

**Board Members:**

Greg McWhorter  
Paul Fortunato  
Terry Henley  
Julie Wheeler  
Tiffany Gardner  
Anthony Wise  
Rick Gentry  
Alvin Nance  
Shannon Coleman Egle  
Michael Wood  
Mike George



**The Industrial Development Board of the County of Knox**

Regular Meeting

January 12, 2021, 4:00 p.m.

Zoom Video Conference Mtg. - In accordance with

Governor Lee's Executive Order No. 71

(an extension of Executive Order Nos. 16, 34, 51, 60 and 65)

**AGENDA**

- I. Call to Order
- II. Approval of Minutes from Previous Meeting
  - A) Annual Meeting – December 8, 2020
- III. Finance Report
- IV. Old Business
  - A) Update Regarding Knox County Property Tax Incentive Program Policies
  - B) Update Regarding Green Mountain Coffee Roasters PILOT
  - C) Update Regarding Appointment to Greater Knoxville Foreign Trade Zone Advisory Council.
- V. New Business
  - A) TIF Application for Farragut Town Center at Biddle Farms
- VI. Adjourn

**MINUTES OF THE REGULAR MEETING OF  
THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX**

December 8, 2020, 4:00 p.m.

The regular meeting of the Board of Directors of The Industrial Development Board of the County of Knox (the “Industrial Development Board” or “Board”) was held on Tuesday, December 8, 2020 at 4:00 p.m., pursuant to notice duly provided to the Directors and the public. The meeting was held via electronic method (Zoom Meeting), the Board’s Chair having determined on behalf of the Board that such was necessary to protect the health, safety, and welfare of Tennesseans in light of the COVID-19 outbreak.

The following Directors were present at the meeting, constituting a quorum, Greg McWhorter (Chair), Paul Fortunato (Vice Chair), Tiffany Gardner (Secretary), Julie Wheeler, Alvin Nance, Rick Gentry, Terry Henley, Michael Wood, Anthony Wise, Michael George, and Shannon Coleman Egle.

Also, in attendance were Todd Napier (The Development Corporation), Ray Christian (The Development Corp.), Shawn Barhorst (The Development Corporation), Brenda Wilson Spence (The Development Corporation), R. Christopher Trump (Legal Counsel – Egerton, McAfee, Armistead & Davis, P.C.), and Susan L. Levine (Paralegal - Egerton, McAfee, Armistead & Davis, P.C.). Carl Lansden, with Lansden Landmarks, LLC; Mark Bunch, Bunch Development Services; Buzz Goss, with Hillwood Villas, LLC, Kent Leach, with Hickory Creek Capital Partners; Craig Cobb, with DGA Lakeview, LP; and Jay Moneyhun with Bass, Berry & Sims, PLC.

I. Greg McWhorter, the Board’s Chair, called the Industrial Development Board meeting to order. The Agenda of the Industrial Development Board meeting is attached hereto as Exhibit A. Mr. McWhorter asked the Board if there were any objections to adjourn the meeting at 4:15 p.m. and resume after the Health, Educational & Housing Facility Board meeting was held to alleviate the need of all additional parties having to stay. No objections were made.

The Industrial Development Board discussed the following matters and took the following actions as noted:

II. Review/Approve Minutes from Previous Meeting. The Chair of the meeting asked if there were any changes to the minutes of the regular meeting held on November 10, 2020. There were none. Upon a motion by Julie Wheeler and a second by Alvin Nance, the minutes of the November 10, 2020, meeting were unanimously approved.

III. Election of Board Officers, Committee Appointments and Appointment to Greater Knoxville Foreign Trade Zone Advisory Council. The Chair stated that, at the last meeting, a nominating committee was appointed to consider officer appointments, committee appointments and the IDB’s appointee to the Greater Knoxville Foreign Trade Zone Advisory Council appointments. He stated that there is a report in the Agenda Packet that contains the nominations made by the Nominating Committee as to those positions. A copy of such report is hereto attached as Exhibit B. The Chair asked if there were any questions or comments concerning

the nominations or if any Board member wanted to make any additional nominations. There were none.

Upon a motion by Anthony Wise and a second by Michael Wood, the following persons were elected or appointed to the positions opposite their name:

**Officers:**

Greg McWhorter: Chair  
Paul Fortunato: Vice Chair  
Tiffany Gardner: Secretary/ Treasurer  
Julie Wheeler: Assistant Secretary/ Treasurer

**Application Review Committee:**

Rick Gentry, as Chair  
Tiffany Gardner, as Vice Chair  
Paul Fortunato  
Greg McWhorter  
Shannon Coleman Egle  
Michael Wood

**Performance Evaluation Committee:**

Julie Wheeler, as Chair  
Michael George, as Vice Chair  
Terry Henley  
Anthony Wise  
Alvin Nance

The Chair then discussed the need to appoint a representative to the Greater Knoxville Foreign Trade Zone Advisory Council and asked Todd Napier to provide additional background and history of the advisory council. Mr. Napier provide the additional information to the Board and then addressed the Board regarding his efforts to solidify the IDB's appointee. Mr. Napier stated that he will be contacting the principals of Jewelry Television to determine their interest in appointing a representative to the advisory council. Should Jewelry Television be unreceptive to this request, Mr. Napier will then reach out to Royal Brass & Hose to determine if they would be willing to provide a representative to be IDB's appointee. Mr. Napier hopes to have the appointee's name by the January meeting.

IV. Consideration of Resolution regarding Signature Card Authorizations. The Chair stated that the resolution regarding Signature Card Authorizations is in the Board's packet and that the resolution is before the Board for its approval. The Chair asked if there were any comments or questions. A motion was made by Julie Wheeler and seconded by Tiffany Gardner to accept the resolution. However, Shawn Barhorst stated that since the officers are remaining the same for 2021, the need for new signature cards was no longer needed and the prior resolution

granting authorization was sufficient for the Board's continued business. Mr. Trump further clarified that the prior resolution requiring 2 signatories was amended due to the Covid-19 pandemic which granted authority for only 1 signatory on checks when accompanied with an email approval of another signatory. After discussion, the motion made by Julie Wheeler and Seconded by Tiffany Gardner was withdrawn.

V. Old Business.

A) Review and Consideration of Resolution Approving Extension of PILOT Deadline for Elo Touch Solutions, Inc. Mike George recused himself from the discussion and vote on this matter. The Chair recognized Todd Napier who addressed the Board regarding the extension request to close the PILOT lease from December 31, 2020, to February 9, 2021, due to unavoidable delays. Discussion was had.

Upon a motion by Alvin Nance, and a second by Tiffany Gardner, the proposed resolution was unanimously approved, except for Mr. George who recused himself from the vote. A copy of the resolution as approved is attached hereto as Exhibit C.

Meeting was adjourned at 4:18 p.m. to proceed with the Health, Educational & Housing Facility Board meeting.

Meeting was resumed at 4:41 p.m. and the Board discussed the following items:

B) Update Regarding Ad Hoc PILOT Policies and Procedures Committee. The Chair recognized Todd Napier who addressed the Board regarding efforts to revise the policies and procedures applicable to the Board's PILOT program. Mr. Napier stated that the Ad Hoc Policies and Procedures Committee met on December 1, 2020, where he presented his proposed revised scoring matrix detailing the factors and weighting to be used in determining the term of PILOTs in the revised policies and procedures, such factors to include capital investment, direct and indirect jobs, and wages, and added bonus points for minority workforce incentives and location (such as brownfields or designated blighted areas). The revision also includes the prior feedback from the Committee, different scoring for real and personal property. Mr. Napier stated that his goal is to present the Committee's final recommendations to the Board soon and then present the final policy update to the Knox County Commission within the first quarter of 2021. Discussion was had. Mr. Napier requested that Board members with any additional input to please let him know, as he would like to finalize this portion of the policies prior to including them in the draft of the policies.

VI. New Business.

A) 2021 Meeting Schedule. The Chair recognized Todd Napier who addressed the Board regarding the proposed dates for the IDB board meetings in 2021. He stated that they are still scheduled to occur the second Tuesday of every month unless a specially called meeting needs to be scheduled.

VII. Next Meeting. The next regular meeting of The Industrial Board of the County of Knox is scheduled for January 12, 2021, at 4:00 p.m. at the offices of The Development Corporation of Knox County located at 17 Market Square, #201, Knoxville, Tennessee.

VIII. Adjournment. No further business having come before the Board and upon motion duly made and seconded, the Board voted unanimously to adjourn the meeting at 5:20 p.m.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary

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## **EXHIBITS**

- Exhibit A      Agenda – December 8, 2020
- Exhibit B      Nominating Committee Report
- Exhibit C      Resolution Approving Extension of PILOT Deadline for  
Elo Touch Solutions, Inc.

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**The Industrial Development Board of the County of Knox**  
**Balance Sheet with Prior Year Comparison**  
As of December 31, 2020

	<u>As of December 31, 2020</u>	<u>As of December 31, 2019 (PY)</u>
<b>ASSETS</b>		
<b>Current Assets</b>		
<b>Bank Accounts</b>		
100-000 Cash - Regions Bank	183,333	314,980
112-000 Grassy Creek Project Fund	450	1,870,424
113-000 Northshore TC TIF Fund - City	543,808	111
114-000 Northshore TC TIF Fund - County	76,008	75,952
<b>Total Bank Accounts</b>	<b>\$803,598</b>	<b>\$2,261,467</b>
<b>Accounts Receivable</b>		
125-000 Accounts Receivable (A/R)	442,781	246,041
<b>Total Accounts Receivable</b>	<b>\$442,781</b>	<b>\$246,041</b>
<b>Other Current Assets</b>		
127-000 Prepaid Insurance	609	611
<b>Total Other Current Assets</b>	<b>\$609</b>	<b>\$611</b>
<b>Total Current Assets</b>	<b>\$1,246,988</b>	<b>\$2,508,118</b>
<b>Other Assets</b>		
170-000 Loan to TDC	450,000	450,000
180-000 Long-Term Closing Fee - Knox High	74,919	112,378
<b>Total Other Assets</b>	<b>\$524,919</b>	<b>\$562,378</b>
<b>TOTAL ASSETS</b>	<b>\$1,771,906</b>	<b>\$3,070,496</b>
<b>LIABILITIES AND EQUITY</b>		
<b>Liabilities</b>		
<b>Current Liabilities</b>		
<b>Accounts Payable</b>		
200-000 Accounts Payable	442,333	347,496
<b>Total Accounts Payable</b>	<b>\$442,333</b>	<b>\$347,496</b>
<b>Other Current Liabilities</b>		
246-000 Northshore TC TIF - Liability	619,816	76,063
247-000 Grassy Creek Project Fund Liability	450	1,870,424
<b>Total Other Current Liabilities</b>	<b>\$620,265</b>	<b>\$1,946,486</b>
<b>Total Current Liabilities</b>	<b>\$1,062,598</b>	<b>\$2,293,982</b>
<b>Total Liabilities</b>	<b>\$1,062,598</b>	<b>\$2,293,982</b>
<b>Equity</b>		
300-000 Opening Balance Equity	18,401	18,401
320-000 Retained Earnings	741,921	787,634
Net Income	(51,013)	(29,521)
<b>Total Equity</b>	<b>\$709,308</b>	<b>\$776,514</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$1,771,906</b>	<b>\$3,070,496</b>

**The Industrial Development Board of the County of Knox  
Budget Variance Report  
For the 9 Periods Ended December 31, 2020**

	December 2020			April - December 2020			April 2020 - March 2021	
	Actual	Budget	Variance	Actual	Budget	Variance	Budget	% Remaining
<b>Income</b>								
410-000 Interest Revenue	2	8	(7)	52	75	(23)	100	48.22%
420-000 Base Rent Revenue	0	725	(725)	8,700	6,525	2,175	8,700	0.00%
435-000 Application Revenue	0	333	(333)	0	3,000	(3,000)	4,000	100.00%
445-000 Agenda Fee	0	0	0	500	0	500	0	0.00%
447-000 Appropriation from Retained Earnings	0	5,672	(5,672)	0	51,048	(51,048)	68,064	100.00%
<b>Total Income</b>	<b>\$2</b>	<b>\$6,739</b>	<b>(\$6,737)</b>	<b>\$9,252</b>	<b>\$60,648</b>	<b>(\$51,396)</b>	<b>\$80,864</b>	<b>88.56%</b>
<b>Expenses</b>								
502-001 Operating Expenses	34	125	(91)	496	1,125	(629)	1,500	66.93%
503-001 Advertising Expense	342	100	242	1,534	900	634	1,200	-27.83%
507-001 Insurance Expense	304	305	(1)	2,740	2,748	(8)	3,664	25.23%
509-001 Professional Services	0	83	(83)	345	750	(405)	1,000	65.50%
511-001 Accounting Expense	0	792	(792)	9,400	7,125	2,275	9,500	1.05%
512-001 Legal Expense	1,000	1,250	(250)	9,000	11,250	(2,250)	15,000	40.00%
519-001 Administrative Expense	4,083	4,083	0	36,750	36,750	0	49,000	25.00%
<b>Total Expenses</b>	<b>\$5,764</b>	<b>\$6,739</b>	<b>(\$974)</b>	<b>\$60,265</b>	<b>\$60,648</b>	<b>(\$383)</b>	<b>\$80,864</b>	<b>25.47%</b>
<b>Net Operating Income</b>	<b>(\$5,763)</b>	<b>\$0</b>	<b>(\$5,763)</b>	<b>(\$51,013)</b>	<b>\$0</b>	<b>(\$51,013)</b>		

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**The Industrial Development Board of the County of Knox**  
**Income Statement with Prior Year Comparison**  
For the 9 Periods Ended December 31, 2020

	<u>April 2020 - December 2020</u>	<u>April 2019 - December 2019 (PY)</u>
<b>Income</b>		
410-000 Interest Revenue	52	141
420-000 Base Rent Revenue	8,700	8,700
435-000 Application Revenue	0	22,000
445-000 Agenda Fee	500	0
<b>Total Income</b>	<b>\$9,252</b>	<b>\$30,841</b>
<b>Gross Profit</b>	<b>\$9,252</b>	<b>\$30,841</b>
<b>Expenses</b>		
502-001 Operating Expenses	496	650
503-001 Advertising Expense	1,534	714
507-001 Insurance Expense	2,740	2,748
509-001 Professional Services	345	300
511-001 Accounting Expense	9,400	9,200
512-001 Legal Expense	9,000	10,000
519-001 Administrative Expense	36,750	36,750
<b>Total Expenses</b>	<b>\$60,265</b>	<b>\$60,362</b>
<b>Net Operating Income</b>	<b>(\$51,013)</b>	<b>(\$29,521)</b>
<b>Other Income</b>		
430-000 PILOT Revenue	365,333	407,849
449-000 Oakwood Rent- Restricted	77,000	77,000
<b>Total Other Income</b>	<b>\$442,333</b>	<b>\$484,849</b>
<b>Other Expenses</b>		
587-001 PILOT Payment Expense	365,333	407,849
950-001 Transfer to TDC - Restricted Funds	77,000	77,000
<b>Total Other Expenses</b>	<b>\$442,333</b>	<b>\$484,849</b>
<b>Net Income</b>	<b>(\$51,013)</b>	<b>(\$29,521)</b>

## LEASE AGREEMENT

This LEASE AGREEMENT (this "Lease"), is made and entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, ~~2020~~ January, 2021, by and between **THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX**, a public nonprofit corporation organized under the laws of the State of Tennessee, ("Landlord"), **ELO TOUCH SOLUTIONS, INC.**, a corporation organized under the laws of the State of Connecticut ("Elo") and ~~**ETS PARTNERS DEVELOPMENT, LLC**~~, a Tennessee ~~general partnership~~ limited liability company ("Tenant").

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### RECITALS

Landlord is a public nonprofit corporation organized pursuant to the provisions of Sections 7-53-101 to 7-53-316, inclusive, of the Tennessee Code Annotated, as amended, and is authorized thereunder to acquire, own, lease and dispose of certain real and personal properties, in order to (i) maintain and increase employment, (ii) promote and develop trade, new industry, and commerce, and (iii) induce manufacturing, industrial, governmental and commercial ventures to remain or locate in the State of Tennessee.

In connection therewith and in response to Elo's application and request under Landlord's Property Tax Incentive Program, Landlord has acquired the Real Property (as defined below). Elo submitted an Application under the Property Tax Incentive Program, and Tenant has acquired the Real Property and transferred the Real Property to, or caused the Real Property to be transferred to, Landlord by Special Warranty Deed dated October 30, 2020. Tenant will be the primary tenant under this Lease and improving the Real Property, with Elo operating its business on the Premises under the terms of the Elo Lease (as defined below).

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To induce Elo to consolidate certain of its North American operations and manufacturing facilities in Knoxville, Tennessee, to induce Tenant to acquire the Real Property for approximately \$489,375 and build a new 87,500 square foot office/research/manufacturing/distribution facility on the Real Property at a cost of approximately \$9,900,890,000, to induce Elo to invest at least \$1,965,750,000 in Equipment on the Premises and employ at least 81 employees at the facility, Landlord has acquired the Real Property from Tenant and authorizes Tenant ~~and Elo~~ to invest at least \$11,865,0009,890.00 in Capital Investments on the Real Property and authorizes Elo to invest at least \$1,750,000 in Equipment on the Premises and employ at least 81 employees in accordance with Elo's requirements. Landlord will lease the Real Property to Tenant on the terms and conditions of this Lease.

NOW, THEREFORE, LANDLORD AND TENANT AGREE AS FOLLOWS:

Landlord, for and in consideration of the payments stipulated herein to be made by Tenant, the covenants and agreements hereinafter contained and to be kept and performed by Tenant, does hereby demise, lease, and let unto Tenant, and Tenant hereby hires, leases and rents from Landlord, for the Term and upon the conditions stated herein, the Real Property and Improvements.

