainless steel catch pan. Variable speed AC Drive 1 HP 0 - 12 foot table top conveyor with heavy duty aluminum side frames and removable stainless steel catch pan. 0 - Additional vacuum head and cup trough assembly (4 across) 0 - Additional cup lane assembly <p>NOTE: THE NUMBER AND CENTER OF EXTRA PAN SPECIFIC OPTIONS CAN BE DETERMINED AFTER THE RECEIPT OF THE PANS.</p>
	TOTAL

NOTE: CUSTOMER MUST SUPPLY SAMPLE PAPER CUPS WITH

ESTIMATED SHIPPING DATE: 12 - 16 Weeks from the receipt of initial
Shipping estimates are subject to change and can be confirmed just prior to
TERMS OF PAYMENT: 50% with order; 40% prior to shipment; 10%

Customer Signature
Accepted By


Goodway Sales
Authorized Signatory

All products covered by this proposal are subject to the Terms and Conditions listed on the reverse side of this quotation and Technical Services Data Sheet. Prices are valid for 90 days from issue date of quotation.

Goodway Sales, Inc.
Phone: (516) 567-2929

175 Orville Drive
Info@goodwaysales.com

PROPOSAL NO: 99-026109

TO: O'Wayne Enterprise, Inc.
54-18 43rd Street
Maspeth, NY 11378

Att: Owen Mester

Qty.	
1	<p>GOODWAY SINGLE PISTON DEPOSITOR, MODEL PF-10T INSTALLATION DRAWING # B1127</p> <p style="text-align: center;"><u>Specifications</u></p> <ul style="list-style-type: none"> - Single Piston Cylinder delivering up to 8 fluid oz. of flowable material. - 30 Quart Conical Hopper, 4" diameter throat. - Completely pneumatic drive system for safety and ease of clearing. - Foot pedal actuate for hands free operation. - Stainless steel frame designed to mount onto an existing table. - Adjustable height deck to accommodate a wide variety of pans. - All product contact parts are easily removable from machine without tools. - Air flow controls for deposit cycle speed control. - Air requirements 10 CFM <p style="text-align: center;"><u>Optional Features</u></p> <ul style="list-style-type: none"> 0 - Lift Assembly (refer install drawing # B1221) 0 - 1 set die plate knobs (must be purchased if die plates are ordered)* 0 - Custom Die Plate 0 - Decorating attachment includes manual hand operated cycle/off/run valve, rotary valve, accumulator and decorator gun with hose 0 - Hand operated depositing spotting gun with hose assembly and rotary valve. 1 - Aluminum Stand with Heavy Duty Casters - Donut/Eclair Filling Options: <ul style="list-style-type: none"> 0 * Injector Needle Adapter 0 * Single Injector Needle 0 * 2 Needle Manifold 0 * Hand Actuated Switch 0 - Cleaning Kit Includes: Long handled scraper, piston brush, valve brush, grease gun, sanitary lubricant, heavy duty container. 0 - CE Guarding to include: <ul style="list-style-type: none"> *Cover with interlock *Hinged rotary valve air cylinder cover with interlock 0 - Vertical Outlet Tube (extended) With Positive Cutoff (donut style) 1 - Intergrated controls to operate both machines from one start signal (footpeda 1 - Tbar manifold with clamps for mounting over PF-40 hopper <p>*NOTE: LOOSE BATTER MAY REQUIRE THE PURCHASE OF A DIE PLATE</p>

ESTIMATED SHIPPING DATE: 4 to 6 Weeks from the receipt o
Shipping estimates are subject to change and can be confirmed prior
TERMS: 50% WITH ORDER: 50% PRIOR TO SHIP

Customer Signature
Accepted By


Goodwa
Authoriz

Quoted prices are in effect for 90 days

All products covered by this proposal are subject to the Terms and listed on the reverse side of this quotation and Technical Services De

GOODWAY SALES, INC.
PHONE: (516) 567 2929

175 ORVILLE DRIVE
info@goodwaysales.com

ADD Louis H. H. H.

