

Board Members:

Charley Bible
Shannon Coleman Egle
Paul Fortunato
Tiffany Gardner
Mike George
Terry Henley
J. Ford Little
Lou Moran, III
Alvin Nance
Lisa Rottmann
Anthony Wise



The Industrial Development Board of the County of Knox

Regular Meeting
Tuesday, November 14, 2023, 4:00 p.m.
17 Market Square, #201
Knoxville, Tennessee 37902

AGENDA

- I. Call to Order
- ACTION** II. Approval of Minutes from Previous Meeting
 - a) Regular Meeting – September 12, 2023
- ACTION** III. Finance Report
- ACTION** IV. Review and Consideration of a Resolution approving an amendment to the Lease Agreement pertaining to a Payment-In-Lieu-of-Tax (PILOT) transaction with Lifetime Products, Inc. located at 2015 Eastbridge Boulevard, Knoxville, Tennessee, 37806.
- ACTION** V. Review and Consideration of a Resolution approving an amendment to the Accountability Agreement of the Fasttrack Economic Development Program between the State of Tennessee Department of Economic Development and Elo Touch Solutions, Inc. dated July 29, 2021 (original Agreement).
- ACTION** VI. Old Business
 - a) Adoption of the Public Forum Policy for Public Comment
- VII. New Business
 - a) Business Park overview and discussion
 - b) 11/28/2023 Application Review Committee Attendance Poll
- VIII. Adjourn

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

September 12, 2023, 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, September 12, 2023, at 4:00 p.m., pursuant to notice duly provided to the Directors and the public. The meeting was held at the offices of the Knoxville Chamber and The Development Corporation of Knox County located at 17 Market Square, #201, Knoxville, Tennessee, 37902.

The following Directors were present at the meeting, Paul Fortunato (Chair), Tiffany Gardner (Vice Chair), Shannon Coleman Egle (Secretary), Dr. Anthony Wise, Alvin Nance, Lisa Rottmann, Lou Moran, III, and Charley Bible.

Also, in attendance were Mike Odom (The Development Corporation), Mac McWhorter (Knoxville Chamber), Karen Kakanis (Knoxville Chamber), Caroline Bailey (Knoxville Chamber), Doug Lawyer (Chamber), R. Christopher Trump (Legal Counsel – Egerton, McAfee, Armistead & Davis, P.C.), Katrina Vargas (Paralegal – Egerton, McAfee, Armistead & Davis, P.C.), Soriya Gast (Public Observer), Brian Slagle (Lifetime Products), Michael Britton (Custom Foods), Curtis Payne (Crosslin & Associates, PC), James P. Moneyhun, Jr. (Bass Berry & Sims), Jonathan Mayfield (Home Federal),

I. Paul Fortunato, 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.

The Industrial Development Board then 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 August 8, 2023.

Upon a motion by Lou Moran, and a second by Dr. Wise, the Minutes of the meeting were unanimously approved. A copy of the Minutes is attached hereto as Exhibit B.

III. Review and consideration of a resolution of the Board of Directors of The Industrial Development Board of the County of Knox approving the PILOT application of Custom Foods of America, Inc. pertaining to the expansion of its existing facilities located at 3600 Pleasant Ridge Road, Knoxville, Tennessee 37921. The Chair recognized Tiffany Gardner as Chair of the Application Review Committee, who addressed the Board regarding the proposed project and application of Custom Foods of America, Inc. and presented the committee’s recommendation. Ms. Gardner stated that the committee has recommended the approval of the application and the entering into a PILOT lease agreement for real and personal property having a term-length of five (5) years, with annual payments-in-lieu of tax equal to the amount of the real property taxes currently assessed against the subject real property. The Chair then introduced Mr. McWhorter,

who addressed the Board concerning the application and the proposed project. Mr. McWhorter stated that under the PILOT policies and procedures scoring matrix, the project qualified for a PILOT having a term limit and PILOT payment amount consistent with the recommendation of the committee. Mr. McWhorter then introduced Mike Britton to the Board.

Mr. Britton provided a brief overview of the history of the company, its operations and the proposed project. He stated that the project will be the single biggest investment ever made by the applicant, encompassing an approximate 200,000 sq ft expansion and increasing employment by more than 250 jobs. He stated that the project is expected to be complete within twenty-four months and that the applicant expects to invest in excess of \$54,000,000. Discussion was had.

Upon a motion by Lou Moran and a second by Lisa Rottmann, the Resolution regarding the PILOT application of Custom Foods of America, Inc. was unanimously approved. A copy of the Resolution is attached hereto as Exhibit C.

IV. Review and consideration of a Resolution of the Board of Directors of The Industrial Development Board of the County of Knox relative to a proposed amendment to the revenue bonds previously issued by the Board for the benefit of The Change Center. Alvin Nance abstained from discussion and voting. The Chair recognized Jay Moneyhun, bond counsel for the bonds, who addressed the Board regarding the proposed resolution. Mr. Moneyhun stated that The Change Center is requesting a 6-month deferral of principal payments under the bonds and that the proposed resolution approves an amendment to the bond documents to accomplish such request. He stated that The Change Center currently owes approximately \$855,000.00 under the bonds. Mr. Moneyhun then introduced Jonathan Mayfield, who explained that The Change Center has paid the bonds down considerably, but Covid-related and other challenges have affected cash flows. He stated that The Change Center has now stabilized but needs additional time to raise funds to pay the balance of the bonds.

Upon a motion by Tiffany Gardner and a second by Shannon Egle, the Resolution regarding the amendment to the revenue bonds previously issued for The Change Center was unanimously approved. A copy of the Resolution is attached hereto as Exhibit D.

