

**PROJECT APPLICATION
NEW YORK LIBERTY BOND PROGRAM
COMMERCIAL FACILITIES**

(FORM APPL 08/02)

Introduction and Information

The Program and the Bonds

This Application is to be filled out by an Applicant desiring to obtain tax-exempt financing for commercial real estate development projects through the New York Liberty Bond Program (respectively, "Project(s)" and the "Program"). The financing may be for the acquisition, construction, reconstruction and/or renovation of non-residential real property within the New York Liberty Zone and, under limited circumstances, elsewhere within The City of New York (see below). The financing will be conduit financing through the issuance of New York Liberty Bonds ("Bond(s)") by either the New York City Industrial Development Agency or the New York Liberty Development Corporation (in either case, the "Issuer").

- *The Issuer may issue Bonds only if a joint committee, staffed by representatives of the State of New York (the State) and The City of New York (the "City"), has approved the Project; and only if the Bonds have been designated by the Governor or the Mayor.*
- *The decision to provide Bond financing for any Project is discretionary; that decision will be made based upon a number of considerations, including, but not limited to, the satisfaction of the Threshold Eligibility Requirements described below and consistency with one or more of the Program Principles, which are also described below.*
- *The Bonds will be tax-exempt, qualified private activity bonds, not subject to the Alternative Minimum Tax.*
- *The ability to sell the Bonds will be based entirely upon the credit of Applicant and/or Applicant's Project and/or credit enhancement obtained by Applicant; the Bonds will be non-recourse to the Issuers, the State, and the City.*

This Application, the attachments to be provided, the Project described in this Application, and Applicant's request for Bond financing through this Application, shall be collectively referred to as the "Application Request".

Program Principles

To fulfill the vision of lower Manhattan as a 24/7, mixed-use, diversified community and support the City's broader revitalization, the Program seeks to:

- Repair and replace damaged and destroyed commercial space and improve lower quality commercial space;
- Create additional multifamily residential rental and complementary retail development in Lower Manhattan;
- Provide modern office space for displaced and decentralizing businesses in central business districts throughout the City;
- Attract new residents and employers to the City;
- Encourage environmentally responsible design and construction.

Threshold Eligibility Requirements

- A Project facility must be located in the New York Liberty Zone (the "Zone"); i.e., the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), and Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan. Under certain circumstances, a Project may be located outside the Zone but within the City.

- If a Project is for new, commercial construction and it is located within the Zone, it must create at least 20,000 square feet of contiguous commercial space; if located outside the Zone but within the City, a Project must create at least 100,000 square feet of contiguous commercial space.
- If a Project is for renovation and is located in the Zone, the Project facility must consist of at least 50,000 square feet of contiguous commercial space; if located outside the Zone but within the City, the Project facility must consist of at least 100,000 square feet of contiguous commercial space.
- If the Project is for renovation and is located in the Zone, it must involve expenditures for “**Base Building Improvements**”¹ of not less than \$50 per square foot; if located outside the Zone but within the City, such expenditures must be not less than \$100 per square foot.
- If the Project involves the acquisition of an existing facility, the renovation expenditures must equal or exceed 50% of the portion of the cost of acquiring the building financed with Bond proceeds.
- Neither Applicant, nor any “**Owner**,” “**Principal**” or “**Affiliate**”, may be a “**Prohibited Person**.”²

Process

- Applicant will complete and sign this Application and submit the Application Request to one of the Issuers. *(While the City and the State reserve the right to choose the Issuer, an Applicant's preference will be considered.)*
- The City and State will jointly review the Application Request. *(Applicant, Owners and Principals will be subject to a VENDEX background check. Review by the City and the State will take into account the information resulting from this check.)*
- After joint review, the Application Request will be either rejected or accepted; if accepted, the governing board of the Issuer will be asked to adopt a resolution inducing the Project. Acceptance of an Application Request, or any other action by the City or State, shall not assure final acceptance or approval by the Issuer.
- The requirements provided in *Legal and Programmatic Requirements* will govern the contractual understandings that support the Project. Bond Counsel and other counsel will draft their respective documents with provisions that are consistent with *Legal and Programmatic Requirements*.
- When necessary, Applicant will provide the Issuer with changes or supplements to the Project information submitted in this Application.
- Once the Issuer is satisfied that the Project terms are substantially final, the City and the State will request either the Governor or the Mayor to designate Bonds for the Project. **Designation is a necessary legal requirement, exercisable at the sole discretion of the Mayor or the Governor. The designation will expire in 6 months unless the requested Bonds are issued within such period, or unless the designation is renewed; renewal is in the sole discretion of the Mayor or Governor, as applicable.**
- The Issuer's governing board will be asked to adopt a bond resolution, which will (i) authorize the terms of the Bonds, and (ii) if necessary, make a finding as to environmental impact. *(Please note that the Issuer's participation in the Project may constitute an “action” for purposes of the State's Environmental Quality Review Act (“SEQR”); if so, SEQR would require the Issuer to make a determination as to the Project's environmental impact. To obtain the information needed to make such a determination, the Issuer would then require Applicant to complete an environmental assessment form. Should the Issuer determine that the Project will have an environmental impact, Applicant would then be required to prepare, at its own expense, an environmental impact statement in accordance with the substantive and procedural requirements of SEQR.)*
- The “**Closing**” occurs; the Issuer issues the Bonds; the proceeds of the Bonds are made available in a trustee-held construction account for Project costs; and Applicant acquires the Project realty, if it has not already done so.