ADAMATIC

MANUFACTURERS OF AUTOMATIC MAKEUP SYSTEMS FOR THE BAKING AND FOOD INDUSTRIES
607 INDUSTRIAL WAY WEST • EATONTOWN, NJ 07724-2299 • 732-544-8400 • FAX: 732-544-0735

PROPOSAL

NO. 9100

PAGE 1 OF 2

SOLD TO: O'WAYNE ENTERPIRSES INC.
54-18 43rd Street
Maspeth, New York 11378

DATE: March 26, 1999
SUBMITTED BY: David Hicks/jar
FOB: Factory
TERMS: 10% Deposit w/Order
80% On Notification
of Shipment
10% Net 30 days

SHIP TO:

ATTN: Mr. Owen Mester
Tel: (718) 937-7515

VALID FOR: 30 DAYS

We are pleased to present the following proposal for your review and approval:

- (1) **ADAMATIC DOUBLE RACK OVEN, MODEL DRO2GH, #00782115**
Capacity one (1) Double or two (2) single racks. Construction of stainless steel exterior and interior, bottom, back, top, floor and door. Door has large inspection window. Equipped with internal lights, automatic rack lift device, high capacity self-contained steam system equipped with an overpressure relief port, easily readable thermostat, thermometer and timers for baking and steaming
- "A" Lift for one (1) single, or one (1) double rack
 - Pan size 18" x 26"
 - Gas fired - 375,000 btu./hr.
 - Digital touchpad with 9 program memory
 - Vent package(up to 15' horizontal), #00665531
 - Maximum rack swing diameter 50"
 - Electrical: 208 -220v / 3 ph./ 60 Hz.- 20 amps and 120v / 1 ph / 60 Hz. - 20 amps.
 - Dimensions: 67.75" D (1721 mm) x 95.5" H (2426 mm) x 97.25" W (2471 mm)
 - Shipping weight: 4525 lb. (2057 kg.). Net weight: 4225 lb. (1921 kg.)
 - Volume: 365 cubic ft. (31 cubic meters)

DESCRIPTION OF FACILITY EQUIPMENT (MORRISON'S)

6 Computers

6 Desks

Telephone System

Reception Desk

Copier

Fax Machine

LETTER OF AUTHORIZATION FOR SALES TAX EXEMPTION

April __, 1999

TO WHOM IT MAY CONCERN

Re: New York City Industrial Development Agency
(1999 Morrison's Pastry Corp. Project)

Ladies and Gentlemen:

The New York City Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, including the issuance of its bonds or notes, is exempt from the imposition of any New York State or City of New York sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required.

2. Pursuant to a resolution adopted by the Agency on January 12, 1999 and a Lease Agreement, dated as of April 1, 1999 (the "Lease Agreement"), between the Agency and Wayne-O, LLC, a limited liability company organized and existing under and by virtue of the laws of the State of New York ("Wayne-O"), O'Wayne Enterprises, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York ("O'Wayne") and Morrison's Pastry Corp., a corporation organized and existing under and by virtue of the laws of the State of New York ("Morrison's", and together with O'Wayne and Wayne-O, the "Company"), the Agency has authorized the Company to act as its agent to acquire, renovate and equip a manufacturing facility in The City of New York (the "Facility") consisting of the acquisition of an approximately 40,000 square foot parcel of real property located at 49-01 Maspeth Avenue, Maspeth, New York, the construction of improvements and renovations to an approximately 30,000 square foot building thereon, and the acquisition and installation of machinery and equipment in connection therewith, all for the manufacturing of baked goods (the "Project"), for lease by the Agency to Wayne-O for sublease to, and use and occupancy by, O'Wayne and Morrison's (collectively, the "Sublessees").

3. In connection with such resolution and the Lease Agreement and pursuant to the authority therein granted, the Agency authorizes the Company to act as its agent in connection with the acquisition, renovation and equipping of the Project and authorizes the Company to use this letter as its agent only for the payment of the costs of such acquisition, renovation and equipping of the Project, all as set forth in Exhibit A hereto.

4. As agent for the Agency, the Company agrees that each contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency for the acquisition, renovation or equipping of the Project shall include language in substantially the following form:

This [contract, agreement, invoice, bill or purchase order] is being entered into by [Wayne-O, LLC, a limited liability company organized and existing under and by virtue of the laws of the State of New York] [O'Wayne Enterprises, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York] [Morrison's Pastry Corp., a corporation organized and existing under and by virtue of the laws of the State of New York] (the "Agent"), as agent for and on behalf of the New York City Industrial Development Agency (the "Agency"), in connection with a certain project of the Agency for the Agent consisting of the acquisition of an approximately 40,000 square foot parcel of real property located at 49-01 Maspeth Avenue, Maspeth, New York, the construction of improvements and renovations to an approximately 30,000 square foot building thereon, and the acquisition and installation of machinery and equipment in connection therewith, all for the manufacturing of baked goods (the "Project"), for sublease to, and use and occupancy by O'Wayne Enterprises, Inc. and Morrison's Pastry Corp. The renovation and capital improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property to be used for the Project which is the subject of this [contract, agreement, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and the City of New York if effected in accordance with the terms and conditions set forth in the attached Letter of Authorization for Sales Tax Exemption of the Agency, and the Agent hereby represents that this [contract, agreement, invoice, bill or purchase order] is in compliance with the terms of the Letter of Authorization for Sales Tax Exemption. The liability of the Agency hereunder is limited as set forth in the Letter of Authorization for Sales Tax Exemption. By execution or acceptance of this [contract, agreement, invoice, bill or purchase order], the [vendor or contractor] hereby acknowledges the terms and conditions set forth in this paragraph.