### ARTICLE I DEFINITIONS

Section 1.01. Definitions. In addition to words and terms defined in the introductory paragraphs and the Recitals, the following terms and variations thereof have the meanings specified or referred to in this Article I:

“**Act**” means Sections 7-53-101 to 7-53-316, inclusive, of the Tennessee Code Annotated, as amended.

“**Additional Rent**” shall mean all amounts payable by Tenant under this Lease other than Base Rent, including, without limitation, those amounts described in Section 4.04.

“**Application**” means the Application for PILOT executed by Elo as included in the Board Packet distributed at Landlord’s meeting on August 11, 2020, as the same may be amended with the written consent of Landlord.

“**Authorized Tenant Representative**” means Tenant’s Chief Executive Officer, President, or other executive acceptable to Landlord.

“**Base Rent**” has the meaning provided in Section 4.03.

“**Capital Investment**” means capital expenditures of Tenant and/or Elo, including land acquisition costs, construction costs, site preparation work, other tax producing improvements to the Real Property, and Equipment purchases.

“**Commencement Date**” means \_\_\_\_\_, 20\_\_\_\_, January xx, 2021.

“**Compliance Report**” has the meaning provided in Section 5.06(b).

“**Default**” means the happening of any occurrence which, together with the giving of any required notice or the passage of any required period of time, or both, would constitute an Event of Default.

“**Determination Date**” has the meaning set forth in Section 4.02.

“**Determination Date Compliance Points**” has the meaning provided in Section 4.02(a).

“**Elo Lease**” means that certain Lease Agreement dated \_\_\_\_\_, October 30, 2020, by and between Tenant and Elo.

“**Environmental Claims**” has the meaning provided in Section 13.03(a).

“**Environmental Laws**” has the meaning provided in Section 13.01(a).

“**Equipment**” means the equipment, machinery, and other personal property, which Elo may utilize on the Premises for the Project.

“**Event of Default**” has the meaning provided in Section 9.01.

“**Governmental Authority**” means the United States, the State of Tennessee, any political subdivision of either, any court of either of them, and any agency, department, commission, board, bureau or instrumentality of either of them.

“**Hazardous Waste**” has the meaning provided in Section 13.01(a).

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“**Improvements**” means the improvements constructed or to be constructed upon the Real Property and affixed thereto, as provided in the Application, including, without limitation, an approximate 87,500 square foot office/research/manufacturing/distribution facility to be built on the Real Property.

“**Jobs**” means permanent full time and full time-equivalent positions of employment with ~~Tenant~~Elo; the minimum number of Jobs for purposes of this Lease shall be eighty-one (81) positions at the Project, provided, however, that in determining the number of Jobs no more than twenty (20) such positions shall be existing positions retained and relocated from existing locations of Elo located in Knox County, Tennessee. The parties intend that at least sixty-one (61) positions shall be new positions to Knox County, Tennessee, and that no more than twenty (20) positions shall be retained and relocated from Elo’s existing office in downtown Knoxville, Tennessee, leaving at least twenty-five (25) existing Elo positions located in Elo’s existing downtown Knoxville, Tennessee location-; provided however, the term “new Jobs” will include jobs created before the Commencement Date if such job is related to the Project and will be located at the Project after its operations commence. Employees who work at least 36 hours per week and are eligible for full benefits, as provided from time to time during the Term, will be included in any calculation of Jobs under this Lease.

“**Landlord’s Agents**” has the meaning provided in Section 5.05(b).

“**Lease Compliance Information**” has the meaning provided in Section 5.06(a).

“**Legal Requirement**” means any federal, state, local, municipal, foreign, international, multinational or other constitution, law, ordinance, principle of common law, code, regulation, statute or treaty and any court order applicable to the Premises.

“**Lender**” means any lending institution which has extended credit to Tenant that is secured by a Security Instrument.

“**Measurement Period**” means the time period covering the four (4) years after the Commencement Date.

“**Municipality**” has the meaning provided in Section 6.02(b).

“**Organizational Documents**” means with respect to any particular entity, (a) if a corporation, the articles or charter of incorporation and the bylaws; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles of organization and operating agreement; (e) if another type of Person, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the Person; (f) all equity holders’ agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any Person or relating to the rights, duties and obligations of the equity holders of any Person; and (g) any amendment or supplement to any of the foregoing.

“**Permitted Encumbrances**” means the encumbrances on the Real Property as described in Exhibit C, which is attached hereto and incorporated herein.

“**Person**” means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a Governmental Authority.

“Phase I Report” has the meaning provided in Section 13.01(b)(ii).

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“Plans and Specifications” means the plans and specifications for the construction of the Improvements prepared by Tenant and submitted to Landlord, together with any addenda thereto and modifications thereof.

“Premises” means the Real Property, together with the Improvements on such Real Property and the Equipment, all whether located on the Real Property at the time of the execution of this Lease, or at any time thereafter.

“Project” means the completed Improvements by Tenant, the Equipment, the conveyance of the Real Property to Landlord, the leasing of the Real Property by Tenant from Landlord, and the work of constructing the Improvements on the Real Property, as well as the expenditure of the Capital Investment, and the creation and maintenance and/or retention of the Jobs and the Wages pursuant to the terms of this Lease and the Application.

“PTIP” means Landlord’s Property Tax Incentive Program and the payments in lieu of taxes to be paid in accordance with Section 6.02 hereof.

“PTIP Policies and Procedures” means the Policies and Procedures of Landlord with regard to the PTIP, a copy of which is attached hereto as Exhibit E and incorporated herein by reference, as the same may be modified from time to time by Landlord.

“Purchase Option” has the meaning provided in Section 11.01.

“Real Property” means the real property generally referred to as 2439 Bertelkamp Lane, Knoxville, Tennessee, Parcel ID 10401508, Hardin Business Park, in Exhibit A attached to this Lease and the Improvements.

“Related Documents” has the meaning provided in Section 12.06.

“Report” has the meaning provided in Section 5.06(a).

“Security Instrument” means any deed of trust, security agreement, assignment, pledge, hypothecation, conditional sale agreement, chattel paper, financing statement or other instrument or document encumbering the Real Property or Elo’s leasehold interest therein, all as amended from time to time. (not including the Elo Lease).

“Tax Payment” has the meaning provided in Section 6.02, Section 6.02(a)(i).

“Tax Year” has the meaning provided in Section 6.02, Section 6.02(a)(ii).

“Tenant” means the legal entity or natural person identified in the first paragraph of this Lease, or any permitted transferee or assignee pursuant to Section 3.06.

“Tenant Documents” means this Lease and such deeds, bills of sale, assignments, subleases, estoppel certificates, subordination agreements, nondisturbance and attornment agreements and other instruments and documents evidencing and providing for the transactions and obligations contemplated herein, as the same may be amended, modified and supplemented from time to time.

“**Term**” means the term of this Lease, as provided in Section 4.01.

“**Wages**” means wages paid by Elo to its employees on an annual basis.

Section 1.02. Usage.

(a) In this Lease, unless a clear contrary intention appears:

(i) the singular number includes the plural number and vice versa;

(ii) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Lease, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(iii) reference to any gender includes each other gender;

(iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;

(v) reference to any Legal Requirement means such Legal Requirement as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Legal Requirement means that provision of such Legal Requirement from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;

(vi) “hereunder,” “hereof,” “hereto,” and words of similar import shall be deemed references to this Lease as a whole and not to any particular Article, Section or other provision hereof;

(vii) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term;

(viii) “or” is used in the inclusive sense of “and/or”;

(ix) with respect to the determination of any period of time, “from” means “from and including” and “to” means “to but excluding”; and

(x) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

(b) This Lease was negotiated by the parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to any construction or interpretation hereof.

(c) Any capitalized terms not specifically defined herein shall have the meanings assigned to them in the Application.

**ARTICLE II  
CONSTRUCTION AND/OR RESTORATION**

Section 2.01 Capital Investment; Construction. Tenant has or shall make the Improvements provided in the Application and shall cause the Project to be undertaken and the Improvements to be completed at its expense substantially in accordance with the Plans and Specifications and the Application within the Measurement Period. In order to accomplish the construction of the Improvements, Tenant is hereby authorized to execute in its own name, without reference to Landlord, all necessary contracts, agreements, purchase orders, and related documents. In no event shall Landlord be liable under any such contracts, agreements, purchase orders, and other related documents. For purposes of this Agreement, the term “completed” shall mean the issuance by applicable Governmental Authorities of a certificate of occupancy with respect to each element of the Improvements.

Section 2.02 Rights against Contractors, Etc.

(a) Tenant agrees, pursuant to the authority and power granted in the preceding paragraph, to proceed with the construction, renovation and equipping of the Improvements (not including the purchase or installation of the Equipment) with due diligence, in a good and workmanlike manner and in compliance with all Legal Requirements.

(b) Upon completion of the Improvements and the request of Tenant, Landlord will assign to Tenant (if any of the following inure to the benefit of Landlord) (i) all warranties and guaranties of any and all contractors, subcontractors, suppliers, and architects for the furnishing of labor, materials or supervision in connection with the Improvements or any part thereof, and (ii) any and all rights or causes of action against any of the foregoing Persons.

(c) If any contractor or subcontractor breaches any contract with Tenant or Tenant’s contractor related to the Improvements, Tenant may, at its expense, either in its own name or in the name of Landlord, prosecute or defend any action or proceeding related to the construction and equipping of the Project or take any other action involving any such contractor, subcontractor, surety, or supplier that Tenant deems reasonably necessary. Landlord will cooperate fully with Tenant and, at Tenant’s expense, will take all action necessary to effect any necessary substitution of Tenant for Landlord in such action or proceeding related to the construction and equipping of the Project. Tenant shall indemnify Landlord from all claims, damages, liability, attorneys’ fees, and court costs, if Tenant prosecutes or defends any such action or proceeding or takes any other action in Landlord’s name. Landlord shall pay to Tenant any net amounts recovered and actually received by Landlord as damages, refunds, adjustments, or otherwise in connection with the foregoing.

Section 2.03 Agency Appointment. Landlord hereby makes, constitutes and appoints Tenant as its true and lawful agent, and Tenant hereby accepts such agency, (a) to construct the Improvements, (b) to make, execute, acknowledge and deliver any contracts, order, receipts, writings and instructions, either in Tenant’s name or as the stated agent for Landlord, with any other Person, and in general to do all things which may be requisite or proper, all for the construction of the Improvements with the same powers and with the same validity as Landlord could do if acting in its own behalf, (c) pursuant to the provisions of this Lease, to pay all fees, costs and expenses incurred in the construction of the Improvements, and (d) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever that may be due, owing and payable to Landlord under the terms of any contract, order, receipt, writing or instruction in connection with the construction of the Improvements, and to enforce the provisions of any contract, agreement, obligation, bond or other performance security. So long as an Event of Default has not occurred, this appointment of Tenant to act as agent and all authority hereby conferred

are granted and conferred irrevocably to the completion date of the Project and thereafter until all activities in connection with the construction and equipping of the Project shall have been completed, and shall not be terminated prior thereto by any act of Landlord or of Tenant or by operation of law.

**ARTICLE III  
TERM AND CONCURRENT AGREEMENTS**

Section 3.01 Capital Investment, Jobs and Wages. ~~Elo and Tenant each~~ ratifies its representations made in the Application, agrees to comply with all terms and conditions of the Application, and acknowledges that it has represented the following, among other things, in the Application:

(a) That the Project will result in the creation/retention during the Measurement Period, and maintenance throughout the Term following the Measurement Period, of at least **81** Jobs paying Wages, on average of **\$74,577** per new Job; and

(b) That Tenant has or will acquire the Real Property for approximately **\$489,375**, make Improvements to the Real Property in an amount equal to at least **\$9,900,890,000** and Elo, in conjunction with the Improvements to the Real Property made by Tenant, will make other Capital Investment in the Project of at least **\$1,965,750,000** during the Measurement Period, for a total investment of **\$12,354,129,375**;

(c) All representations and warranties in the Application shall be deemed representations and warranties of Elo under this Lease.

provided, however, that Elo shall not be deemed to have breached these covenants, warranties and representations as to Jobs, Wages, and Capital Investment, unless an Event of Default exists pursuant to Section 9.01(b).

Section 3.02 Use of Project and Compliance with Laws. Tenant shall promptly comply, cause compliance with, or obtain waivers of, all Legal Requirements applicable to the Real Property and Improvements, at no expense to Landlord, whether or not the same are foreseen or unforeseen, ordinary or extraordinary. Tenant shall throughout the term of this Lease cause the Real Property and Improvements to be used in a manner that will constitute a "project" within the meaning of Section 7-53-101 of the Act. Tenant ~~has represented~~represents to Landlord ~~in that during~~ the ~~Application that Term~~ it will complete and use the Project solely for the purpose of consolidating certain of Elo's North American operations and manufacturing facilities and building a new 87,500 square foot office/research/manufacturing/distribution facility, ~~and create and retain the Jobs at the Wages~~ and make the Capital Investment, all as set out and defined in the Application. Any proposed changes in the use and operation of the Real Property and Improvements from the terms of this Agreement must be submitted to Landlord for advance written approval. Pursuant and subject to the provisions of Article IX of this Lease, Landlord reserves the right to terminate this Lease if the use of the Real Property and Improvements becomes materially inconsistent with the representations summarized above and as stated in the Application; but no such termination shall be effective unless Landlord shall first give Tenant not less than ninety (90) days' notice of intent to terminate and Tenant shall not have cured such default within such ninety (90) day period. ~~All representations and warranties in the Application shall be deemed representations and warranties under this Lease.~~

Section 3.03 Contesting Laws. Tenant shall not be required to comply or cause compliance with the Legal Requirements referred to in Section 3.02, so long as Tenant shall give written notice to Landlord, and at its expense, shall contest the same or the validity thereof in good faith and in accordance with applicable law. Such contests may be made by Tenant in the name of Landlord or of Tenant, or both, as Tenant shall determine, and Landlord agrees that it will, at Tenant's expense, cooperate with Tenant therein,

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as Tenant may reasonably request. At Landlord's option, Tenant shall provide Landlord with such security reasonably satisfactory to Landlord for the purpose of indemnifying Landlord from all claims, damages, liabilities, attorneys' fees, and court costs, if Tenant shall pursue any claim or right in Landlord's name.

Section 3.04 Landlord's Title to Real Property. Landlord has or will acquire title to the Real Property subject to the Permitted Encumbrances. Until such time as this Lease has been terminated after the occurrence of an Event of Default ~~or otherwise~~, Landlord will not, without the prior written consent of Tenant, directly or indirectly create or consent to the creation or existence of any lien or encumbrance (other than as requested by Tenant in writing) upon the Real Property or Improvements or Landlord's interest therein, or convey title to the Real Property or Improvements in any manner whatsoever, except as otherwise provided herein or as requested or approved by Tenant in writing. Landlord will promptly consent to, and allow Tenant to place, any easements (including, but not limited to, the dedication of a portion or portions of the Real Property for public use) on the Real Property, which Tenant believes are necessary for the operation thereof. Landlord will promptly execute any and all documents reasonably requested by Tenant to grant such easements. The form and content of such documents shall be acceptable to Landlord and its counsel and shall provide that Landlord and its agents will not incur any obligations or liabilities as a result of granting and otherwise entering into such easements. Notwithstanding the foregoing sentence or any provision to the contrary in the documents granting any such easements, Tenant agrees to pay and perform any and all obligations and liabilities of the grantor or Landlord set forth in such documents and shall indemnify Landlord and hold Landlord harmless from and against any and all such obligations and liabilities.

Section 3.05 Additional Encumbrances: Subordination; Estoppel.

(a) Provided that no Event of Default shall have occurred hereunder, and provided that Landlord is notified in writing of the details of any proposed transaction prior to the closing of such transaction, Tenant shall have the right to encumber by one or more Security Instruments its right to use and occupy the Real Property and Improvements, or portions thereof. Any and all such encumbrances of Tenant's leasehold estate shall, however, at all times be subject to the fee interest of Landlord (unless subordinated to such encumbrances as hereinafter provided) and shall impose no personal liability on Landlord. Tenant shall indemnify Landlord against any losses, costs or expenses (including reasonable attorneys fees), which Landlord may incur as the result of executing any such encumbrance or subordination agreement requested by Tenant. Upon the execution and recordation of any Security Instrument, Tenant shall notify Landlord that such Security Instrument has been executed and delivered by Tenant, and Landlord shall also be furnished with the address of the Lender involved in such encumbrance, to which copies of notices are to be mailed. Landlord will thereafter contemporaneously mail to such Lender a duplicate copy of any and all notices in writing that Landlord may, from time to time, give or serve upon Tenant under this Lease. If a Lender requires Landlord to execute any certificate or other closing documents, Tenant shall be responsible to reimburse Landlord's actual expenses, costs, and reasonable attorneys' fees incurred in reviewing closing documents or otherwise expended by Landlord as a result of Tenant's transactions.

(b) Any Lender may, at its option, at any time before the rights of Tenant shall have been terminated, as provided for herein, pay any of the rent due hereunder or do any other act or thing required ~~or permitted~~ of Tenant by the terms hereof, or do any act or thing which may be necessary and proper to be done in the observance of the covenants and conditions hereof, in order to prevent the termination of this Lease- ~~or to exercise the option to purchase set forth in Section XI.~~ All payments so made, and all things so done and performed, by such Lender shall be as effective to prevent a termination of the rights of Tenant hereunder as the same would have been, if done and performed by Tenant.

(c) Any Security Interest to be executed by Landlord at the request of Tenant shall include no-recourse provisions stating that Landlord shall incur no personal or individual liability whatsoever as a result of entering into the Security Instrument, and these provisions shall have no exceptions to, or carve-outs from, the no-recourse covenant. In addition, any lien, encumbrance, mortgage or security interest evidenced by the Security Instrument shall be subordinate in right and dignity to the lien in favor of Landlord securing Tenant's obligation to make the rent payments, the payments in lieu of taxes and other amounts due to Landlord under this Lease.