¹ For a definition of “**Base Building Improvements**,” see the attached information sheet, *Legal and Programmatic Requirements*. Applicant should make this information sheet available to its counsel at the earliest opportunity.

² For a definition of “**Prohibited Person**,” see *Legal and Programmatic Requirements*; for definitions of “**Owner**,” “**Principal**” and “**Affiliate**,” see Section III of this Application.

To Complete this Application

- If Applicant desires to complete and submit this Application electronically, Applicant may for that purpose request an e-mail copy of this Application from the Issuer to whom it intends to make submission. Electronic submission notwithstanding, Applicant must additionally submit an original and executed hard copy of this Application.
- When necessary, and regardless of whether this Application so instructs, Applicant may answer questions by means of separate attachments. Applicant should identify attachments by the questions being answered.

Fees:

- Upon submitting this Application, Applicant shall pay a *non-refundable* application fee in the amount of \$25,000 (the "Application Fee"). Applicant will concurrently pay the Application Fee in two equal amounts; i.e., 50% to each Issuer notwithstanding the Issuer designated.
- Applicant will pay a financing fee of 1% of the Bond amount; or, if any portion of the Bonds is subordinate debt, 1.5% of that portion (the "Financing Fee").³ The Financing Fee is payable at Closing. The Application Fee will be credited toward payment of the Financing Fee. Applicant will concurrently pay the Financing Fee (net of the Application Fee) in two equal amounts; i.e., 50% to each Issuer notwithstanding the Issuer designated.
- The foregoing fees do not include bond issuance fees payable to the State of New York; nor do the foregoing fees include the fees payable by Applicant to the other parties to the transaction and their counsel, including, but not limited to, reasonable and customary fees and disbursements for the services of Bond Counsel, the Bond Trustee and the Bond Trustee's counsel.

³ Notwithstanding, fee amounts are subject to arbitrage limitations.

I. Applicant General Information	
Applicant's Name:	123 WASHINGTON LLC
Address:	399 PARK AVE, 22ND FLR, NYC 10022
Phone:	[REDACTED]
Fax Numbers:	[REDACTED]
IRS Employer ID Number:	[REDACTED]
S.I.C. Code:	
NY State Dept. of Labor Number (if applicable):	

Officer of Applicant and contact person:

Name: JOSEPH MOINIAN Title: CEO
 Phone #: 212 808-4000 x 224 Fax #: 212 808 4118
 E-mail Address: JOSEPH@MOINIANGROUP.COM Address: 399 PARK AVE, 22ND FLR, NYC 10022

Applicant is (check one or more of the following, as applicable):

- Public Corp.
 Private Corp.
 General Partnership
 Limited Partnership
 C Corp.
 S Corp.
 Limited Liability Company
 Other (specify) _____

Applicant's State of Incorporation or Registration: DELAWARE

States in which Applicant is qualified to do business: NEW YORK

II. Applicant Interest in Project Realty

1. Please check all that apply:

- Applicant or an affiliate is/expects to be the owner of the Project realty.
- Applicant or an affiliate will/expects to use and occupy all or a portion of the Project realty.
- Applicant or an affiliate is a development organization in the business of acquiring and developing realty for leasing to tenants.
- None of the above categories fully describe Applicant and its relation to the Project realty, which may be more accurately described as follows:

2. If there will be a special-purpose entity ("SPE") in addition to Applicant that will own or otherwise control the Project realty, the SPE will be (check one or more of the following as applicable): **NO**

- Public Corp. Private Corp. General Partnership Limited Partnership C Corp. S Corp.
- Limited Liability Company Other (specify) _____

3. Does Applicant or any affiliate own a real property interest in the Project realty? Yes No **NOT YET.**

a. If yes, what is that interest? If applicable, provide the name of the affiliate-owner: _____

b. If no, how does Applicant intend to acquire that interest and what will it be? Attach a copy of any option or purchase contract.