5. The acquisition, renovation and equipping of facilities, capital improvements, systems, trade fixtures, tangible personal property, equipment and machinery constituting a part of the Project shall be exempt from the sales and use tax levied by the State of New York and the City of New York on the condition that (i) such materials and capital improvements are separately identifiable property of the Agency, and (ii) any capital machinery, equipment or other tangible personal property shall have a useful life of one year or more, and shall solely be for the use of the Company at the Facility, and for no other entity and at no other location, and be effected by and at the sole cost of the Company, and (iii) the cost of such property is purchased or paid from, or reimbursed with, in whole, the proceeds of bond issued by the Agency for the financing of the Project.

6. The liability of the Agency under any contract, agreement, invoice, bill or purchase order entered into by the Company as agent for the Agency hereunder shall be limited only to the proceeds of the bonds of the Agency as may be used to finance the cost of the Project; and the Agency shall have no liability or performance obligations under any such contract, agreement, invoice, bill or purchase order. In the event that such bonds are not issued or the proceeds of such bonds are insufficient to pay or reimburse all or any part of such costs, the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever, and the Company shall be the sole party liable thereunder.

7. By execution by the Company of its acceptance of the terms of this letter, the Company agrees to accept the terms hereof and represents and warrants to the Agency that the use of this letter by the Company is strictly for the purposes above stated.

8. Accordingly, until the earlier of (i) the termination of the Lease Agreement, (ii) April 1, 2000, and (iii) the completion of the Project as provided in the Lease Agreement, all vendors, contractors and subcontractors are hereby authorized to rely on this letter (or on a photocopy or fax of this letter) as evidence that purchases of, and improvement and installation contracts relating to, the Project property, to the extent effected by the Company (or by a contractor or subcontractor engaged by the Company) as agent for the Agency, are exempt from all New York State and City of New York sales and use taxes.

The signature of a representative of each of Wayne-O, O'Wayne and Morrison's where indicated below will indicate that the Company has accepted the terms hereof.

NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY

By _____
Carolyn A. Edwards
Deputy Executive Director

ACCEPTED AND AGREED TO BY:

WAYNE-O, LLC

By _____
Wayne Wattenberg
Member

O'WAYNE ENTERPRISES, INC.

By _____
Owen Mester
President

MORRISON'S PASTRY CORP.

By _____
Wayne Wattenberg
President

EXHIBIT A

Exemptions from sales or use tax relating to (a) the acquisition, of machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property for use at the Facility; and (b) the acquisition of building materials for incorporation into the Facility.



New York City
Industrial Development Agency

BENEFITS REPORT

For benefits utilized during the period
of 7/1/___ - 6/30/___

SALES TAX BENEFITS - not applicable .

Machinery & Equipment

Tenant Improvements

Purchase Cost: \$ _____

Purchase Cost: \$ _____

Sales Tax Benefits: \$ _____

Sales Tax Benefits: \$ _____

PV of Benefits*: \$ _____

NPV of Benefits*: \$ _____

Other (please specify) _____

Other (please specify) _____

Purchase Cost: \$ _____

Purchase Cost: \$ _____

Sales Tax Benefits: \$ _____

Sales Tax Benefits: \$ _____

PV of Benefits*: \$ _____

NPV of Benefits*: \$ _____

Total Purchase Costs: \$ _____

Total Sales Tax Benefits: \$ _____

Discount Rate Percentage: _____ %

Total NPV of Sales Tax Benefits*: \$ _____

BUSINESS INCENTIVE RATE - not applicable .