(d) If requested by Tenant, Landlord shall subordinate its fee interest in the Real Property and Improvements to any Security Instrument in favor of any Lender, and to the right, title and interest of any Lender in and to the Real Property and Improvements. The subordination shall be in the form and content reasonably requested by Tenant on behalf of such Lender, including, without limitation, the execution of a Security Instrument in favor of such Lender encumbering the fee interest of Landlord; provided, however, in the event of Landlord's execution of any such subordination or Security Instrument, Tenant agrees to indemnify Landlord against any losses, costs or expenses which Landlord may incur as a result of executing any such subordination or Security Instrument. Any such subordination or Security Instrument shall provide that Landlord shall incur no personal liability or obligation as a result of entering into the subordination or the Security Agreement.

Landlord acknowledges that, subject to the statutory lien for payments in lieu of taxes, the interests of a Lender in the Real Property and Improvements shall take priority at all times as necessary in order to protect and preserve the existence and priority of the collateral or security interest and/or lien rights of such Lender in and to the Real Property and Improvements, while at the same time preserving for such Lender the rights set forth herein and in Section 9.03 to cure any defaults by Tenant hereunder.

Section 3.06 Subletting and Assignment. Tenant shall not assign its interest in this Lease or sublet the Real Property and Improvements or any interest therein without the prior written consent of Landlord; provided, however, that Tenant may sublet the Real Property and Improvements to Elo pursuant to the Elo Lease ~~or assign the Elo Lease to Elo upon prior written notice to Landlord.~~ Any permitted assignment or subletting of the Real Property and Improvements shall be only for the purposes set forth in the Application and this Lease. Any permitted sublease shall be subject and subordinate to the terms of this Lease. Tenant shall give Landlord thirty (30) days' notice of any proposed assignment or subletting of the Real Property and Improvements, and if Landlord consents thereto, shall provide Landlord with an instrument executed by the assignee or sublessee(s) of the Real Property and Improvements certifying that the assignment or sublease of the Real Property and Improvements is in force and is subject to all of the terms and provisions of this Lease. If a transfer, assignment or sublease will, in Landlord's opinion, result in a change in the use and operation of the Real Property and Improvements from that specified in the Application or if, as a result of any proposed sublease or assignment of the Real Property and Improvements, the beneficiary of the PTIP incentives would be a party other than Tenant ~~or Elo~~, then Landlord may withhold its consent. Notwithstanding the foregoing, the parties acknowledge that the Elo Lease will not result in a change in the use or operation of the Real Property and Improvements nor will it result in a person other than Tenant ~~or Elo~~ being a beneficiary of the PTIP incentives. The Elo Lease shall not be modified by Tenant or Elo without the consent of Landlord. Granting any consent under this Section will be at the sole discretion of Landlord and, if granted, may be subject to Tenant and the transferee, assignee, and sublessee filing a new application for PTIP incentives with Landlord, paying any fees due with respect to such new application or transfer, and otherwise complying with the PTIP Policies and Procedures.

Section 3.07 Default of Tenant Under Lease. If, for any reason, Tenant causes an Event of Default to terminate ~~this Lease, and Tenant does not exercise the Leaseoption to purchase the Real Property~~

set forth in section 11.01 below during the applicable time period, then Elo agrees that (a) it will continue and assume and obtain all rights, remedies and obligations of Tenant under this Lease ~~and that the~~, specifically including without limitation the right to exercise the Purchase Option in accordance with Section 11.01 below, and (b) this Lease will otherwise continue between Landlord and Elo unaffected by the default of Tenant; provided, however, that, if this Lease is terminated as a result of an Event of Default by Tenant prior to completion of the Improvements in accordance with Section 2.01 above, then Elo shall have the right to terminate this Lease in its entirety upon thirty (30) days' written notice to Landlord whereupon the Elo Lease shall also be automatically terminated. Landlord's continuation of the Lease between Landlord and Elo will not abridge or limit any remedies Landlord may have against Tenant for its default under the Lease.

#### ARTICLE IV TERM AND RENT

Section 4.01 Demise and Term. Subject to the terms and provisions of this Lease, this Lease shall be and remain in full force and effect for a term commencing on the date of this Lease and ending on ~~20~~ January ~~xx~~, 2026 ("Term"). The Lease may be terminated at an earlier date or extended in accordance with the terms and conditions of this Lease.

Commented [A3]: 5 year term

Section 4.02 Report on Determination Date. Within thirty (30) days after the fourth (4<sup>th</sup>) anniversary of the Commencement Date ("Determination Date"), Elo shall deliver to Landlord and Tenant the Compliance Report in accordance with Section 5.06(c) which Landlord shall use to determine the Determination Date Compliance Points (as defined below) in accordance with this Section 4.02.

(a) Landlord will evaluate the Compliance Report in accordance with the following criteria and award points based upon Elo's actual performance and compliance with the Application and this Lease in accordance with the following criteria:

(i) Landlord will award points based on the Capital Investment made by Elo and Tenant respecting the Project as of the Determination Date as described in the PTIP Policies and Procedures in effect as of the date hereof.

(ii) The Board will award points based upon the number of Jobs, which were created and maintained over the Determination Period, and the average Wages paid per such Job, in each case, as described in the PTIP Policies and Procedures in effect as of the date hereof.

Landlord will determine the number of points for which Elo and Tenant qualified pursuant to the above criteria (the "Determination Date Compliance Points") and will evaluate the performance of Elo and Tenant under this Lease and the Application. Landlord and Tenant will use the Determination Date Compliance Points to determine the Recapture Payment, if any, under Section 9.04(c).

(b) ~~Tenant~~Elo shall pay all reasonable expenses incurred by Landlord in evaluating Elo's and Tenant's performance, including consulting fees, auditing fees and reasonable attorney fees.

Section 4.03 Base Rent. Tenant shall pay to Landlord without notice, setoff or demand as base rent ("Base Rent") the sum of Two Thousand Dollars (\$2,000.00) per annum, payable on the date on which the payment in lieu of taxes is required pursuant to Section 6.02 herein is due and payable, as rent for the Real Property and Improvements.

Section 4.04 Additional Rent.

(a) Tenant covenants and agrees at its expense to acquire and construct or cause to be acquired and constructed the Improvements and to ~~cause Elo to~~ acquire and place in service the Equipment, in each case, as described in the Application and Section 2.01 hereof for a total Capital Improvement of at least ~~\$12,354,129,375~~. It is understood and agreed that such Improvements shall become the property of Landlord and part of the Real Property leased hereunder. The cost of the acquisition and construction of the Improvements shall be treated as “Additional Rent” payable by Tenant under this Lease.

(b) Tenant shall also pay, as Additional Rent, those amounts set out in Article VI hereof and all other sums which Tenant shall be obligated to pay hereunder, whether or not such sums are specifically designated as Additional Rent, and debt service payable by Tenant with respect to any loan secured in whole or in part by a security interest in the Real Property and Improvements or Tenant’s interest therein. Tenant shall also pay, as Additional Rent, all reasonable sums advanced by Landlord for or on behalf of Tenant hereunder. The Additional Rent shall be due by Tenant in accordance with the applicable provisions of this Lease and, if no date is specified, then on demand. Any sums advanced by Landlord for or on behalf of Tenant shall bear interest at the lesser of (i) the prime rate of interest as published in the Wall Street Journal, as adjusted from time to time, plus 2.00% per annum, or (ii) the maximum rate allowed by law, and shall be due and payable on demand.

Section 4.05 Net Lease. This Lease is a “net lease” and the Base Rent, Additional Rent and all other sums payable hereunder to or for the account of Landlord shall be paid promptly and without set-off, counterclaim, abatement, suspension, deduction, diminution or defense.

#### **ARTICLE V REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION; COMPLIANCE REPORT**

Section 5.01 Representations and Covenants of Landlord. Landlord is a public nonprofit corporation, duly incorporated, validly existing and in good standing under the laws of the State of Tennessee, and is validly organized pursuant to the provisions of the Act. Landlord is authorized and empowered by the provisions of the Act, and has all requisite corporate power and authority to execute and deliver and perform its obligations under this Lease. No consents of any third parties are required nor are any regulatory filings required to be made in order for Landlord to execute this Lease and consummate the transactions herein. This Lease has been duly authorized, executed and delivered on behalf of Landlord and constitutes the legal, valid and binding obligation of Landlord enforceable in accordance with its terms subject to bankruptcy and other creditors’ rights laws and principles of equity. The execution, delivery and performance by Landlord of this Lease will not contravene or constitute a default under any provision of any Legal Requirement, the Organizational Documents of Landlord or of any contract, agreement, judgment, order, decree, or other instrument binding on Landlord.

Section 5.02 Representations and Warranties of Tenant and Elo. Tenant and Elo, ~~as each states below~~ as to itself only, hereby ~~represent~~ represents and ~~warrant~~ warrants as follows to Landlord:

(a) Tenant is a general partnership duly organized, validly existing, and in good standing under the laws of the State of Tennessee, with full company power and authority to conduct its business as it is now being conducted and to own or use the properties and assets that it purports to own or use. Elo is a corporation company duly incorporated, validly existing, and in good standing under the laws of its jurisdiction of organization, with full company power and authority to conduct its business as it is now being conducted and to own or use the properties and assets that it purports to own or use. Elo is duly qualified to do business as a foreign corporation and is in good standing under the laws of the State of Tennessee.

(b) Each of Tenant and Elo has all requisite power, authority and legal right to: (i) execute and deliver this Lease and all other instruments and documents to be executed and delivered by Tenant or Elo pursuant hereto; (ii) perform and observe the provisions thereof; and (iii) carry out the transactions contemplated thereby. All action on the part of Tenant or Elo which is required for the execution, delivery, performance and observance by Tenant or Elo of this Lease has been duly authorized and effectively taken.

(c) ~~Tenant and Elo each~~ represents that it has directed Landlord to acquire the Real Property in accordance with the PTIP.

(d) This Lease constitutes the legal, valid and binding obligation of Tenant and Elo enforceable against each of Tenant and Elo in accordance with its terms subject to bankruptcy and other creditors' rights laws and principles of equity.

(e) ~~The Elo~~ represents that the Application does not contain any untrue statement or omit to state a material fact necessary to make the statements therein or in this Lease, in light of the circumstances in which they were made, not misleading. No representation of ~~Tenant or Elo~~, or information disclosed by ~~Tenant or Elo~~, in the Application omits to state a material fact necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

(f) Each of Tenant and Elo is not in material default under or violating, and none of the execution and delivery of this Lease, consummation of the transactions contemplated hereby or compliance with the terms and conditions hereof will conflict with, constitute a breach of or a default under, or violate, any material agreement or instrument to which Tenant or Elo is a party or by which Tenant or Elo or any of Tenant's or Elo's property is bound and which has not been waived, or to Tenant's or Elo's knowledge, any Legal Requirement. To Tenant's and Elo's knowledge no event has occurred or is continuing which constitutes a default under or which, with the lapse of time or giving of notice or both, would constitute a default under any of the foregoing.

(g) There is no action, suit or proceeding at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of Tenant or Elo, threatened against Tenant or Elo or any of its properties which might adversely affect the validity of this Lease or the transactions contemplated hereby.

(h) Neither the execution and delivery of this Lease or the other Tenant Documents nor the consummation or performance of any of the transactions contemplated thereby will, directly or indirectly (with or without notice or lapse of time):

(i) breach (A) any provision of any of the Organizational Documents of Tenant or (B) any resolution adopted by the members, managers or board members or the shareholders of Tenant;

(ii) breach any of the transactions contemplated by the Tenant Documents or give any Governmental Authority or other Person the right to exercise any remedy or obtain any relief under any Legal Requirement or any judgment or order to which Tenant may be subject;

(iii) contravene, conflict with or result in a violation or breach of any of the terms or requirements of, or give any Governmental Authority the right to revoke, withdraw, suspend, cancel, terminate or modify, any license, permit, or other authorization that is held by Tenant or that otherwise relates to the Real Property and Improvements or to the business of Tenant; or

(iv) breach any provision of, or give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or payment under, or to cancel, terminate or modify, any agreement, document or contract to which Tenant is a party or by which Tenant may be bound.

(i) Except as may be required by its Organizational Documents or any consents already received, neither Tenant nor Elo is required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Lease, the other Tenant Documents, or the consummation or performance of any of the transactions contemplated therein or herein.

(j) Tenant and Elo estimate the cost of all Improvements and Equipment for acquiring, constructing and equipping the Project to be ~~\$12,354,129~~,375.

(k) Tenant and Elo jointly assume responsibility for and will comply with all covenants and deed restrictions on the Premises, including those of record in the Register of Deeds' office for Knox County, Tennessee, and any covenants and restrictions specifically listed on Exhibit A, and specifically including the Hardin Business Park Amended and Restated Design Standards and Restrictive Covenants filed of record as Instrument No. 201210040022318, as amended and restated by Instrument No. 201211140031976, as amended and restated by Instrument No. 201310290027429, as amended by Instrument No. 201412190033884, all in the office of the Register of Deeds' office for Knox County, Tennessee

(l) Late Fee. In addition to any other amounts payable pursuant hereto, in the event of the occurrence of a Default by Tenant or Elo in connection with obligation, including any payment obligation hereunder, upon demand by Landlord, Tenant and Elo shall pay to Landlord a late fee equal to \$150.00, such late fee constituting a reasonable estimate of the additional costs incurred by Landlord in connection with such Default.

**Section 5.03 Acceptance of Improvements, No Warranties. Tenant and Elo acknowledge and agree that (a) each has examined and is fully familiar with the Premises, (b) the Plans and Specifications for the construction of the Improvements have been prepared at Elo's direction and (c) the Improvements are to be constructed under ~~Elo's~~Tenant's supervision. Accordingly, Landlord makes no representation or warranty, either express or implied, and offers no assurance to Tenant, Elo or any other Person regarding the condition or title of the Premises, the suitability of the Improvements for Elo's or Tenant's purposes or needs, or the availability or sufficiency of funds to pay in full the cost of the Project. As to Landlord, Tenant accepts the Real Property and Improvements in their AS-IS CONDITION WITH ALL FAULTS as of the date of the commencement of the Term, and assumes all risks, if any, resulting from the failure of the Project to be completed or to comply with all applicable Legal Requirements.**

**Section 5.04 Failure or Defect in Title.** Landlord shall not be liable to Tenant or to anyone for any damages resulting from (a) failure of, or any defect in, Landlord's title which interferes with, prevents, or renders burdensome the use or occupancy of the Real Property and Improvements or the compliance by Tenant with any of the terms of this Lease, or (b) delay in obtaining possession of all or any part thereof, from any cause whatsoever. No such failure of, or defect in, Landlord's title or delay in possession shall terminate this Lease or entitle Tenant to any abatement in whole or in part, of Base Rent, Additional Rent, or any other sums payable by Tenant pursuant to the terms of this Lease. Notwithstanding the foregoing, Landlord will use its best efforts to avoid any failure of, or defect in, Landlord's title or delay in possession, other than the exercise by Landlord of any of its rights or remedies hereunder.

Section 5.05 Release and Indemnification.

(a) Tenant and Elo each releases and forever discharges Landlord, including any incorporator, member, director, officer, employee, counsel or agent of Landlord, and its successors and assigns from any claims, demands, causes of action, accounting, or any other matter arising in connection with the Project, except to the extent caused by the intentional acts or gross negligence of Landlord.

(b) Tenant and Elo each covenants and agrees, at its expense, to pay, and to indemnify and save harmless Landlord, and any incorporator, officer, director, agent, counsel, or employee of Landlord (collectively, "Landlord's Agents"), against and from any and all claims by or on behalf of any Person, other than those resulting from the intentional acts or gross negligence of Landlord, arising from (i) the occupation, use, possession, conduct, or management of, or from any work done in or about, the Real Property and Improvements or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, and Legal Requirements affecting the Project or the occupancy or use of the Real Property and Improvements, (ii) any condition of the Real Property and Improvements and the adjoining sidewalks and passageways, (iii) any breach or default on the part of Tenant or Elo in the performance of any covenant or agreement to be performed by Tenant or Elo pursuant to this Lease, (iv) any act or negligence of Tenant or Elo, or any of its agents, contractors, servants, employees, or licensees, (v) any accident, injury, or damage whatsoever caused to any Person in or about the Real Property and Improvements or upon or under the sidewalks, (vi) Landlord's ownership of the Real Property and Improvements, the making of this Lease or any transactions related thereto, and from and against all costs, reasonable attorneys' fees, expenses, and liabilities incurred by reason of any claim referred to in this Section, and (vii) any obligations arising under any easements granted by Landlord at the request of Tenant or Elo.

(c) Upon notice from Landlord, Tenant and Elo shall defend Landlord or any of Landlord's Agents, in any action or proceeding brought in connection with any of the above. In the event Tenant or Elo shall fail or refuse to defend Landlord or Landlord's Agents after receipt of such notice or shall fail to diligently prosecute or defend any action subject to this Section 5.05, Landlord shall be entitled to provide its own defense of itself and Landlord's Agents and charge Tenant with the costs and expenses incurred in connection therewith which such amount shall be payable by Tenant upon demand by Landlord.

(d) The provisions of this Section 5.05 shall survive the termination of this Lease.

Section 5.06 Reports: Compliance Report.