SEE ATTACHED CONTRACT. Applicant will ACQUIRE THE SITE IN SUMMER 2005 USING INTERIM FINANCING WHICH WILL BE TAKEN OUT WITH THE LIBERTY BOND CLOSING.

c. If no, is there a relationship, by virtue of common control or through related persons, directly or indirectly, between the Applicant and the present owner of the Project site?

YES

NO

If yes, please provide all details on attached sheet.

THE CONTRACT FOR THE AIR RTS. WILL BE FORWARDED NEXT WEEK.

III. Project Description and Financial Information	
Borough:	MANHATTAN
Block:	53
Lot(s):	23
Street Address:	123 WASHINGTON STREET (AKA: 4 ALBANY ST)
Zoning:	C6-9
Permitted Use Groups:	COMMERCIAL, RESIDENTIAL
Permitted FAR:	12 FAR RES, 15 FAR COMMERCIAL

1. Please provide the following Project information:
 - A. Type and size of the Project development; including square footage of land and square footage of existing/proposed improvements; include number of existing/proposed floors. **SEE ATTACHED**
 - B. Intended use(s) (e.g., office, retail, etc.), and the square footage to be allocated (or, in the case of existing improvements, already allocated) to each. (If retail use is contemplated, please briefly describe the nature of the retail operation; for instance, will any portion of the Project facility be primarily used for the sale of goods or services to customers who will personally visit the Project facility?) **SEE ATTACHED.**
 - C. The Project will involve the following (check as applicable):
 - reconstruction/renovation of existing improvements
 - ground-up construction of new improvements
 - refinancing of interim Project financing (i.e., financing that has occurred after the Issuer has adopted its inducement resolution for the Project but before Closing)
 - reimbursement of Project expenditures funded from equity (i.e., expenditures made before Closing but no earlier than 60 days preceding the inducement resolution).
 - D. Will the completion of the Project cause the removal or the abandonment of a facility located in the State but outside of the City? If so, please provide details. **NO**
 - E. When does Applicant want Closing to occur - i.e., when does Applicant want the proceeds from the Bonds to be available for Project costs? **DECEMBER 2005 - JANUARY 2006**

NOTE: THE ISSUER RECOGNIZES THAT APPLICANT MAY HAVE TO AMEND AND SUPPLEMENT THE INFORMATION AND ITEMS TO BE PROVIDED IN RESPONSE TO THE QUESTIONS AND REQUIREMENTS OF SECTIONS 2 AND 3 FOLLOWING.

2. Provide the following financial information on computer disk in Excel Format: **(VIA E-MAIL INSTEAD)**
 - A. Assuming a Bond financing term of 30 years, financial data and pro formas for the Project; specify all other assumptions; financial data to include three years of historical financial statements on the property for Projects consisting of renovations. **SEE E-MAIL, HARD COPY ATTACHED.**
 - B. Preliminary Project construction budget with specific hard and soft costs (including professional fees). **SEE E-MAIL, HARD COPY ATTACHED.**
 - C. Preliminary description of proposed equity investment for the Project, and proposed Project financing (construction and permanent); attach copies of financing commitments. **SEE ATTACHED, SEE E-MAIL.**
 - D. If applicable, description of existing financing, existing equity investment, and Project expenditures made to date. **SEE ATTACHED FOR FINANCING DESCRIPTION. THE APPLICANT HAS SPENT APPROXIMATELY \$250,000 AS OF APRIL 2005.**

- E. Explain why Liberty Bond financing is necessary to allow Applicant to proceed with the Project at this time. **SEE ATTACHED.**
- F. Summary of Project sources and uses as follows:

<u>Uses of Funds</u> (\$)		<u>Sources of Funds</u> (\$)	
	<u>16,000,000</u>	Liberty Bonds	<u>147,000,000</u>
<i>Air Rtz</i> Land acquisition		Other debt	_____
Building acquisition	<u>3,200,000</u>	Equity	_____
New Construction	<u>77,000,000</u>	Other sources (explain)	_____
Base building improvements	_____		
Other renovations	_____		
Fixed tenant improvements	_____		
Furnishings and equipment	<u>12,350,000</u>		
Soft costs	<u>19,450,000</u>		
Other (explain) <i>Financing loss</i>	<u>18,500,000</u>		
Total Project Uses	<u>147,000,000</u>	Total Project Sources	<u>147,000,000</u>

3. In a separate attachment, please provide the following Project information in narrative form:
- A. Approximate Project work schedule, itemizing the estimated time necessary to complete each phase of Project work. **SEE ATTACHED.**
- B. Names of potential and committed tenants; attach letters of interest and/or summaries of lease terms, if available; otherwise, provide market data to support pro forma assumptions about anticipated rent-up. Please disclose any affiliations (and the nature of those affiliations) between such tenants and Applicant or any Affiliate, Owner or Principal (see definitions on next page). **SEE ATTACHED PKF CONSULTING MARKETING STUDY AND ATTACHED.**
- C. Site plan and schematic drawings for proposed development, including graphic scale. **SEE ATTACHED.**
- D. Will the Project require ULURP approval? **NO** Will the Project require any other special permit or approval? Will the Project require an environmental impact statement? If yes, please provide details. **SEE ATTACHED.**
- E. Will the Project improvements incorporate any environmentally responsible techniques? If so, please explain. **SEE ATTACHED.**
- F. Is any governmental entity intended or proposed to be a tenant at the Project premises? If so, please provide details. **NO.**

IV. Background Information on Applicant and Applicant's Affiliates

The following questions apply variously to "Owners," "Principals" and "Affiliates" (definitions provided below). Please refer, carefully and consistently, to the correct entities and individuals as dictated by the use of such defined terms in the questions below.

1. Describe the organizational structure of Applicant; include in this description Applicant's date of formation or establishment. *SEE ATTACHED.*
2. If Applicant is a publicly held corporation, provide the names of the individuals and entities that own or hold, directly or indirectly, 5% or more of the ownership and/or controlling interests of Applicant. For each such individual or entity, additionally provide the percentage and nature of such ownership and/or control in Applicant. *N/A*
3. If Applicant is not a publicly-held corporation, provide the names, addresses, telephone numbers, fax numbers, and e-mail addresses of the individuals and entities that own or hold, directly or indirectly, 10% or more of the ownership and/or controlling interests of Applicant. For each such individual or entity, additionally provide the percentage and nature of such ownership and/or control in Applicant and, with respect to individuals, the position or title of the individual in Applicant, if applicable. *If there will be an SPE, provide the same information with respect to the SPE. SEE ATTACHED*

Please note: both in respect of Applicant and any SPE, the individuals and entities referenced in question nos. 2 and 3 preceding shall be referred to as "Owner(s)."

4. Provide and attach to this Application resumes, including the names, addresses, telephone numbers, fax numbers, e-mail addresses, and social security numbers, of the officers, directors, partners, members and employees who are chiefly responsible for the management and/or oversight of the operations and activities of Applicant. *SEE ATTACHED.*

Please note: the individuals referenced in question no. 4 preceding shall be referred to as "Principal(s)."

5. Provide the names, addresses, telephone numbers, fax numbers, e-mail addresses, and EIN of any entity in which Applicant, Owners, or Principals, whether directly or indirectly, individually or collectively, own or hold controlling interests of 5% or more (if the entity is a publicly-held corporation), or 10% or more (if the entity is not a publicly-held corporation); *notwithstanding the foregoing, do not provide the information requested in this question no.5 if the entity in question (i) is located outside of the New York City metropolitan area, and (ii) the ownership and/or controlling interest is less than 85%. SEE ATTACHED.*

Please note: the entities referenced in question no.5 preceding shall be referred to as "Affiliate(s)."

6. With respect to Applicant and Owners, attach to this Application financials and (with respect to Owners that are individuals) tax returns, for the past three years; (in the case of an entity that has been in existence for a shorter period of time, provide financials accordingly). *Please note that the Issuer reserves the right to request financials for Affiliates. SEE ATTACHED.*
7. Has Applicant, any Affiliate, or any Owner ever received, or is any currently receiving, financial assistance or any other kind of discretionary benefit from any local, state or federal governmental entity or agency, or any public authority or public benefit corporation, or any local development corporation?