Normal Rate: \$ _____

Incentive Rate: \$ _____

Savings: \$ _____

Company (please print): _____

Authorized Signature: _____

Title: _____ Date: _____

* applicable
10 William Street, New York, NY 10038 • 212.619.5000

Annual Employment Report
For the Year Ending June 30, 19__

(All references to "Company" in this Report shall be deemed to mean the Obligor)

Company Name: _____

D.O.L. Registration Number: _____ Tax I.D. Number: _____

Project Location Address: _____

Are you conducting business at other locations in New York State? ___ Yes ___ No

Are you leasing part or all of Project location? ___ Yes ___ No

Name of your Tenant(s): _____ Contact Person(s): _____
Telephone #: _____

D.O.L. Registration Number of your Tenant(s): _____

Please provide information as of June 30th of jobs at Project Location indicated above. Do not include any subcontractors and subconsultants. Include only employees and owners/principals on your payroll and on the payroll of our Tenant(s) at the Project Location.

Number of existing Jobs (Company): _____
Number of existing Jobs (Tenant(s)): _____

Company Contact Person: _____

Telephone Number: _____

Certification: I, the undersigned, hereby certify to the best of my knowledge and belief, that all information contained in this report is true and complete, and that I understand it is submitted pursuant to agreement.

The Company hereby authorizes any private or governmental entity, including but not limited to The New York State Department of Labor ("DOL"), to release to the New York City Industrial Development Agency (the "Agency") and/or to the New York City Economic Development Corporation ("EDC"), and/or to the successors and assigns of either collectively, the "Information Recipients", any and all employment information under DOL's control which is pertinent to the Company and the Company's employees. In addition, upon the Agency's request, the Company shall provide to the Agency any employment information in the Company's possession which is pertinent to the Company and the Company's employees. Information released or provided to Information Recipients by DOL, or any other governmental entity, or by any private entity, or by the Company itself, or any information previously released as provided by all or any of the foregoing parties (collectively, "Employment Information") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency, and/or EDC, and/or the successors and assigns of either, and/or The City of New York, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to New York City Local Law 69 of 1993, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the term of the Lease Agreement, dated as of April 1, 1999, between the Agency and the Company.

Name of Company: _____

Date: _____

By: _____
Signature of Principal/Owner/Chief
Financial Officer

If the Company is a real estate holding company and the Tenant (or one of the Tenants) is an operating company affiliated to the Company, then the Company and the operating company must each fill out a separate copy of this report.

Attach additional pages if necessary

COMPANY NAME: _____

ADDRESS: _____

TYPE OF BUSINESS: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

Please complete the following chart describing your projected employment plan following receipt of financing.

Current and Planned Full Time Occupations in the Company	Current Number of Full Time Jobs Per Occupation	Estimated Number of Full Time Jobs After Completion of the Project 1 year 2 year 3 year

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required.

Are the employees of your firm currently covered by a collective bargaining agreement?

YES _____ NO _____ If Yes, Name and Local _____

Prepared by: _____

Title: _____

Signature: _____

Date: _____

EMPLOYMENT PLAN STATUS REPORT

COMPANY NAME: _____

ADDRESS: _____

TYPE OF BUSINESS: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

<u>Occupation</u>	<u>Number of New Jobs</u>	<u>Number Listed¹</u>	<u>Number Filled</u>	
			<u>Job Service Division Applicants</u>	<u>Job Training Partnership Act eligible persons</u>

with local Jobs Service Division and local service delivery office created pursuant to the Job Training Partnership Act.

FORM ST-340



New York City
Industrial Development Agency

19-- subtenant survey

In order to verify compliance with Section 9.3 of your Lease Agreement, please list all subtenants occupying space in your facility and the corresponding information in complete form by **JANUARY 1, 19__**.

IMPORTANT FOR PILOT RECIPIENTS

FAILURE TO SUPPLY THIS INFORMATION BY THE ABOVE STATED DUE DATE WILL CONSTITUTE AN EVENT OF DEFAULT PURSUANT TO SECTION 7.1 OF THE LEASE AGREEMENT AND YOUR COMPANY MAY BE SUBJECT TO A TERMINATION OF THE PILOT BENEFITS.

TOTAL BUILDING SQUARE FOOTAGE _____ SQ. FT.

Subtenant	Floor	Square Feet Leased	Lease Begins	Lease Ends
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I, the undersigned hereby certify to the best of my knowledge and belief, that the information reported above is true and complete. I understand that this information is submitted pursuant to the requirements of the Lease Agreement.

Name: _____

Title: _____

Signature: _____

Date: _____

Please mail this form to the address below, ATTENTION: COMPLIANCE UNIT.

110 William Street, New York, NY 10038 • 212.619.5000