(a) On or before the February 28 after the anniversary of the execution of this Lease and thereafter on or before the February 28 of each year during the Term of this Lease, Elo shall file or cause to be filed with Landlord a report in the form of Exhibit D attached hereto and incorporated herein by reference, as such form may be revised by Landlord from time to time (the "Report"), containing all information required by Landlord to determine Elo's and Tenant's compliance with the terms and requirements of this Lease and the Application and such other information reasonably requested by Landlord ("Lease Compliance Information"). Each Report shall be certified by an Authorized Tenant Representative officer of Elo. Upon the request of Landlord, Elo shall provide any and all other additional information reasonably requested by Landlord to determine Tenant's/Elo's compliance with the Lease and the Application.

(b) Within ninety (90) days after the Determination Date, Elo shall file or cause to be filed with Landlord the following (collectively, the "Compliance Report"):

(i) a report in the form attached hereto as Exhibit D detailing the information required pursuant to Section 5.06(a) above as of the Determination Date;

(ii) a certified listing of all full time employees of Elo employed at the Project as of the Determination Date which includes for each employee their title, date hired, and annual wage (assuming 2080 hours per year for hourly employees) ("Employee Listing"), and attaching (in each case, redacting any personally identifiable information of any employees, as applicable) (A) a copy of Elo's most recently filed Form 940, highlighting the information applicable to the employees employed at the Project, (B) a copy of each Form 941 filed by Elo since such most recently filed Form 940, highlighting the information applicable to the employees employed at the Project, and (C) statements from Elo's payroll processor detailing unemployment insurance premiums paid to the state of Tennessee during the Determination Period, together with a copy of Elo's most recently filed wage and premium filings with the Department of Labor and Workforce Development for the State of Tennessee and, if applicable, the most recently filed Multiple Worksite Report filed with such department;

(iii) a ~~certified listing of each invoice paid~~ certification by ~~Tenant or Elo evidencing, certifying the total~~ Capital Investment of Tenant and Elo with respect to the Project as of the Determination Date ~~which includes for each such invoice the invoice date, date of payment, payee name, amount, in form and brief description of expenditure/purpose ("Capital Improvements Invoice Listing")~~, substance reasonably satisfactory to Landlord together with copies of ~~each such invoice~~ or access to such other supporting documentation as Landlord may reasonably request; and

(iv) such other detail, backup and supporting information requested by Landlord in its ~~sole and absolute~~ reasonable discretion which confirms the expenditures evidencing the Capital Investment and the number of Jobs and average Wages, in each case, as of the Determination Date.

Such Compliance Report shall be certified by an authorized representative of Elo. The obligations of ~~Tenant and~~ Elo under this Section 5.06(b) shall survive the termination of this Lease. The parties acknowledge that Landlord shall utilize the information required to be provided pursuant to this Section 5.06(b) to assist in determining whether a Recapture Payment is due and payable by Tenant pursuant to Section 9.04(c).

(c) Elo shall prepare and file with the State of Tennessee's State Board of Equalization by October 1 of each year during the term hereof an annual report containing all of the information required pursuant to Tennessee Code Annotated § 7-53-305(e), together with such other information, and using such forms, as such Board of Equalization may require from time to time. A copy of the annual report so filed by Elo shall be filed with the property assessor's office of Knox County, Tennessee by the immediately succeeding October 15, and a copy concurrently provided to Landlord.

(d) Upon the request of Landlord, Tenant and Elo shall provide any and all information reasonably requested by Landlord to determine Tenant's and Elo's compliance with the Lease and the Application. Further, Landlord shall have the right during the Term and for four (4) years thereafter to audit, at Elo's expense, the books and records of Tenant and Elo to ensure compliance with Section 5.06 and any other provisions of this Lease.

**ARTICLE VI  
TAXES, OTHER CHARGES AND EXPENSES OF LANDLORD**



Section 6.01 Agreement to Pay Additional Rent. Tenant or Elo, as applicable, agrees to pay and discharge, as Additional Rent, during the Term hereof, punctually, as and when the same shall become due and payable:

(a) All expenses and obligations of every kind and nature, foreseen or unforeseen, for the payment of which Landlord or Tenant is or shall become liable by reason of their respective estates or interests in the Real Property and Improvements or any portion thereof, by reason of any right or interest of Landlord or Tenant in or under this Lease, or by reason of or in any manner connected with or arising out of the possession, operation, maintenance, alteration, repair, rebuilding, use, or occupancy of the Real Property and Improvements or requirements of this Lease.

(b) All taxes of every type and description, assessments (including, but not limited to, assessments for public improvements or benefits), payments in lieu of taxes, and all other impositions and charges of every kind and nature, extraordinary or ordinary, general or special, which at any time during the Term shall be or become due and payable by Landlord or Tenant which shall be levied, assessed, or imposed in connection with the Project or the Real Property and Improvements.

(c) All charges for gas, water, sewer, electricity, light, heat, power, telephone, and other utilities and services used, rendered or supplied to or in connection with the Real Property and Improvements which are required to be paid by Landlord. Tenant agrees that Landlord is not, nor shall it be required, to furnish to Tenant or any other occupant, any gas, water, sewer, electricity, light, heat, power, or any other facilities, equipment, labor, materials, or services of any kind. Landlord will extend any rights it may have to Tenant, and will cooperate with Tenant, at Tenant's expense, in connection with obtaining the use of any such utilities and other facilities and services.

(d) The reasonable out of pocket expenses of Landlord which are incurred in connection with administering the Real Property and Improvements and the Project or performing any act which it is required to do ~~or deems necessary~~ under this Lease, but specifically excluding salaries, office overhead, depreciation, or security.

(e) All of Landlord's closing costs and reasonable expenses, including reasonable attorneys' fees, incurred in connection with the acquisition of the Real Property by Landlord and the negotiation, execution and delivery of this Lease.

(f) Elo, on behalf of Tenant, shall pay a closing fee in an amount equal to **\$11,325.00** at the execution and delivery of this Lease by Tenant, such payment to be a condition precedent to the effectiveness of this Lease.

(g) ~~All~~ Elo shall pay all fees and charges required by the Application.

Tenant covenants to furnish to Landlord, promptly upon request, proof of the payment of any amount or charge required to be paid by Tenant hereunder.

Section 6.02 Payments in Lieu of Taxes.

(a) Landlord and Tenant recognize that under present law, including specifically Section 7-53-305 of the Act, the properties owned by Landlord are exempt from all taxation in the State of Tennessee. Tenant agrees, however, as long as this Lease is in effect, to make payments in lieu of taxes ("PTIP Payments") to Knox County, Tennessee, in accordance with the provisions of this Section 6.02.

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(i) Beginning on the date of the Lease and for any successive Tax Years during the Term, Tenant shall be required to pay to Knox County, Tennessee as payments in lieu of taxes an amount approximating fifty percent (50%) of the ad valorem taxes which would otherwise be payable with respect to the subject real property each year, ~~less an amount equal to \$3,321.00~~, such amount to be determined by Landlord in its reasonable discretion using the most recent assessment of value of the Real Property and Improvements by the Knox County, Tennessee Property Assessor's Office or, in the absence of such assessment, using an estimated assessment reasonably determined by Landlord in consultation with the Knox County, Tennessee Property Assessor's office, ~~less an amount equal to \$3,321.00~~ (the "Tax Payment"). The parties agree that any amounts payable with respect to any partial Tax Years included within the Term will be prorated based upon the actual number of days included within the Term. Any obligation to make a payment in lieu of tax pursuant to this Lease that is not due until after the date this Lease expires or terminates shall survive the expiration or termination of this Lease.

(ii) It is the parties' intent that during the Tax Years identified above, Tenant shall not be required to pay an amount in real property taxes with respect to the Real Property and Improvements constituting the Project in excess of the Tax Payment. Such reduction shall not apply (a) in the event that either Tenant or Elo assumes ownership of the Real Property and Improvements; or (b) with regard to any other tax assessed against Tenant, its income, or its other real or personal property. Upon the acquisition of the Project by Tenant, Tenant shall begin paying all applicable ad valorem and other taxes directly to Knox County, Tennessee, as assessed, but shall not make, from the date of such acquisition, any PTIP Payments, Tax Payments or any other in lieu payments with respect to such property. "Tax Year" means each annual period beginning on January 1 in each year.

(iii) It is the intent of this Section 6.02 that Knox County, Tennessee shall receive the amounts that would be payable if the Project were privately owned and fully subject to property taxation, minus those applicable reductions detailed above, notwithstanding Landlord's ownership of all or any part thereof. However, nothing contained in this Section 6.02 is intended or shall be construed to require the payment by Tenant of any greater amounts in lieu of taxes than would be payable as taxes if the Project was privately owned as aforesaid. It is accordingly understood and agreed that the amount payable by Tenant in any Tax Year under the provisions of this Section 6.02 shall be reduced by the amount of any taxes lawfully levied by Knox County upon the Project or any part thereof, or upon Tenant's leasehold estate therein, and actually paid by Tenant pursuant to the requirements of Section 6.02 hereof.

(iv) The payments in lieu of taxes provided in this Section 6.02 for each year shall accrue on October 1 of each Tax Year and shall be due on or before the last day of the February immediately following the Tax Year with respect to which such payment relates, and the obligation to make any such payments shall survive the termination of this Lease as to any payments that accrue prior to such termination. With respect to any payments made pursuant to this Section, prior to the date they are due, Tenant shall be entitled to the same discounts, if any, as any taxpayer in Knox County is entitled to receive with respect to the payment of property taxes prior to the date such taxes are due.

(v) These payments in lieu of taxes shall be paid in the same manner and to the same tax collector as are ad valorem taxes paid in Knox County. Notwithstanding the foregoing or any other provisions of this Lease, however, it is the express intention of the parties hereto that, pursuant to the provisions of Tennessee Code Annotated Section 7-53-305, the Real Property and Improvements and the leasehold interests therein of Tenant, or any sublessee, shall be exempt from

all taxation in the State of Tennessee, and that the PTIP payments as provided for in this Section 6.02 shall be made by and accepted from Tenant in lieu of all ad valorem taxes which are or may be assessed against the Real Property and Improvements and the leasehold interests therein of Tenant or any sublessee for and during the term of this Lease. If, following an Event of Default, the Real Property and Improvements should legally be placed on the ad valorem tax rolls of either the City of Knoxville or Knox County or both, the payment in lieu of taxes shall terminate and Tenant shall thereafter pay ad valorem taxes as required of a tax-paying entity, subject to Section 3.07 above. In the event Tenant's leasehold interest, but not Landlord's fee interest, shall become subject to ad valorem taxation, the payment in lieu of taxes called for hereunder shall continue, but shall be reduced on a cumulative basis by the amount of ad valorem taxes paid by Tenant with regard to its leasehold estate in the Real Property and Improvements. In the event the payment in lieu of taxes obligation terminates, ~~Elo~~Tenant shall still have the right to exercise its option to purchase the Real Property and Improvements as set forth in Section 11.01 hereof. In such event, the provisions of Sections 11.01 and 11.03 shall apply and Landlord shall convey the Real Property and Improvements to ~~Elo~~Tenant, subject to any then existing indebtedness created or incurred by or at the request of Tenant ~~or Elo~~; and ~~Elo~~Tenant shall pay to Landlord, as consideration therefore, the sum of One Thousand Dollars (\$1,000.00).

(vi) All bills for payments in lieu of taxes as provided for in Section 6.02 shall be sent to Tenant at: [REDACTED]; ETS Partners, LLC, 520 W. Summit Hill Drive, Suite 603, Knoxville, Tennessee 37902, or to such other entity or address as Tenant may hereafter designate and provide to the tax collectors.

(b) In the event that the Premises are not, at the commencement of the Term hereof, situated within the City of Knoxville, Tennessee or some other municipality (collectively, a "Municipality") so as to be subject to ad valorem taxation as a part of a Municipality, but subsequently, by annexation or incorporation, becomes part of a Municipality during the Term, then Tenant shall make additional payments in lieu of taxes, as Additional Rent, in lieu of the ad valorem taxes of the Municipality from and after the effective date of the annexation or incorporation of the Real Property and Improvements into the Municipality. These payments will be billed to Tenant, and Tenant shall pay the same to the appropriate tax collector for the Municipality, upon the same terms and conditions and in the same manner as provided for the PTIP Payments provided in subsection (a) above.

(c) If any such PTIP Payments are not paid by the applicable dates on which they are due, then Tenant shall pay a penalty with respect to such delinquent PTIP Payment from and after the delinquency date in the same amount as the penalty and all other charges which would be due on the corresponding Knox County ad valorem taxes.

Section 6.03 Other Taxes, Assessments, or Other Charges. Except as provided for in Sections Section 6.02(b) and (c) above, if any Governmental Authority enacts or imposes any tax, assessment, or other charge on realty or leasehold interests which are not in existence or collected as of the date of this Lease, Tenant shall pay said tax, assessment, or other charge as Additional Rent under this Lease and said tax, assessment, or other charge, if based on the assessment assigned to realty, shall be calculated on an assessment determined as though the Real Property and Improvements were owned by a tax-paying entity.

Section 6.04— Limitation on Elo's Responsibility. Other than the closing fee described in Section 6.01(f) above, Elo shall not be responsible for any obligations under this Article VI arising prior to the Commencement Date of the Elo Lease, all of which shall be borne by Tenant.

~~Section 6.04~~Section 6.05Survival. The obligations of Tenant or Elo to pay any amount due at the termination of this Lease pursuant to this Article VI, shall survive the termination of this Lease.

## **ARTICLE VII INSURANCE**

Section 7.01 General Requirements. Tenant or Elo shall keep, or cause to be kept, the Real Property and Improvements, now existing or hereafter constructed, erected, installed and purchased constantly and satisfactorily insured by an insurance company or companies lawfully doing business in Tennessee against losses under an All Risks Special Form Policy, in an amount not less than the full replacement costs of the Real Property and Improvements without deduction for depreciation. The policy evidencing this coverage shall be endorsed with a Replacement Cost Endorsement. The amount of the coverage shall be reviewed annually and increased if necessary so as to provide coverage at all times in an amount necessary to restore the Real Property and Improvements to the conditions existing just prior to the destruction or damage.

Tenant shall further keep or maintain or cause to be carried commercial general liability insurance on the Real Property and Improvements covering claims for bodily injury, death and property damage with a combined single limit of not less than Two Million Dollars (\$2,000,000.00), with “umbrella” liability coverage in an amount not less than Five Million Dollars (\$5,000,000.00), or such greater amounts as may from time to time be reasonably required by Landlord. Landlord shall be named as an additional insured on policies referred to in this paragraph.

Tenant shall further maintain or shall cause to be maintained the following insurance:

(a) During the course of any construction or repair of improvements on the Real Property and Improvements, Builder’s Risk insurance under a Builder’s All Risk Policy against “all risks of physical loss,” including collapse and transit coverage, during construction of such improvements covering the total value of work performed and equipment, supplies and materials furnished.

(b) If any part of the Real Property and Improvements lies within a “special flood hazard area” as defined and specified by the United States Department of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973, Tenant shall (i) promptly purchase and pay the premiums for flood insurance policies as Landlord deems required so that Landlord shall be deemed in compliance with the rules and regulations and provisions of the Flood Disaster Protection Act of 1973 as then in effect; and (ii) deliver such policies to Landlord together with evidence satisfactory to Landlord that the premiums therefor have been paid. Such policies of flood insurance shall be in a form reasonably satisfactory to Landlord, shall name Landlord as an insured thereunder, shall be for an amount at least equal to the maximum limit of coverage made available with respect to the Real Property and Improvements under the National Flood Insurance Act of 1968, as amended, whichever is less.

(c) Such other insurance on the Real Property and Improvements, or any replacements or substitutions therefor, in such amounts as may from time to time be reasonably required by Landlord against other insurable casualties which at that time are commonly insured against in the case of properties of similar character and location, due regard being given to the height and type of the Improvements, their construction, location, use and occupancy, or any replacements or substitutions therefor.

Provided that no Event of Default has occurred and remained uncured for any applicable cure period, Tenant shall have the option to apply all insurance proceeds either to the repair, restoration and replacement of the Real Property and Improvements, or to retain the proceeds upon the exercise of its option to purchase the

Real Property and Improvements in accordance with Article XI. Notwithstanding the foregoing, Landlord's or Tenant's entitlement to insurance proceeds shall be subject to the rights of any Lender under a Security Instrument.

Section 7.02 Additional Covenants. All insurance policies and renewals thereof shall be in form reasonably acceptable to Landlord, shall be issued by a company or companies acceptable to Landlord, and shall name Landlord as the named insured or an additional insured, as its interest may appear. Said policies and renewals shall provide for no less than thirty (30) days' written notice to Landlord of any cancellation or amendment thereof. Certificates of said insurance policies and renewals satisfactory to Landlord shall be provided Landlord prior to the effective date thereof, or, upon written request, Landlord shall have the right to hold the policies and renewals thereof. Upon the request of Landlord, Tenant shall promptly furnish to Landlord all renewal notices and all receipts for paid premiums. At least thirty (30) days prior to the expiration date of any of the policies, Tenant shall deliver to Landlord renewal policies in form reasonably satisfactory to Landlord together with receipts evidencing the payment for such policies and renewals. If Tenant fails to maintain the insurance required hereunder, Landlord may, at its option, pay such premiums, or take such other actions, as may be necessary in order to keep any such insurance in full force and effect. In such event, Tenant shall promptly reimburse Landlord for any such payments on demand, or, at the option of Landlord, all sums so paid by Landlord shall bear interest at the highest lesser of (i) the prime rate of interest as published in the Wall Street Journal, as adjusted from time to time, plus 2.00% per annum, or (ii) the maximum rate allowed by law at the time of the advance. All premiums on insurance policies shall be paid promptly when due.