YES

NO

If yes, please provide details on attached sheet. *SEE ATTACHED.*

Please note: governmental entities or agencies, public authorities or public benefit corporations, and local development corporations, shall be referred to as "Public Entity(ies)."

8. Has Applicant, or any Affiliate, or any Owner, or any existing or proposed tenant at the Project facility, obtained, or is any in the process of obtaining, or contemplating obtaining, Liberty Bond financing?
- YES NO If yes, please provide details on attached sheet.
9. Has Applicant, or any Affiliate, or any Owner, or any Principal, ever defaulted on a loan from or obligation to a Public Entity?
- YES NO If yes, please provide details on attached sheet.
10. Has Applicant, or any Affiliate, or any Owner, or any Principal, ever been adjudicated bankrupt or (in the case of entities) placed in receivership, or has otherwise been the subject of a bankruptcy or similar proceeding (prior or current) in the last 7 years?
- YES NO If yes, please provide details on attached sheet.
11. Is Applicant, or any Affiliate, or any Owner, or any Principal, now, or has any one of the foregoing ever been within the last 7 years, a defendant in a criminal proceeding? Has any of the foregoing ever been at any time convicted in a criminal proceeding?
- YES NO If yes, please provide details on attached sheet.
12. Is Applicant, or any Affiliate, or any Owner, or any Principal, now a plaintiff or defendant in a civil proceeding that is extraordinary in nature? (Indicia for determining what is "extraordinary" include uninsured claims; actions that are not in the usual course of business; claims for material amounts; and, in general, actions and claims which, were they disclosed to the Issuer, could be reasonably expected to influence the City's and the State's consideration of this Application.)
- YES NO If yes, please provide details on attached sheet.
13. Has real property in which Applicant or any Owner holds or has ever held any ownership and/or controlling interest, now or ever been (i) the subject of foreclosure (including a deed in lieu of foreclosure), or (ii) in arrears with respect to any type of tax, assessment or other imposition?
- YES NO If yes, please provide details on attached sheet. **SEE ATTACHED.**
14. Has real property in which any Affiliate or any Principal holds or has ever held any ownership and/or controlling interest of 25% or more, now or ever been (i) the subject of foreclosure (including a deed in lieu of foreclosure), or (ii) in arrears with respect to any type of tax or other imposition?
- YES NO If yes, please provide details on attached sheet. **SEE ATTACHED - SAME AS #13.**
15. Does Applicant or any Owner have any contingent liabilities not already covered above? (e.g., judgment liens, *lis pendens*, other liens, etc.) (Include mortgage loans and other loans taken in the ordinary course of business only if in default.)
- YES NO If yes, please provide details on attached sheet.
16. Has Applicant and each Owner and each Affiliate filed all required tax returns with appropriate governmental authorities?
- YES NO If no, please provide details on attached sheet.
17. If Applicant and/or any Owner, is/are in the aggregate to occupy 25% or more of the Project facility, provide the names, addresses, and contact person(s) (including telephone numbers) of Applicant's and/or Owners'

banks, and, if applicable, unions with which Applicant and/or Owners has/have collective bargaining agreements and other similar arrangements. *N/A*

18. Describe Applicant's experience, or Applicant's experience through any Affiliate or Owner, with commercial developments generally, providing brief descriptions of particular developments. Applicant should also provide brief descriptions of those developments that have failed and why they failed. *SEE DEVELOPER BACKGROUND, SEE RESPONSE TO PART IV, 4.*
19. Under certain circumstances State law requires that completed Applications, and cost-benefit analyses of the Projects described in submitted Applications, be made available for public review. Is there any information that Applicant has provided in this Application that would be of particular concern to Applicant were such information available to public scrutiny? *(The Issuer will take Applicant's response, if any, into consideration in order to ascertain compatibility with State law. In any event, all information supplied by Applicant will be subject to disclosure to the extent of requests made under and in accordance with the New York State Freedom of Information Law, also known as "FOIL".)*

YES

NO

If yes, please provide details on attached sheet.

V. Request, Certification, etc.

I, the undersigned officer/member/partner of Applicant, on behalf of Applicant, hereby request, represent, certify, understand, acknowledge, and agree as follows:

I request that this Application, together with all materials and data submitted in support of this Application (collectively, this "Application"), be submitted for review to the governing board (the "Board") of one of the Issuers, in order to obtain from such Board an expression of intent to issue Bonds to finance all or a portion of the costs of the Project. I understand that this expression of intent will take the form of an inducement resolution to be adopted by the Board.