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#### **ARTICLE VIII MAINTENANCE, REPAIR, IMPROVEMENTS AND REPLACEMENT**

Section 8.01 Tenant's Agreement to Maintain and Repair. Tenant acknowledges that Tenant is accepting the Real Property and Improvements "As-Is" and "With All Faults" and that LANDLORD MAKES NO WARRANTY TO TENANT WHATSOEVER, WHETHER EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE REAL PROPERTY AND IMPROVEMENTS ALL OF SUCH WARRANTIES BEING EXPRESSLY DISCLAIMED BY LANDLORD, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. Tenant and Elo each agrees that at its expense it will keep and maintain the Improvements and the Premises in good repair and condition, reasonable wear and tear, and damage by fire or other casualty expressly excepted. Tenant and Elo each shall promptly make or cause to be made all interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen repairs, including the maintenance, repair, and replacement necessary to keep the equipment installed in the Premises in good repair and operating condition to the end that the Improvements and the Premises are kept in good and lawful order and condition, wear and tear from reasonable use and damage by fire and other casualty being expressly excepted, whether or not such repairs are due to any Legal Requirement. All permanent replacements, renewals, attachments, and accessories made to, placed on, or affixed to any part of the Real Property, which become fixtures under applicable law, shall become a part of the Real Property, provided, however, in the event that the Real Property and Improvements are transferred to Tenant, whether as a result of the exercise by Tenant of its right to purchase pursuant to Article XI hereof, or otherwise, any deed or instrument of transfer shall include not only the Improvements to the Real Property, but also all such replacements, renewals, attachments and accessories constituting fixtures.

Section 8.02 Landlord's Repairs. At any time an Event of Default has occurred and is continuing, and if such Event of Default is not cured within any applicable cure period, then after notice to Tenant, Landlord may, but shall not be required to, rebuild or make any repairs, replacements, or renewals of any nature or description in connection with this Lease or maintain the Improvements or the Premises in

any way. Tenant expressly waives the right contained in any Legal Requirement now or hereafter in effect to make any repairs at the expense of Landlord. If Landlord shall (in its sole discretion) advance funds with which to make such repairs, replacements, renewals, or other expenditures, such sums shall be payable by Tenant as Additional Rent hereunder pursuant to Section 4.04 above.

Section 8.03 Additions to Real Property and Improvements. Subject to Sections 2.01 and 3.04, Tenant shall have the right to make replacements for, additions to, alterations of, and improvements to the Real Property and Improvements, structural or otherwise, to construct and equip additions thereto, to attach machinery, equipment, and fixtures thereto, as part of the real estate, and to modify all of the above at its expense, as Tenant in its discretion may determine appropriate, provided that the same shall not materially decrease the value of the Real Property and Improvements or materially change the use thereof. All work done in connection with such additions, alterations or improvements shall be done promptly and in a good and workmanlike manner. Tenant shall pay the cost of such replacements, additions, alterations and improvements. Upon the expiration or termination of this Lease, all such replacements, additions, alterations and improvements which have been affixed to the Real Property and are fixtures under applicable law, shall remain and shall belong to and be the property of Landlord, subject, however, to Elo's option to purchase under Section 11.01.

Section 8.04 Personal Property. Tenant, Elo or its permitted sublessee(s) may at any time or times during the Term hereof install or commence the installation of any machinery, equipment, furnishings, trade fixtures, and other personal property to such extent as Tenant or Elo may deem desirable, provided however, that such installation shall not be permitted to interfere materially with the use and operation of the Real Property and Improvements as set forth in the Application.

#### **ARTICLE IX DEFAULT; REMEDIES**

Section 9.01 Events of Default. Any one or more of the following events shall constitute an "Event of Default":

(a) Tenant fails to pay the Base Rent or any Additional Rent, as and when due and within thirty (30) days after written notice of such failure to Tenant from Landlord.

(b) To the extent provided in this Section 9.01(b), Tenant and Elo breach the representations, warranties, and covenants contained in the Application or in Section 3.01(a), Section 4.04(a) or Section 5.02(j) of this Lease concerning (i) the incurrence of the required amount of Capital Investment within the Measurement Period or (ii) the creation and/or maintenance of Jobs or Wages within the Measurement Period, or (iii) and the maintenance during the Term of this Lease following the Measurement Period, at least 81 Jobs paying average Wages of \$74,577.00 per Job.

Notwithstanding the foregoing, no Event of Default shall be deemed to occur hereunder (A) respecting the incurrence of Capital Investment unless and until Tenant and Elo fail to incur Capital Investment as of the Determination Date in an amount of at least \$10,000,000.00 and (B) respecting the maintenance of Jobs as of or following the Determination Date, unless and until Elo fails to maintain a number of Jobs at the Project which is less than seventy (70) Jobs, and ~~(B)~~ respecting the average Wages of the Jobs at the Project, unless and until Elo fails to maintain an average Wage for such Jobs as of or following the Determination Date which are less than ninety percent (90%) of that amount required hereunder. Furthermore, in the event ~~Tenant or~~ Elo fails to submit to Landlord a Report by the date required under Section 4.02 or Section 5.06(c) hereof and within thirty (30) days of Elo's receipt of notice of such failure from Landlord, or in the event

the Report contains information which is untrue in any material respect, an Event of Default shall be conclusively deemed to have occurred under this Section 9.01(b).

(c) Except with respect to the matters set forth in Section 9.01(b) above (which Section shall govern with respect to such matters), any other representation or warranty made by Tenant or Elo herein or by Elo in the Application, or any other representation or warranty made by Tenant or Elo in any statement or certificate furnished by Tenant or Elo either required hereby or in connection with the execution and delivery of this Lease, proves to be untrue in any material respect as of the date it was made.

(d) Elo ceases to operate the Project or abandons the Project for a period of sixty (60) days or more.

(e) Tenant fails to complete construction of the Improvements by the time set forth in the Application, subject to the provisions of Section 9.02 hereof.

(f) ~~Tenant and~~ Elo fails to file on time any Report or Compliance Report (or any related financial statements) required under Section 5.06.

(g) Any information contained in any Report or Compliance Report proves to be untrue in any material respect.

(h) A default or an event of default (including, in any case, the expiration of any permitted period for the curing of any such default) occurs under any Tenant Document or other agreement between Landlord and Tenant, or any default occurs under any document executed by Tenant related to the Project or the Real Property and Improvements, including, without limitation, any Security Instrument, but only if any such default or event of default causes the Real Property and Improvements to be disqualified as, or cease to constitute, a "project" within the meaning of the Act.

(i) Any material adverse change occurs in the use or operation of the Real Property and Improvements and/or the Project from that set forth in the Application without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.

(j) Elo fails to continuously operate a going business on the Premises, in such a manner as to cause an Event of Default pursuant to Section 9.01(b).

(k) the occurrence of an Event of Default under the Elo Lease which is not waived by Tenant or cured within applicable notice and cure periods, the termination of the Elo Lease, or the assignment of Elo's interests under or subletting by Elo of Elo's interests under the Elo Lease.

(l) Tenant or Elo fails in the due performance of, or compliance with, any of the other terms of this Lease.

Except for (i) Events of Default based on subsection (a) and (b) above, for which cure periods have been specifically provided, or (ii) Events of Default based on ~~subsection (b)-subsections~~ (c), and (g), no Event of Default shall occur under this Section 9.01 until a default continues for thirty (30) days after Landlord shall have given Tenant written notice of such default. Further, in the event the Event of Default is caused by the action or inaction of Elo, no Event of Default shall be deemed to have occurred unless such default continues for a period sixty (60) days after Landlord shall have given Tenant written notice of such default by Elo and Tenant has failed to cure such default.

**Section 9.02 Force Majeure.** The provisions of **Sections 9.01** and **2.01** are subject to the limitation that if by reason of Force Majeure, as defined below, Tenant is unable, in whole or in part, to carry out its agreements and covenants herein contained, other than its obligation to pay Base Rent and Additional Rent, Tenant shall not be deemed in default during the continuance of such inability.

The term “Force Majeure” as used herein shall mean, without limitation, the following: acts of God, strikes, lockouts, acts of public enemies, order of any Governmental Authority, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fire, hurricanes, storms, floods, washouts, droughts, arrests, pandemics, restraint of government and people, or any other cause or event not reasonably within the control of Tenant.

Tenant agrees, however, to remedy with all reasonable dispatch the cause or causes preventing it (as the case may be) from carrying out its agreements and covenants.

**Section 9.03 Rights to Cure.** Except with respect to the matters set forth in **Section 9.01(b)** above, if an Event of Default occurs, Landlord may (but shall not be obligated to), advance funds, make payments and perform any such acts for the account of Tenant and at its expense, may enter upon the Premises for any purpose, and take all other actions as may be reasonably necessary or appropriate to protect its interest under this Lease. No such entry shall be deemed an eviction of Tenant. All sums so paid by Landlord and all necessary and incidental costs and expenses (including, without limitation, reasonable attorneys’ fees and expenses) incurred by Landlord, together with interest at the lesser of (i) the prime rate of interest as published in the Wall Street Journal, as adjusted from time to time, plus 2.00% per annum, or (ii) the maximum rate of interest allowed by law, shall be due and payable by Tenant as Additional Rent and may be credited against any sums due to Tenant.

**Section 9.04 Landlord’s Rights Upon Default.**

Subject to the terms of Article XI, Landlord shall have the following rights upon the occurrence of an Event of Default which is not cured during the applicable grace or cure period; provided, however, in the event Tenant exercises its right to purchase the Real Property pursuant to the terms of Article XI hereof, this Lease shall be deemed terminated.

(a) Except as otherwise expressly provided herein, specifically including without limitation the provisions of Section 3.07 above, if any Event of Default, as defined in **Section 9.01**, occurs and is not cured within any applicable cure period, Landlord may exercise its right to terminate this Lease under **Section 9.01** and without further notice may enter upon and repossess the Real Property and Improvements and may remove Tenant and all other persons and any and all property from the Real Property and Improvements.

(b) Except as otherwise expressly provided herein, specifically including without limitation the provisions of Section 3.07 above, if an Event of Default occurs and is not cured within any applicable cure period, Landlord shall have the right of entry, repossession, and removal prior to the expiration of the Term of this Lease. Landlord shall be under no obligation to terminate this Lease prior to exercising its rights of entry, repossession and removal. If Landlord exercises such rights without terminating this Lease, this Lease shall continue in full force and effect for the balance of its Term, except that Tenant shall have no right of possession from the date of the exercise of such right.

(c) If an Event of Default described in **Section 9.01(b)** occurs, but subject to the provisions of Section 3.07 above, Tenant shall be obligated to pay (or cause to be paid) to the appropriate tax collectors, as an additional payment in lieu of taxes under **Section 6.02** hereof an amount (hereinafter called the

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“Recapture Payment”) equal to the amount of ad valorem taxes which would otherwise be payable with respect to the Project had Tenant owned fee simple title to the Project for a number of years equal to the difference, if any, between (i) the number of years within the Term of this Lease (after taking into account any early termination of the Lease), and (ii) the total number of years of a Lease Term for which Tenant qualifies as of the Determination Date under the standard scoring matrix set forth in the PTIP Policies and Procedures in effect as of the date hereof, such determination to be made using the Determination Date Compliance Points described in ~~Section 4.02 hereof~~Section 4.02 hereof. The obligation for any Recapture Payment(s) required pursuant to this Section 9.04(c) shall survive the termination of this Lease and shall be the obligation of Tenant, and the same shall constitute a lien upon the Real Property and Improvements. The right to the Recapture Payment shall be Landlord’s sole and exclusive remedy for monetary damages as a result of any Event of Default under Section 9.01(b).

(d) Tenant covenants and agrees to pay, and to indemnify Landlord from and against, all costs and charges, including reasonable attorneys’ fees, lawfully and reasonably incurred in (i) obtaining possession of the Real Property and Improvements after default by Tenant or upon expiration or earlier termination of the Term hereof, and (ii) enforcing any provision of this Lease.

(e) Tenant hereby (i) irrevocably submits to the exclusive jurisdiction of the state courts of the State of Tennessee located in Knox County, Tennessee and to the jurisdiction of the United States District Court for the Eastern District of Tennessee located in Knox County, Tennessee, for the purpose of any suit, action, or other proceeding arising out of or based upon this Lease, the Tenant Documents or any other document or transaction related directly or indirectly to the transactions contemplated herein; and (ii) ~~waive~~waives and ~~agree~~agrees not to assert by way of motion, as a defense, or otherwise, in any such suit, action, or proceeding, any claim (A) that each is not subject personally to the jurisdiction of the above-named courts, (B) that the suit, action, or proceeding is brought in any inconvenient forum, (C) that the venue of the suit, action, or proceeding is improper, or (D) that this Lease or any of the Loan Documents or the subject matter hereof or thereof may not be enforced in or by such court.

Section 9.05 Reletting. Except as otherwise provided herein, at any time or from time to time after the termination of this Lease pursuant to Section 9.04(a), Landlord may, (but shall be under no obligation to) relet the Real Property and Improvements or any part thereof for the account of Tenant, in the name of Tenant or Landlord, or otherwise without notice to Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease), on such conditions and for such uses as Landlord in its discretion may determine. Landlord may collect and receive the rents therefor. Landlord shall have the same right to relet if it exercises its right of entry, repossession, or removal without termination of this Lease as provided in Section 9.04(b). Landlord shall not be responsible or liable for any failure to relet the Real Property and Improvements or any part thereof, or for any failure to collect any rent due upon any such reletting. Any such reletting pursuant to this Section 9.05 shall, in all events, be subject to and expire upon the exercise of Tenant’s purchase option set forth in Article XI.

Section 9.06 Survival of Tenant’s Obligations. No termination of this Lease pursuant to Section 9.04(a) or repossession of the Real Property and Improvements pursuant to Section 9.04(b), or otherwise, shall relieve Tenant of its respective liabilities and obligations hereunder, all of which shall survive any such termination or repossession. If this Lease is terminated pursuant to Section 9.04(a) or if Landlord exercises its right of entry without termination of the Lease as provided in Section 9.04(b), Tenant shall pay to Landlord the Base Rent and all Additional Rent and other charges required to be paid under this Lease or otherwise, by Tenant up to the time of such termination or repossession. ~~Thereafter Tenant, until the end of what would have been the Term of this Lease in the absence of such termination or repossession and whether or not the Real Property and Improvements or any part thereof shall have been relet, shall be liable~~

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~~for and shall pay to Landlord as and for liquidated and agreed current damages for Tenant's default the following:~~

~~\_\_\_\_\_ The Base Rent, Additional Rent, and other charges which would be payable under this Lease by Tenant if the Term of this Lease had not been terminated or the Real Property and Improvements repossessed, less the net proceeds, if any, of any reletting effected for the account of Tenant pursuant to the provisions of Section 9.05. In addition, Tenant shall pay on demand all of Landlord's necessary and incidental expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, reasonable attorneys' fees and expenses, employees' expenses, alteration costs and expenses of preparation for such reletting.~~

Section 9.07 Additional Remedies. ~~In~~Subject to Section 9.04(c), in addition to the right to terminate this Lease and any other remedies provided for herein, when any Event of Default occurs and is not cured within any applicable cure period, Landlord may take whatever other action at law or in equity may appear necessary or desirable to collect the Base Rent, Additional Rent, and any other monetary obligation of Tenant hereunder when due, ~~or to enforce any obligation, covenant, or agreement of Tenant under this Lease.~~ If Landlord elects to terminate this Lease after an Event of Default, Landlord's remedies shall include, but are not limited to, Landlord's right to convey the Real Property and Improvements to Tenant and retain a vendor's lien for all sums due and payable to Landlord by Tenant at the time of the conveyance.

## ARTICLE X CONDEMNATION AND CASUALTY

Section 10.01 Condemnation Proceeds. If all or any part of the Real Property and Improvements is taken by the exercise of the power of eminent domain or condemnation, Tenant shall receive the entire award for the taking. If the award is disbursed by the condemning authorities to Landlord, Landlord shall immediately pay the award to Tenant. Tenant shall be entitled to the proceeds of any condemnation award or portion thereof separately awarded for damages to, or takings of, Tenant's property, or for damages on account of the taking or an interference with Tenant's right to possession, use, or occupancy of the Real Property and Improvements.

Section 10.02 Termination of Lease Upon Condemnation. If all or substantially all of the Real Property and Improvements are taken by the exercise of the power of eminent domain or condemnation, or if the exercise of the power of eminent domain renders the Real Property and Improvements and the use thereof unsatisfactory to Tenant for the purposes for which they were intended, Tenant shall have the right to either acquire the Real Property and Improvements pursuant to the provisions of Section 11.01 or terminate this Lease. Until the purchase or termination has taken place, this Lease shall continue in full force and effect without abatement of rent.

Section 10.03 Continuation of Lease Upon Condemnation. If a lesser portion of the Real Property and Improvements are taken by the exercise of the power of eminent domain or condemnation, this Lease shall nevertheless continue in full force and effect without abatement of rent. If such taking causes damage to, or necessitates the restoration or rebuilding of the Real Property and Improvements or a portion thereof, Tenant, at its sole cost and expense, shall promptly and diligently restore and rebuild to such condition as it shall deem reasonable in view of the nature of the taking and the then intended use of the Real Property and Improvements by Tenant.

Section 10.04 Minor Casualty. If a minor part of the Real Property and Improvements is destroyed or damaged, Tenant shall promptly notify Landlord and at Tenant's expense, Tenant shall

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promptly and diligently rebuild, restore, replace, and repair the same to such condition as it shall deem reasonable in view of the nature of the damage and the then intended use of the Real Property and Improvements by Tenant.

Section 10.05 Substantial or Complete Casualty. If the entire Real Property and Improvements, or a substantial part thereof, shall be damaged or destroyed to such an extent that restoration thereof cannot be accomplished within ninety (90) days from the date of damage, Tenant shall have the right to either restore the Real Property and Improvements as provided in Section 10.04, acquire the Real Property and Improvements pursuant to the provisions of Section 11.01, or terminate this Lease. If Tenant acquires the Real Property and Improvements, Landlord shall then assign to Tenant (to the extent not previously paid to Landlord) or shall then pay to Tenant (to the extent the same have previously been paid to Landlord but not applied to the repair or restoration of the Real Property and Improvements) all insurance proceeds arising out of such damage or destruction. The foregoing shall in no way, however, supersede or modify the rights of Tenant and any permitted sublessee.

#### **ARTICLE XI OPTION TO PURCHASE, INVESTMENT TAX CREDIT AND LIMITATIONS**

Section 11.01 Option to Purchase. ~~Elo~~Tenant shall have the option (the "Purchase Option") at any time during the Term of this Lease or within one hundred eighty (180) days after the expiration or termination of this Lease for any reason whatsoever, including, without limitation, an Event of Default, to purchase the Real Property and Improvements, subject to any then existing indebtedness created by or for the account of Tenant, as permitted or provided for in this Lease. The purchase price will be the sum of One Thousand Dollars (\$1,000.00), payable in collected funds. If the Lease is terminated by Landlord for any reason prior to the expiration of the Term, and ~~Elo~~Tenant has not exercised the Purchase Option, the Landlord shall provide written notice of same to ~~Elo~~Tenant within ten (10) days after the date of such termination. The exercise of such option by ~~Elo~~Tenant shall not relieve ~~Elo~~Tenant from the payment of any monetary obligations which shall be due and payable, or shall have accrued, under this Lease as of the date of conveyance. ~~Elo~~Tenant shall notify Landlord in writing thirty (30) days before the proposed date of purchase that ~~Elo~~Tenant desires to exercise its option to purchase hereunder. Upon payment by ~~Elo~~Tenant of the purchase price in collected funds plus all expenses related thereto and any other sums due and payable hereunder, Landlord shall convey the Real Property and Improvements to ~~Elo~~Tenant or its assigns, subject always to the liens of any Security Instrument.

Section 11.02 Investment Tax Credit. Landlord, Tenant and Elo hereby elect and agree that Elo shall be entitled to any investment tax or similar credit, or grants, with respect to the Real Property and Improvements now or hereafter authorized by the Internal Revenue Code, or other legislation, and Landlord and Tenant each agrees to take all reasonable action necessary to make such investment tax election and obtain the benefits for same for Elo at Elo's request and expense, and to obtain such grants.

Section 11.03 Conveyance of Title. In the event of any purchase of the Real Property and Improvements or any portion thereof by Tenant ~~or Elo~~ pursuant to any provision of this Lease, Landlord shall convey title by a quitclaim deed to Tenant ~~or Elo, as applicable~~, subject to Permitted Encumbrances and other encumbrances and interests thereafter created by or for the account of Tenant ~~or Elo~~. Landlord shall not otherwise be obligated to convey any better title to Tenant ~~or Elo~~ than existed on the first day of the Term of this Lease; provided, however, that Landlord acknowledges and agrees that Landlord has no authority or right to encumber the Real Property and Improvements or Landlord's interest therein by any encumbrances other than (i) the Permitted Encumbrances, including the Elo Lease, (ii) those which Tenant ~~or Elo~~ has subsequently requested to be placed, or caused to be placed, against the Real Property and Improvements, (iii) those which Tenant ~~or Elo~~ has subsequently approved in writing to be placed against

the Real Property and Improvements, and (iv) those for which Tenant ~~or Elo~~ is responsible under the terms and provisions of this Lease and which arise out of any default by Tenant ~~or Elo~~ in the performance of its obligations under this Lease. Any other conveyance or encumbrance (other than those described in clauses (i) through (iv) inclusive of the preceding sentence) by or for the account of Landlord shall in all respects be subject and subordinate to Tenant's leasehold interest as created under this Lease and to Tenant's ~~or Elo's~~ right to acquire title to the Real Property and Improvements, free and clear of any such other conveyances or encumbrances, pursuant to ~~Elo's~~ Tenant's exercise of its option to purchase the Real Property and Improvements pursuant to this Article XI; and any such other conveyance or encumbrance, and any rights or liens created thereunder or arising therefrom shall be automatically terminated, released and extinguished by the conveyance of the Real Property and Improvements to Tenant ~~or Elo~~ by Landlord by a Quitclaim Deed as provided for in this Section 11.03, and thereafter all such conveyances, encumbrances, rights or liens shall be void and of no further effect. Tenant ~~or Elo~~ shall accept such title, subject, however, to (i) any liens, encumbrances, charges, exceptions, and restrictions not created or caused by Landlord or Landlord's Agents, and (ii) any Legal Requirements.

This Lease shall terminate upon any conveyance of the Real Property to Tenant, but in such event the Elo Lease shall nonetheless remain in full force and effect and Elo's right to peaceable possession of the Premises under the Elo Lease during the Term shall not be disturbed so long as Elo performs all of its obligations under the Elo Lease and is not otherwise in default, and further provided that Tenant's rights and obligations under the Elo Lease shall not be modified or impaired as a result thereof.

Section 11.04 Survival of Rights. All provisions of this Article XI shall survive the expiration of the Term of this Lease (including any extensions therefore) or the termination of this Lease pursuant to any provision hereof (including, but not limited to, any termination pursuant to Article IX or Article X).

## ARTICLE XII MISCELLANEOUS PROVISIONS

Section 12.01 Recording. This Lease or a memorandum thereof shall be executed and recorded in the proper public office for the recordation of deeds in Knox County, Tennessee.

Section 12.02 Waivers. No waiver of any breach shall affect or alter this Lease or constitute a waiver of any other then-existing or subsequent breach.

Section 12.03 Remedies. Subject to the express provisions and limitations of this Lease, each right, power, and remedy of Landlord, Tenant or Elo provided for in this Lease shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers, and remedies are sought to be enforced. The exercise of any one or more of the rights, powers, or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord, Tenant or Elo of any or all such other rights, powers, or remedies.

Section 12.04 No Claims against Landlord. Except as provided herein, nothing contained in this Lease shall constitute any consent or request by Landlord, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof, nor give Tenant any right, power, or authority to contract for, or permit the performance of, any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any personal claim against Landlord.

Section 12.05 Quiet Enjoyment. Landlord does not make any representation or covenant that Tenant shall have quiet and peaceful possession of the Real Property and Improvements. Landlord, however, agrees that it will not take any action to interfere with Tenant's peaceful and quiet enjoyment of the Real Property and Improvements and that in the event the peaceful and quiet enjoyment of the Real Property and Improvements shall be denied to Tenant or contested by anyone, Landlord shall upon request of Tenant join when necessary in any proceeding to protect and defend the quiet enjoyment of Tenant, provided that Tenant shall pay the entire cost of any such proceeding and reimburse, indemnify, and hold harmless Landlord from any cost or liability whatsoever.

Section 12.06 Governing Law; Entire Agreement. This Lease shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Tennessee, and, together with the action taken by Landlord granting the PTIP incentives with respect to the Project set forth in the minutes of the meeting of the Board of Directors of Landlord held on November 8, 2016, and the Application (collectively, the "Related Documents"), expresses the entire agreement of the parties hereto. No party hereto shall be bound by any agreement or representation to any other party which is not expressly set forth in this Lease, the Related Documents, or Reports.

Section 12.07 Severability. In the event that any clause or provision of this Lease shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 12.08 Notice. All notices, certificates, demands, requests, consents, approvals, and other similar instruments under this Lease shall be in writing and shall be deemed to have been properly given and received if (i) delivered in person, (ii) sent by United States certified or registered mail, postage prepaid, or (iii) sent by recognized overnight service providing proof of delivery, to Landlord or Tenant, as applicable at such addresses as either may have designated from time to time in writing, and if to any Lenders under Section 3.05, or any permitted sublessee(s) under Section 3.06, addressed to their principal offices, or at such addresses as said Lenders or said permitted sublessee(s) shall have designated from time to time in writing to Landlord and Tenant. At the commencement of this Lease:

Landlord's address is 17 Market Square #201, Knoxville, Tennessee 37902 with a mandatory copy to counsel for the Board, R. Christopher Trump, Egerton, McAfee, Armistead & Davis, P.C., 1400 Riverview Tower, 900 South Gay Street, Knoxville, Tennessee 37902;

Tenant's address is [REDACTED], Attn: [REDACTED] ETS Partners, LLC, 520 W. Summit Hill Drive, Suite 603 Knoxville, Tennessee 37902, Attn: Ronald A. Watkins, Jr.

Elo's address is 670 N McCarthy Blvd., Suite 100, Milpitas, California 95035, Attn: Nathan Swisshelm.  
Elo's address is 445 S. Gay Street, Suite 406 (4<sup>th</sup> Floor), Knoxville, TN 37902, Attn: Chief Executive Officer, with a mandatory copy to ELO Touch Solutions, Inc., 1755 N. Collins Blvd, Suite 525, Richardson, TX 75080, Attn: General Counsel.

Delivery in person shall be effective on the date of delivery. Delivery by mail shall be effective three (3) days from the date of posting in the United States Mail. Delivery by recognized overnight courier shall be effective the next business day following the date the notice is delivered to the recognized overnight courier for the delivery.

Section 12.09 Signs. At the request of Landlord and the expense of Tenant any development or construction signs located at or on the Premises shall read: "The Industrial Development Board of the County of Knox has provided financial incentives and other assistance for this Project."

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Section 12.10 No Default Certificates. Landlord and Tenant agree at any time and from time to time, upon not less than twenty (20) days prior written request by the other party or by any Lender, or by any permitted sublessee(s), to execute, acknowledge, and deliver a statement in writing certifying that this Lease is in full force and effect and that they know of no default (or if there is a default, the grounds therefor) and the date to which the Base Rent and other charges have been paid in advance, if any.

Section 12.11 Headings. Headings in this Lease are for convenience of reference only and shall not define or limit the provisions thereof.

Section 12.12 Successors. The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 12.13 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. The signature of any party on a signature page intended by such party to be appended to a counterpart shall be deemed to be a signature to, and may be appended to, any counterpart, and the signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.

Section 12.14 Amendments. This Lease may be modified or amended only by an instrument in writing signed by the parties (or their respective successors or assigns).

Section 12.15 Landlord's Limitation of Liability - No Personal Liability. Anything in this Lease to the contrary notwithstanding, Tenant agrees that it shall look solely to the Real Property and Improvements for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed and/or performed by Landlord. No other property or assets of Landlord shall be subject to levy, execution or other procedures for the satisfaction of Tenant's remedies hereunder.

Section 12.16 Tenant's Limitation of Liability - No Personal Liability. Anything in this Lease to the contrary notwithstanding, Landlord agrees that it shall look solely to the Real Property and Improvements for the collection of any judgment (or other judicial process) requiring the payment of money by Tenant in the event of any default or breach by Tenant with respect to any of the terms, covenants and conditions of this Lease to be observed and/or performed by Tenant. No other property or assets of Tenant shall be subject to levy, execution or other procedures for the satisfaction of Landlord's remedies hereunder. This section shall in no way effect or limit the obligations or other liability of Elo under the terms of this Lease.

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**ARTICLE XIII  
ENVIRONMENTAL MATTERS**

Section 13.01 Tenant's Environmental Representations and Warranties. Tenant represents, warrants and covenants to Landlord and its successors and assigns that:

(a) In connection with the ownership, use, maintenance or operation of the Real Property and Improvements and the conduct of the business related thereto and therein, Tenant is not in violation of, and has not violated and will not violate, any applicable federal, state, county or local statute, law, regulation, rule, ordinance, code, license or permit relating to environmental matters, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended by the

Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq., the Resource Conservation and Recovery Act of 1976 as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 et seq., the Clean Air Act of 1986, as amended, 42 U.S.C. § 7401, et seq., the Clean Water Act of 1977, as amended, 33 U.S.C. § 1251, the Toxic Substances Control Act of 1976, 15 U.S.C. § 2601, et seq., the National Environmental Policy Act of 1975, 42 U.S.C. § 4321, the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300, et seq., the Emergency Planning and Right-to-Know Act of 1982, 42 U.S.C. § 11001, et seq., the Tennessee Water Quality Control Act, Tenn. Code Ann. § 69-3-101, et seq., the Tennessee Air Quality Act, Tenn. Code Ann. § 68-201-101, et seq., the Tennessee Solid Waste Disposal Act, Tenn. Code Ann. § 68-211-101, et seq., the Tennessee Hazardous Waste Management Act, Tenn. Code Ann. § 68-212-101, et seq., the Tennessee Petroleum Underground Storage Tank Act, Tenn. Code Ann. §68-215-101, et seq., or any other Legal Requirements regulating, relating to or imposing liability or standards of conduct concerning any petroleum, petroleum byproduct (including, but not limited to, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, and all other liquid hydrocarbons, regardless of specific gravity), natural or synthetic gas, or hazardous, toxic, radioactive or any other regulated substance, product, material, waste, pollutant or contaminant which are defined as “hazardous substances,” “hazardous materials,” “hazardous waste,” “toxic substances,” or other similar designations by Legal Requirements (hereinafter “Hazardous Waste”), as may now or at my time hereafter be in effect (hereinafter “Environmental Laws”).

(b) Without limiting the generality of Section 13.01, Tenant represents and warrants to Landlord, its successors and assigns that:

(i) Prior to the conveyance of the Real Property and Improvements to Landlord, Tenant has not (except in strict compliance with all applicable Environmental Laws) received, handled, used, stored, treated, shipped or disposed of any Hazardous Waste on the Premises; and subsequent to the conveyance of the Premises to Landlord, Tenant will (and will require any permitted sublessee of the Premises) at all times receive, handle, use, store, treat, ship and dispose of all Hazardous Waste in strict compliance with all applicable Environmental Laws, and will continue to do so during the Term of this Lease and any extension thereof.

(ii) Tenant has delivered (or caused to be delivered) to Landlord a copy of that certain Phase I Environmental Site Assessment dated July 21, 2020 prepared by GEOServices, LLC for Tenant (the “Phase I Report”) concerning the environmental condition of the Premises. Except as may be shown in the Phase I Report, Tenant has no knowledge of or information regarding any Hazardous Waste on the Premises.

(iii) There are no violations of any Environmental Laws requiring any work, repairs, construction or capital expenditures with respect to the Premises, and Tenant has no knowledge or information, nor has Tenant received any notice of any such violations.

(iv) Other than matters disclosed in the Phase I Report, Tenant is not aware of any of the following circumstances or events related to the presence of Hazardous Wastes at, on, or near the Premises:

A. any release into the environment, deposit, discharge, placement, or disposal of Hazardous Wastes at, on, or near the Premises, or the use of the Premises at any time by any person or entity as a landfill or a waste disposal site.

B. any violation of any Environmental Laws relating to the Premises or the use of the Premises; any writs, injunctions, decrees, orders or judgments outstanding

relating to the Premises or the use of the Premises in violation of Environmental Laws; any lawsuits, claims, proceedings or investigations pending or threatened relating to the ownership, use, maintenance or operation of the Premises in violation of Environmental Laws; or any basis for such lawsuits, claims, proceedings or investigations being instituted or filed.

C. monitoring wells for monitoring Hazardous Waste; underground storage tanks; PCB contamination from any power transformer, capacitor, or any other source; or asbestos containing material.

D. any fact or circumstance that may give rise to any future civil, criminal, or administrative proceedings against it relating to Hazardous Waste involving the Premises.

Section 13.02 Tenant's Continuing Responsibility for Environmental Matters.

(a) Tenant covenants at its sole cost and expense, to remove or take remedial action required by any Environmental Law with regard to any Hazardous Waste released to the environment at, on, or from the Premises while under Tenant's possession and control during the Term of this Lease or any extension thereof.

(b) No removal or remedial action shall be taken except after reasonable advance written notice to Landlord; provided, however, that no notice shall be required if immediate action is required in order to comply with the requirements of any Legal Requirements or if immediate action would diminish the extent of any environmental problem or hazardous condition.

(c) Tenant shall indemnify Landlord for any action taken by Tenant, in accordance with Section 13.03 hereof to Landlord's satisfaction.

(d) Tenant shall at all times retain any and all liabilities arising from the handling, treatment, storage, transportation or disposal of any Hazardous Waste by Tenant or by any of Tenant's contractors.

Section 13.03 Tenant's Indemnification.

(a) Tenant shall indemnify and hold Landlord and its officers, directors, agents, counsel and employees harmless from and against any and all liabilities, losses, claims, penalties, damages (including, without limitation, consequential damages, interest, penalties, fines and monetary sanctions), and costs, and reasonable attorneys' and consultants' fees and expenses, court costs and all other out-of-pocket expenses incurred or suffered by Landlord by reason of, resulting from, or in connection with, or arising in any manner whatsoever out of the following ("Environmental Claims"):

(i) the breach of any warranty or covenant or the inaccuracy of any representation of Tenant contained or referred to in this Article XIII.

(ii) any violation or breach by Tenant or the Premises of any Environmental Laws, or the violation or breach of any obligations imposed on Tenant or the Premises under any Environmental Laws;

(iii) to the extent arising out of, or relating to Tenant or the Premises, any of the following: (A) pollution or contamination of the environment; (B) handling, treatment, storage, disposal, or transportation of Hazardous Waste; (C) exposure to Hazardous Waste; (D) the



manufacture, processing, distribution in commerce, use, or storage of Hazardous Waste; (E) injury to or death of any person or persons directly or indirectly connected with Hazardous Waste on, under, over, or transported or released to or from the Premises or any portion thereof; or (F) contamination of any property caused by Hazardous Waste on, under, over, or transported or released to or from the Premises or any portion thereof;

(iv) the failure by Tenant, or any other party directly or indirectly connected with the Premises, or any portion thereof, to obtain, maintain, or comply with any permit, license, approval, or other authorization with respect to any activities, operations, or businesses conducted on or in relation to the Premises, or any portion thereof, required under any applicable Environmental Laws; or

(v) the presence or existence of Hazardous Waste on, under, over, or released or transported from the Premises, or any portion thereof,

Landlord shall be entitled to conduct its own investigation in connection therewith and provide its own defense and charge Tenant with its reasonable and actual expense incurred in connection therewith. The term "Environmental Claim" also includes (i) the costs of removal of any and all Hazardous Waste from all or any portion of the Premises, (ii) costs required to take necessary precautions to protect against the release of Hazardous Waste on, in, under, or affecting the Premises, or any portion thereof, and (iii) costs incurred to comply, in connection with all or any portion of the Premises or any surrounding areas affected by Hazardous Waste on, under, over, or transported or released to or from the Premises, with all applicable Environmental Laws.