I represent that I have the authority to sign this Application on behalf of Applicant.

I certify to the best of my knowledge and belief that all of the information provided in this Application is accurate, true and correct. I understand that an intentional misstatement of fact, or, whether intentional or not, a material misstatement of fact, or the providing of materially misleading information, or the omission of a material fact, may cause the Board to reject the Application Request.

I acknowledge receipt of *Legal and Programmatic Requirements*. I agree on behalf of Applicant that the Bond financing documents and the use of Bond proceeds must be consistent with *Legal and Programmatic Requirements*.

I understand the following: that Applicant, Owners and Principals will be subject to a background check through the VENDEX system; that the Issuer may be required under SEQR to make a determination as to the Project's environmental impact and that in the event the Issuer does determine that the Project will have an environmental impact, Applicant will prepare, at its own expense, an environmental impact statement; that the decision of the Board to approve or to reject the Application Request is a discretionary decision; that the Issuer's federal statutory authorization to issue Bonds expires December 31, 2004; that no Bonds may be issued unless such Bonds are designated by either the Governor or the Mayor; and that should either the Governor or Mayor designate the Bonds for the Project, such designation shall expire six months after the date it is signed; that under FOIL, the Issuer may be required to disclose this Application and the information contained herein; and that upon issuance of the Bonds by the Issuer, Applicant shall be entirely responsible and liable for the fees referred to in this Application, including but not limited to payment to the New York State Department of Taxation and Finance of the State's bond issuance fee (if applicable) based upon the aggregate principal amount of the Bonds.

I further understand and agree as follows:

That in the event the Application Request is not submitted to the Board for any reason including negative results obtained through the VENDEX background check, and/or, with respect to an Application Request that is submitted to the Board, in the event the Board rejects such Application Request, *then, under either of said circumstances*, Applicant shall have no recourse against the Issuer or any other public or governmental entity involved in the administration of the Program, or any directors, officers, employees or agents of the foregoing (collectively, the "Public Participants"), for the Application Fee, or for other expenses incurred by Applicant, or for damages or specific performance; and that the Application Fee is under all circumstances (including but not limited to the ones just described) non-refundable; and

That if the Board adopts an inducement resolution with respect to the Application Request, such adoption shall not be deemed a guaranty that either the Governor or the Mayor shall then designate the Bonds; or that the Board shall then adopt a resolution approving the Bonds; or that the Issuer shall then issue the Bonds; or that if either of the Governor or the Mayor designates the Bonds, that such designation shall then be renewed in the event that Closing does not occur before the designation expires; and


That Applicant shall have no recourse against any of the Public Participants for the Application Fee, or for other expenses incurred by Applicant, or for damages or specific performance, if any or all of the events described in the immediately preceding paragraph fail to occur for whatever reason within or without the control of any of the Public Participants; and

That in the event no Closing occurs (i.e., the Issuer does not issue the Bonds for the Project), for whatever reason within or without the control of any of the Public Participants, Applicant shall indemnify the Issuer for fees and disbursements incurred by bond counsel; and that bond counsel shall be a third-party beneficiary of this indemnity to the Issuer; and

That in the event under FOIL the Issuer is required to disclose this Application and the information provided herein and herewith, then Applicant hereby authorizes the Issuer to make such disclosure and hereby releases the Issuer from any claim or action that Applicant may have or might bring against the Issuer, its members, directors, officers, agents, employees and attorneys, by reason of such disclosure; and that Applicant agrees to defend, indemnify and hold the Issuer (and its members, directors, officers, agents, employees and attorneys) harmless (including without limitation for the cost of reasonable attorneys fees) against claims arising out of such disclosure as such claims may be made by any Affiliate, Owner or Principal, or by the partners, members, shareholders, officers, directors, employees, and agents of Applicant or any Affiliate or Owner.

I acknowledge and agree that each Issuer reserves the right in its absolute discretion to request additional information, waive any requirements set forth herein, and/or amend the form (FORM APPL 08/02) of this Application, to the full extent permitted by applicable law.

Requested, Represented, Certified, Acknowledged, Understood and Agreed on behalf of Applicant, this 21 day of April, 2005.

Signature: 

Printed Name: JOSEPH MOIRAIN

Title in respect of Applicant: MANAGING MEMBER, OWNER

Sworn before me this

21st day of April, 2005



Notary Public MARIO J. CACERES
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01CA6052575
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES 12-16-2005