(b) All representations, warranties, covenants, agreements and indemnities of Tenant contained in this Article XIII shall survive the Term of this Lease or any extensions hereof and the consummation of the transactions contemplated in this Lease, and shall not be affected by an investigation by or on behalf of Tenant or by any information Tenant may have or obtain with respect thereof.

Section 13.04 Cost Benefit Analysis. Pursuant to Tenn. Code Ann. § 7-53-305(b), the Cost Benefit Analysis created in accordance with the PTIP is attached hereto as Exhibit F.

*[Signatures on Following Page]*

[SIGNATURE PAGE FOR LEASE AGREEMENT]

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

**“Tenant”**

**ETS PARTNERS DEVELOPMENT, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**STATE OF TENNESSEE  
COUNTY OF KNOX**

Before me, the undersigned authority, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the \_\_\_\_\_ of **ETS Partners Development, LLC**, the within named bargainer, a Tennessee \_\_\_\_\_, limited liability company, and that he/she as such officer being authorized so to do, executed the within instrument for the purposes therein contained by signing the name of said company by himself/herself as such \_\_\_\_\_.

Witness my hand and official seal at office in the aforesaid county, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

[SIGNATURE PAGE FOR LEASE AGREEMENT]

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

\_\_\_\_\_  
"Elo"

**ELO TOUCH SOLUTIONS, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**STATE OF TENNESSEE  
COUNTY OF KNOX**

Before me, the undersigned authority, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the \_\_\_\_\_ of **ELO TOUCH SOLUTIONS, INC.**, the within named bargainer, a Delaware corporation, and that he/she as such officer being authorized so to do, executed the within instrument for the purposes therein contained by signing the name of said company by himself/herself as such \_\_\_\_\_.

Witness my hand and official seal at office in the aforesaid county, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

[SIGNATURE PAGE FOR LEASE AGREEMENT]

**“Landlord”**

**THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE COUNTY OF KNOX**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**STATE OF TENNESSEE  
COUNTY OF KNOX**

Before me, the undersigned authority, a Notary Public in and for said county and state personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the \_\_\_\_\_ of **The Industrial Development Board of the County of Knox** within named bargainor a corporation, and that he/she as such officer being authorized so to do, executed the within instrument for the purposes therein contained by signing the name of said Public nonprofit corporation by himself/herself as such \_\_\_\_\_.

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT A  
PROPERTY DESCRIPTION**

**[to be updated by Elo – from Deed dated May 24, 2018]**

**SITUATED** in the Sixth (6th) Civil District of Knox County, Tennessee, without the corporate limits of the City of Knoxville, Tennessee, being known and designated as **Lot 1C** as shown on **Final Plat of Resubdivision of Part of Lot 1 Hardin Business Park** filed for record as **Instrument No. 201611160031990** in the Knox County Register of Deeds Office, to which plat specific reference is hereby made for a more particular description of said lot.

**BEING** the same property conveyed to MVP Real Estate, LLC, a Tennessee limited liability company, by Special Warranty Deed from The Development Corporation of Knox County, a Tennessee corporation, dated as of December 15, 2016, filed for record as **Instrument No. 201612150038185** in the Knox County Register of Deeds Office.

SITUATED in the Sixth (6th) Civil District of Knox County, Tennessee, without the corporate limits of the City of Knoxville, Tennessee, being known and designated as Lot 1C as shown on Final Plat of Resubdivision of Part of Lot 1 Hardin Business Park filed for record as Instrument No. 201611160031990 in the Knox County Register of Deeds Office, to which plat specific reference is hereby made for a more particular description of said lot.

BEING the same property conveyed to The Development Corporation of Knox County, a Tennessee corporation, by Special Warranty Deed from MVP Real Estate, LLC, a Tennessee limited liability company, dated May 23, 2018, filed for record as Instrument No. 201805240069386 in the Knox County Register of Deeds Office.

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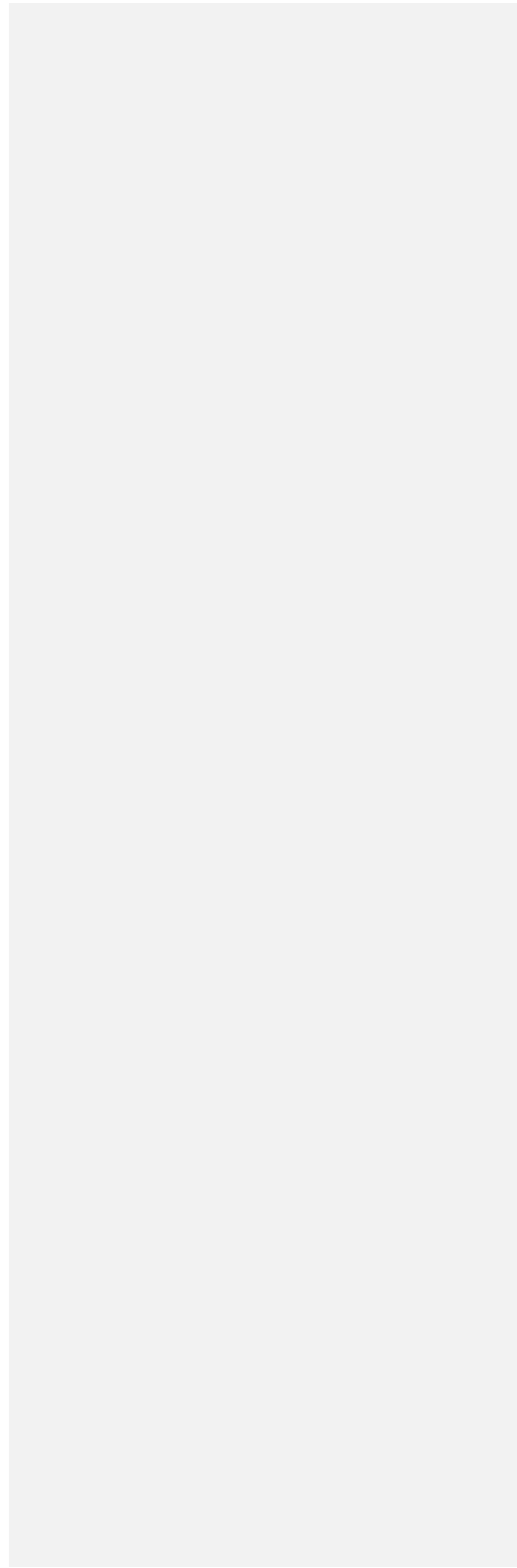
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**EXHIBIT B  
DESCRIPTION OF PERSONAL PROPERTY**

[intentionally omitted]

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**EXHIBIT C**  
**PERMITTED ENCUMBRANCES**



**EXHIBIT D**  
**THE INDUSTRIAL DEVELOPMENT BOARD OF**  
**THE COUNTY OF KNOX**  
**PROPERTY TAX INCENTIVE PROGRAM (PTIP)**

***PTIP COMPLIANCE REPORT***

Please complete the following contact information:

Company Name: \_\_\_\_\_

Local Contact: \_\_\_\_\_

Title: \_\_\_\_\_

Local Address: \_\_\_\_\_

\_\_\_\_\_

Local Phone: \_\_\_\_\_

Local Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Person Responsible for completing Report (If different from the local contact)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Please submit completed and signed materials to:  
The Development Corporation of Knox County  
Attn: Todd Napier  
17 Market Square, #201  
Knoxville, TN 37902-1405

**DEADLINE:** \_\_\_\_\_



**THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE COUNTY OF KNOX  
PROPERTY TAX INCENTIVE PROGRAM (PTIP)**

**PTIP REPORT/COMPLIANCE REPORT**  
as of \_\_\_\_\_, 20\_\_

**Project Data:**

Recipient of Property Tax Incentive (Company Name): \_\_\_\_\_

Address of Property Subject to Payment in Lieu of Tax Transaction (PILOT):

\_\_\_\_\_  
\_\_\_\_\_

**Capital Investment:**

Identify the total Capital Investment in the Project as of \_\_\_\_\_, 20\_\_.

Purpose	Amount
Land Acquisition	\$ _____
Site Development Costs	\$ _____
Building Improvements	\$ _____
Machinery and Equipment	\$ _____
Air Quality/Pollution Control Equipment	\$ _____
Other (please describe)	\$ _____
Total	\$ _____

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Capitalized terms not specifically defined will have the meanings assigned to them in the Lease Agreement between the IDB and the Company and in the Policies and Procedures of the PTIP.

**Employee Report / Job Creation & Wages:**

List the following information for all new employees of the Company currently holding positions as a result of the Project. In a separate document list part-time, contract, or seasonal workers who reside in Knox County or a contiguous county and the gross salaries of employees who reside in Knox County or a contiguous county. (These jobs shall be reported in job classifications as required by the Board.) Also indicate the total on-site employment as of \_\_\_\_\_, 20\_\_.

Position	Number of Employees	Annual Wage

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(job classification or title)	(full time equivalent)	(salary without benefits)
TOTALS:		

**TOTAL ON-SITE EMPLOYMENT:** \_\_\_\_\_

**Vendor Support Report:**

The annual and cumulative gross dollars spent locally on supplier and professional service contracts, to demonstrate the amounts by contract awarded and performed by Knox County Persons.

Knox County Suppliers (by type)	Calendar Expenditures	Year	Cumulative Expenditures for PILOT Term

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**Minority/Small Businesses:**

The dollar amount of contracts awarded to Minority/Small Business for the term of the PILOT.

Minority/Small Business by Type	Amount of Contract
Total	

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**Insurance Requirements:**

In accordance with the Lease Agreement provide a certificate of insurance showing insurance coverage in the proper amounts and listing The Industrial Development Board of the County of Knox as an additional insured on all liability policies. The form of the Certificate must comply with the Lease

Agreement. It should provide an obligation on the part of the insurer to provide 30 days' notice of cancellation or a material change in coverage.

The following language normally contained in Accord Certificate 25-S is NOT acceptable:

- (i) the insurer "will endeavor to mail notice to "the certificate holder""; and
- (ii) "This certificate is issued as a matter of information only and confers no rights upon the certificate holder. The certificate does not amend, extend, or alter the coverage afforded by the policies below."

The Company may provide an insurance binder, a summary of declarations showing the coverage and the notice requirements, or a copy of the actual policies.

**CERTIFICATE**

The undersigned hereby represents, warrants and certifies to The Industrial Development Board of the County of Knox ("IDB") as follows:

- (i) The undersigned is the incumbent holder of the office or official position set forth below and is authorized by the Company to execute and deliver this Compliance Report to the IDB;
- (ii) the undersigned has examined the information contained in this Compliance Report and the accompanying Employee Listing and accompanying Capital Improvements Invoice Listing, if applicable, and the information contained therein is true, complete and accurate as of the date set forth below;
- (iii) no Event of Default has occurred under the Lease Agreement between the Company and the IDB, or would have occurred but for the giving of notice or the passage of time, or both;
- (iv) no circumstance exists that could serve as the basis for an Event of Default referred to above; and
- (v) the Company has performed all of its obligations under the Lease Agreement between the Company and the IDB, as amended, that are required to be performed by it at or prior to the date set forth below.

\_\_\_\_\_  
Print name and title of authorized Company representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

STATE OF TENNESSEE  
COUNTY OF KNOX

Before me, the undersigned authority, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself/herself to be the \_\_\_\_\_ of \_\_\_\_\_, the within named bargainer, a \_\_\_\_\_, and that he/she as such \_\_\_\_\_ being authorized so to do, executed the within instrument for the purposes therein contained by signing the name of said \_\_\_\_\_ by himself/herself as such \_\_\_\_\_.

Witness my hand and official seal at office in the aforesaid county, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, 202.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

**Please submit completed and signed materials to:**  
The Development Corporation of Knox County  
Attn: Todd Napier  
17 Market Square, #201  
Knoxville, TN 37902-1405  
**For assistance call: 865-546-5887**

**EXHIBIT E**  
**PTIP POLICIES AND PROCEDURES**  
**[SEE ATTACHED]**

**EXHIBIT F**  
**COST BENEFIT ANALYSIS**  
**[SEE ATTACHED]**

**REPORT OF PROPERTIES OWNED BY HEALTH AND EDUCATIONAL INDUSTRIAL DEVELOPMENT AND SPORTS AUTHORITY BOARDS**

(Rev. 2013)  
(Note: late fee due after October 1)

Tennessee law requires businesses leasing property from certain public boards and authorities to annually report to the State Board of Equalization concerning the leased properties.

<b>GENERAL INFORMATION</b> County: _____ Year: _____ Owner name: _____ Lessee name and address: _____ _____ _____	This property is owned in the name of (select one): <input type="checkbox"/> Industrial Development Board (T.C.A. §7-53-301) <input type="checkbox"/> Health, Housing & Educational Facility Board (T.C.A. §48-101-307) <input type="checkbox"/> Sports Authority Board (T.C.A. §7-67-108)
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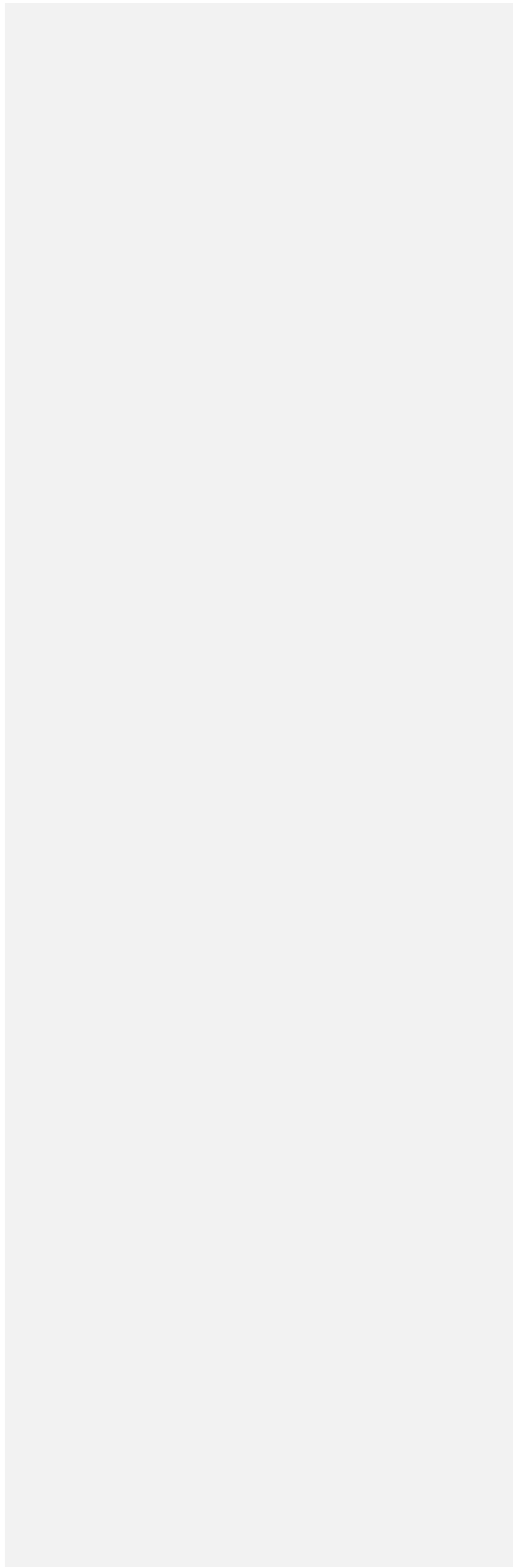
Has lessee name changed since last filing? Yes \_\_\_ No \_\_\_

Person filing this report:

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

1. **PROPERTY LISTING:** List all the real and personal property owned by the ID/H&E Board which is leased or subleased by this lessee as of last January 1. List each property separately if it has a separate parcel or account number in the assessor's records:

Project type code (see instructions)	Property address or location	State the city where the property is located	Assessor's id. no.
A. _____	_____	_____	_____
B. _____	_____	_____	_____
C. _____	_____	_____	_____



D. \_\_\_\_\_  
E. \_\_\_\_\_

2. PROPERTY DETAIL: For each of the above properties, provide the following information:

Item	EST. VALUE	DATE1	TERM	RENT	PILOT/CITY	PILOT/CO.	DATE2	L/H TAX (IF ANY)
A								
B								
C								
D								
E								

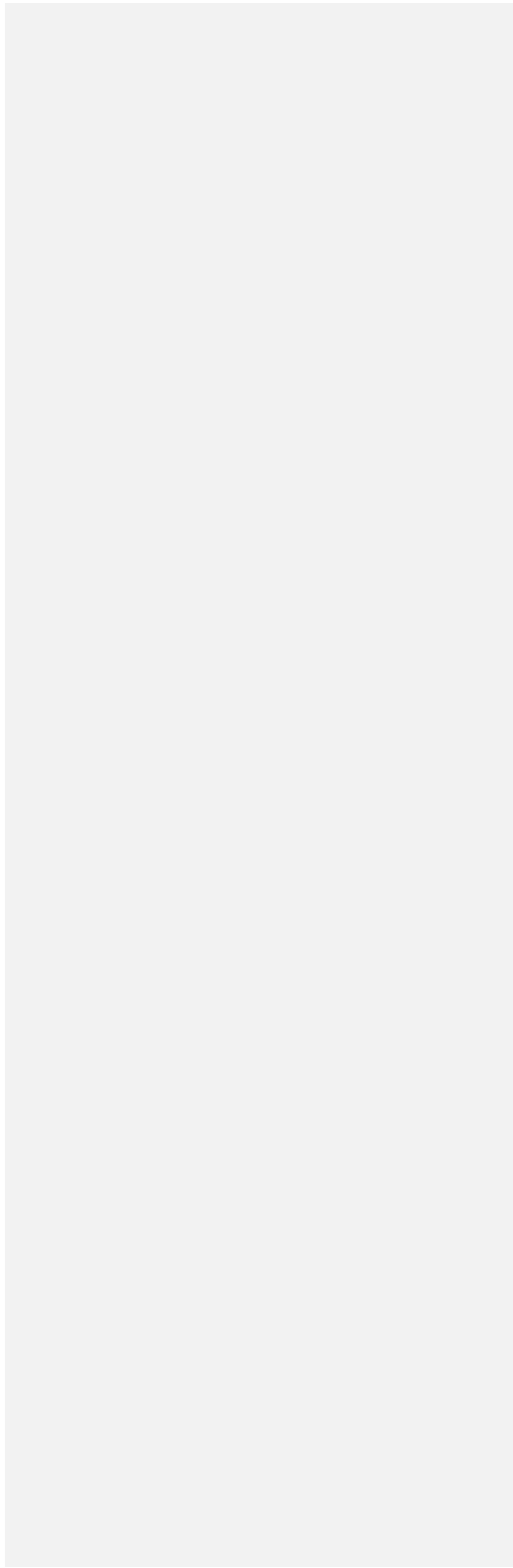
EST. VALUE: Good faith estimate of value    DATE1: Lease date    TERM: Lease term (mos./yrs.)  
 RENT: Amount of stated rent per the lease.  
 PILOT/CITY: Annual payments in lieu of property taxes payable to or for the benefit of a city  
 PILOT/COUNTY: Annual payments in lieu of property taxes to or for the benefit of a county  
 DATE2: Date the property is scheduled to return to the regular tax rolls  
 L/H TAX: If the county assessor has recorded a positive value for the leasehold interest, state the amount of tax due (confirm with county assessor).

*This report must be completed and submitted to the State Board of Equalization annually by October 1. The report is late if postmarked after October 1. Late filed reports must be accompanied by a late fee of \$50. The report may be submitted electronically through our web site at [www.comptroller.state.tn.us](http://www.comptroller.state.tn.us).*

A copy of this report must be filed with the county assessor of property by Oct. 15. Has a copy of this report been filed with the county assessor?  
 Yes \_\_\_ No \_\_\_

For questions, call or write the Board or visit our website at <http://www.comptroller.state.tn.us/sb/faq.htm>.

State Board of Equalization  
 9<sup>th</sup> Floor, W.R. Snodgrass TN Tower  
 312 Rosa Parks Avenue  
 Nashville, Tennessee 37243-1102  
 (615)401-7883





**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL  
DEVELOPMENT BOARD OF THE COUNTY OF KNOX APPROVING  
THE PILOT LEASE AGREEMENT FOR ELO TOUCH SOLUTIONS, LLC**

**WHEREAS, THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX** (“IDB”) is a nonprofit public corporation organized by Knox County as an industrial development board pursuant to Tenn. Code Ann. §§7-53-301 et seq. (the “Act”) and as such is a public instrumentality of Knox County performing a public function; and

**WHEREAS,** the IDB’s statutory purposes include financing, owning, and leasing certain real and personal properties, which will have the effect of maintaining and increasing employment and otherwise promoting new industry, commerce and trade in Tennessee and Knox County, in particular; and

**WHEREAS,** Tenn. Code Ann. §7-53-305 provides that the IDB and all properties at any time owned by it, and the income and revenues therefrom, and all bonds issued by it, and the income therefrom are exempt from all taxation in the State of Tennessee; and

**WHEREAS,** pursuant to a Resolution dated January 27, 2003, the Commission of Knox County, Tennessee (the “Commission”) delegated to the IDB the authority to negotiate and accept from lessees payments in lieu of ad valorem taxes, found that such payments are deemed to be in furtherance of the IDB’s public purposes as set forth in the Act, and adopted the IDB’s Property Tax Incentive Program; by a Resolution dated December 20, 2004, the Commission adopted certain amendments to the IDB’s Tax Incentive Program in accordance with the Act (as so amended, the “Tax Incentive Program”); and

**WHEREAS,** Elo Touch Solutions, LLC (together with ETS Partners, LLC, the developer for the Project, “Applicant”) has submitted an application (“Application”) to the IDB for certain tax incentives under the Tax Incentive Program in connection with Applicant’s plans to build and grow its Americas Operations Center business on approximately 7.25 acres of property located at 2439 Bertelkamp Lane in Knox County, Tennessee (the “Project”) and to be leased to and used by Applicant; and

**WHEREAS,** Applicant requested that the IDB grant and enter into a tax incentive with Applicant with respect to the Project having (a) the lease term of five (5) years; (b) annual payments-in-lieu of tax at an amount approximating fifty percent (50%) of the ad valorem taxes which would otherwise be payable with respect to the subject real property each year, less an amount equal to \$3,321.00; and (c) the payment of a closing fee equal to \$11,325.00; and

**WHEREAS,** upon the recommendation of the Application Review Committee, the Board has, pursuant to a Resolution dated August 11, 2020 (“August Resolution”), approved the Application and the grant of the tax incentives requested for the Project under such Tax Incentive Program, finding that the Project and grant of tax incentives under the Tax Incentive Program to Applicant by the IDB will have the effect of maintaining and increasing employment and otherwise promoting new industry, commerce and trade in Tennessee and Knox County, in particular; and

**WHEREAS,** there has been submitted to the Board of Directors of the IDB (the “Board”) at its regular scheduled meeting on January 12, 2021, a revised form of Lease Agreement between the IDB and the Applicant (“Lease Agreement”), which the IDB proposes to execute to carry out the transactions described above, copies of which such instrument shall be filed with the records of the IDB.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:**

1. The IDB is hereby authorized and directed to acquire from the Applicant the real and certain personal property constituting the Project, pursuant to such deeds, assignments, bills of sale and other documents of transfer deemed necessary or convenient by the IDB to effect the transfer of such property to the IDB in a manner that will comply with the IDB's enabling legislation and thereby cause such property to be exempt from taxation by any applicable municipality.
2. The IDB is hereby authorized and directed to enter into the Lease Agreement, pursuant to which the IDB leases to the Applicant the real property constituting the Project having an initial term-length of five (5) years from the initial date of the Lease Agreement. The documents described in Sections 1 and 2, together with any other documents executed and delivered in connection with the transactions contemplated herein or otherwise deemed necessary or convenient by the IDB or the officer(s) of the IDB specified herein, shall be hereinafter referred to as the "Transaction Documents."
3. The form, content, and provisions of the Lease Agreement presented to this meeting of the Board of Directors, are in all particulars approved. The Lease Agreement is to be in substantially the form now before this meeting of the Board of Directors, or with such changes therein as shall be approved by the officer or officers executing the Transaction Documents and legal counsel to the Board. The execution of the Transaction Documents by the authorized officer or officers shall constitute evidence of his, her or their approval and approval of legal counsel of any and all such changes or revisions.
4. Each of the officers of the Board is hereby authorized and directed to execute and deliver the Transaction Documents on behalf of the IDB. Such officers are, and each of them is, furthermore, hereby authorized to do all acts and things and execute all documents, from time to time, as may be necessary or convenient to effect the transactions contemplated herein and in the Transaction Documents and to carry out and comply with the provisions of the Transaction Documents and other documents deemed necessary by the IDB.
5. The deadline to close the PILOT transactions described above is February 9, 2021, and upon failure to close by such date (or such later date approved by the Board pursuant to a separate resolution), the approval evidenced hereby and all prior resolutions approved by the Board respecting the Project shall expire and be of no further force and effect.
6. The terms of all prior resolutions approved by the Board respecting the Project not modified hereby are ratified in all respects.

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**STATE OF TENNESSEE  
COUNTY OF KNOX**

I, Greg McWhorter, Chair of The Industrial Development Board of the County of Knox (the “IDB”), do hereby certify that the foregoing is a true and complete extract of the minutes of the Board of Directors of the IDB at a meeting duly called and held on January 12, 2021, and sets forth so much of said minutes as in any way relates to the introduction, consideration and passage of the resolution therein set forth. Public notice of said meeting was given pursuant to and in compliance with all provisions of law.

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE COUNTY OF KNOX**

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Chair

Dated: January 12, 2021

APPROVAL PROCESS FOR REVISED PILOT POLICIES AND PROCEDURES

	Approval Process Item	Time Frame
1	Initial Draft Prepared	January 25, 2021
2	Finalize and Submit to Ad Hoc Committee for Review	February 5, 2021
3	Ad Hoc Committee Meeting to Consider and, if acceptable, Approve for Submission to Full Board	February 16, 2021
4	Submit to Full Board for Review	March 2, 2021
5	Full Board Meeting to Consider and, if acceptable, Approve for Submission to Knox County Commission	March 9, 2021
6	Discussions with Knox County Mayor, Knox County Commission Chair & Conduct Special-Called Knox County Commission Workshop	March 9 – April 20, 2021
7	Ad Hoc Committee Meeting to Consider Revisions (if any) from Discussions with Elected County Officials	April 30, 2021
8	Submit Revisions (if any) to Full Board	May 4, 2021
9	Full Board to Consider and, if applicable, Approve Revisions (if any) for Submission to Knox County Commission	May 11, 2021
10	Further Discussions with Knox County Mayor & Knox County Commission Chair Concerning Revisions (if any) & Conduct Special-Called Knox County Commission Workshop (if necessary)	May 11 to June 21, 2021
11	Submit Revisions to Knox County Commission	June 7, 2021
12	Present Revisions to Knox County Commission during County Commission Workshop	June 21, 2021
13	Knox County Commission Meeting to Consider and, if applicable, Approve Final Policies	June 28, 2021
	Estimated Cost (greater than 20% discount off billing rate)	\$20,000-\$25,000

**MINUTES OF THE REGULAR MEETING OF  
THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX**

December 8, 2020, 4:00 p.m.

The regular meeting of the Board of Directors of The Industrial Development Board of the County of Knox (the “Industrial Development Board” or “Board”) was held on Tuesday, December 8, 2020 at 4:00 p.m., pursuant to notice duly provided to the Directors and the public. The meeting was held via electronic method (Zoom Meeting), the Board’s Chair having determined on behalf of the Board that such was necessary to protect the health, safety, and welfare of Tennesseans in light of the COVID-19 outbreak.

The following Directors were present at the meeting, constituting a quorum, Greg McWhorter (Chair), Tiffany Gardner (Secretary), Julie Wheeler, Alvin Nance, Rick Gentry, Terry Henley, Michael Wood, Anthony Wise, Michael George, and Shannon Coleman Egle.

Also, in attendance were Todd Napier (The Development Corporation), Ray Christian (The Development Corp.), Shawn Barhorst (The Development Corporation), Brenda Wilson Spence (The Development Corporation), R. Christopher Trump (Legal Counsel – Egerton, McAfee, Armistead & Davis, P.C.), and Susan L. Levine (Paralegal - Egerton, McAfee, Armistead & Davis, P.C.). Carl Lansden, with Lansden Landmarks, LLC; Mark Bunch, Bunch Development Services; Buzz Goss, with Hillwood Villas, LLC, Kent Leach, with Hickory Creek Capital Partners; Craig Cobb, with DGA Lakeview, LP; and Jay Moneyhun with Bass, Berry & Sims, PLC.

I. Greg McWhorter, the Board’s Chair, called the Industrial Development Board meeting to order. The Agenda of the Industrial Development Board meeting is attached hereto as Exhibit A. Mr. McWhorter asked the Board if there were any objections to adjourn the meeting at 4:15 p.m. and resume after the Health, Educational & Housing Facility Board meeting was held to alleviate the need of all additional parties having to stay. No objections were made.

The Industrial Development Board discussed the following matters and took the following actions as noted:

II. Review/Approve Minutes from Previous Meeting. The Chair of the meeting asked if there were any changes to the minutes of the regular meeting held on November 10, 2020. There were none. Upon a motion by Julie Wheeler and a second by Alvin Nance, the minutes of the November 10, 2020, meeting were unanimously approved.

III. Election of Board Officers, Committee Appointments and Appointment to Greater Knoxville Foreign Trade Zone Advisory Council. The Chair stated that, at the last meeting, a nominating committee was appointed to consider officer appointments, committee appointments and the IDB’s appointee to the Greater Knoxville Foreign Trade Zone Advisory Council appointments. He stated that there is a report in the Agenda Packet that contains the nominations made by the Nominating Committee as to those positions. A copy of such report is hereto attached as Exhibit B. The Chair asked if there were any questions or comments concerning the nominations or if any Board member wanted to make any additional nominations. There were none.

Upon a motion by Anthony Wise and a second by Michael Wood, the following persons were elected or appointed to the positions opposite their name:

**Officers:**

Greg McWhorter: Chair  
Paul Fortunato: Vice Chair  
Tiffany Gardner: Secretary/ Treasurer  
Julie Wheeler: Assistant Secretary/ Treasurer

**Application Review Committee:**

Rick Gentry, as Chair  
Tiffany Gardner, as Vice Chair  
Paul Fortunato  
Greg McWhorter  
Shannon Coleman Egle  
Michael Wood

**Performance Evaluation Committee.**

Julie Wheeler, as Chair  
Michael George, as Vice Chair  
Terry Henley  
Anthony Wise  
Alvin Nance

The Chair then discussed the need to appoint a representative to the Greater Knoxville Foreign Trade Zone Advisory Council and asked Todd Napier to provide additional background and history of the advisory council. Mr. Napier provided the additional information to the Board and then addressed the Board regarding his efforts to solidify the IDB's appointee. Tiffany Gardner stated that she will be contacting the principals of Jewelry Television to determine their interest in appointing a representative to the advisory council. Should Jewelry Television be unresponsive to this request, Tiffany Gardner will then reach out to Royal Brass & Hose to determine if they would be willing to provide a representative to be IDB's appointee. Mr. Napier hopes to identify a possible appointee by the January 2021 meeting.

IV. Consideration of Resolution regarding Signature Card Authorizations. The Chair stated that the resolution regarding Signature Card Authorizations is in the Board's packet and that the resolution is before the Board for its approval. The Chair asked if there were any comments or questions. A motion was made by Julie Wheeler and seconded by Tiffany Gardner to accept the resolution. However, Shawn Barhorst stated that since the officers are remaining the same for 2021, the need for new signature cards was no longer needed and the prior resolution granting authorization was sufficient for the Board's continued business. Mr. Trump further clarified that the prior resolution requiring 2 signatories was amended due to the Covid-19

pandemic which granted authority for only 1 signatory on checks when accompanied with an email approval of another signatory. After discussion, the motion made by Julie Wheeler and Seconded by Tiffany Gardner was withdrawn.

V. Old Business.

A) Review and Consideration of Resolution Approving Extension of PILOT Deadline for Elo Touch Solutions, Inc. Mike George recused himself from the discussion and vote on this matter. The Chair recognized Todd Napier who addressed the Board regarding the extension request to close the PILOT lease from December 31, 2020, to February 9, 2021, due to unavoidable delays. Discussion was had.

Upon a motion by Alvin Nance, and a second by Tiffany Gardner, the proposed resolution was unanimously approved, except for Mr. George who recused himself from the vote. A copy of the resolution as approved is attached hereto as Exhibit C.

Meeting was adjourned at 4:18 p.m. to proceed with the Health, Educational & Housing Facility Board meeting.

Meeting was resumed at 4:41 p.m. and the Board discussed the following items:

B) Update Regarding Ad Hoc PILOT Policies and Procedures Committee. The Chair recognized Todd Napier who addressed the Board regarding efforts to revise the policies and procedures applicable to the Board's PILOT program. Mr. Napier stated that the Ad Hoc Policies and Procedures Committee met on December 1, 2020, where he presented his proposed revised scoring matrix detailing the factors and weighting to be used in determining the term of PILOTs in the revised policies and procedures, such factors to include capital investment, direct and indirect jobs, and wages, and added bonus points for minority workforce incentives and location (such as brownfields or designated blighted areas). The revision also includes the prior feedback from the Committee, different scoring for real and personal property. Mr. Napier stated that his goal is to present the Committee's final recommendations to the Board soon and then present the final policy update to the Knox County Commission within the first quarter of 2021. Discussion was had. Mr. Napier requested that Board members with any additional input to please let him know, as he would like to finalize this portion of the policies prior to including them in the draft of the policies. The Chair invited the Board to discuss any additional comments or concerns. No additional discussion was had.

VI. New Business.

A) 2021 Meeting Schedule. The Chair recognized Todd Napier who addressed the Board regarding the proposed dates for the IDB board meetings in 2021. He stated that they are still scheduled to occur the second Tuesday of every month unless a specially called meeting needs to be scheduled.

VII. Next Meeting. The next regular meeting of The Industrial Board of the County of Knox is scheduled for January 12, 2021, at 4:00 p.m. at the offices of The Development Corporation of Knox County located at 17 Market Square, #201, Knoxville, Tennessee.

VIII. Adjournment. No further business having come before the Board and upon motion duly made and seconded, the Board voted unanimously to adjourn the meeting at 5:20 p.m.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary



## **EXHIBITS**

- Exhibit A      Agenda – December 8, 2020
- Exhibit B      Nominating Committee Report
- Exhibit C      Resolution Approving Extension of PILOT Deadline for  
Elo Touch Solutions, Inc.