V. Review and consideration of a Resolution of the Board of Directors of The Industrial Development Board of the County of Knox relative to a proposed amendment to the Lease Agreement with Lifetime Products, Inc. The Chair recognized Mac McWhorter who addressed the Board regarding the request of Lifetime Products, Inc. (“Lifetime”) to amend the capital investment and jobs requirements in the PILOT lease with the IDB. Mr. McWhorter provided a brief background for the request, stating that in 2016, the Board granted Lifetime an 8-year PILOT with a 5-year measurement period. He stated that COVID-19 impacted them significantly and that upon the request of Lifetime, the Board provided two 1-year extensions of the measurement period under the PILOT lease to provide additional time for Lifetime to fulfill its obligations. Mr. McWhorter explained that Lifetime’s compliance report at the end of the extended measurement period indicated that Lifetime has been unable to achieve or maintain the necessary amounts of capital investment and jobs for the project required under the PILOT lease. Mr. McWhorter stated that using the actual capital investment and jobs numbers provided by Lifetime in such report, he re-scored the project and that Lifetime would still qualify for a PILOT

lease term in excess of the original 8-year PILOT. Mr. McWhorter introduced Brian Slagle, who addressed the Board regarding the project and challenges associated with meeting the capital investment and job requirements. Mr. Slagle explained the projections used to determine the requirements assumed that Lifetime would complete additional manufacturing lines, which they have been unable to complete at this point, explaining that the pandemic slowed them down greatly. He stated that they still have plans to expand both their manufacturing and distribution operations at the site.

Upon a motion by Lisa Rottmann and a second by Charley Bible, the Board unanimously approved the waiver of any and all defaults associated with Lifetime's inability to maintain the capital investment and job requirements and directed legal counsel to the Board to present to the Board an amendment to the PILOT lease amending such requirements to be consistent with current achievements.

VI. Presentation and Consideration of Agreed Upon Procedures for 12/31/22 for the Knox County Property Tax Incentive Program. The Chair recognized Alvin Nance, Chair of the Performance Review Committee, who provided the report of the Committee on the Agreed Upon Procedures Report for the Knox County Property Tax Incentive Program for the calendar year ending 12/31/22 of Crosslin & Associates, PC, stating that the Committee recommends approval of the report. He stated that the report indicates that all of the recipients of PILOTs are currently in compliance with the requirements of their respective PILOT leases. Ms. Kakanis explained that several were not in compliance as of the respective reporting dates but that all remedied any such noncompliance after follow-up.

The Board unanimously approved the recommendation of the committee and the report. A copy of the Agreed Upon Procedures for Knox County Property Tax Incentive Program is attached hereto as Exhibit F.

VII. Presentation and Consideration of Audited Financial Statements for Year Ended 3/31/23. The Chair recognized Curtis Payne with Crosslin & Associates. Mr. Payne reviewed their role as auditors and their responsibilities to the organization and to those charged with financial oversight. Mr. Payne stated that they found no issues with staff's accounting procedures and communications. Mr. Payne then presented the Independent Auditor's Report to the Board and the Audited Financial Statements for the fiscal year ending 3/31/23. Discussion was had.

Upon the motion of Lou Moran, III, and seconded by Alvin Nance, the Board unanimously voted to approve the Independent Auditor's Report to the Board and the Audited Financial Statements for Year Ended 3/31/23 for the fiscal year ending 3/31/23, a copy of which is attached hereto as Exhibit G and incorporated herein by reference.

VIII. Old Business.

(a) Update on TDC/IDB Transition. Mr. Trump explained we received approval on the transition by the Attorney General, and we are working on the schedule and finalization, which they hope to be completed and conveyed before the next meeting. Discussion was had.

IX. New Business.

(a) Adoption of Public Forum Policy for Public Comment. Mr. Trump presented the draft Public Form Policy for Public Comment to the Board. Discussion was had. No action was taken by the Board.

X. Next Meeting. The next regular meeting of The Industrial Development Board of the County of Knox is scheduled for October 17, 2023, at 4:00 p.m. at the offices of The Development Corporation of Knox County located at 17 Market Square, #201, Knoxville, Tennessee.

XI. 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 4:57 p.m.

Dated

Shannon Coleman Egle, Secretary

EXHIBITS

- Exhibit A Agenda – September 12, 2023
- Exhibit B Minutes – August 8, 2023
- Exhibit C Resolution of the Board of Directors of The Industrial Development Board of the County of Knox approving the PILOT application of Custom Foods of America, Inc. pertaining to the expansion of its existing facilities located at 3600 Pleasant Ridge Road, Knoxville, Tennessee 37921
- Exhibit D Resolution of the Board of Directors of The Industrial Development Board of the County of Knox relative to a proposed amendment to the revenue bonds previously issued for The Change Center
- Exhibit E Resolution of the Board of Directors of The Industrial Development Board of the County of Knox relative to a proposed amendment to the Lease Agreement with Lifetime Products, Inc.
- Exhibit F Agreed Upon Procedures for Knox County Property Tax Incentive Program
- Exhibit G Financial Report

The Industrial Development Board of the County of Knox
Balance Sheet
As of September 30, 2023

	As of Sep 30, 2023	As of Sep 30, 2022 (PY)	Change	% Change
ASSETS				
Current Assets				
Bank Accounts				
100-000 Cash - Regions Bank	41,736.07	128,362.17	(86,626.10)	-67.49%
100-600 Construction Funds - Grassy Creek	-	(8,111.55)	8,111.55	100.00%
100-700 CGI Grant Pass-through	43,000.00	43,000.00	-	0.00%
100-800 Workforce Training Funds	47,500.00	75,000.00	(27,500.00)	-36.67%
Total 100-000 Cash - Regions Bank	\$ 132,236.07	\$ 238,250.62	\$ (106,014.55)	-44.50%
112-000 Grassy Creek - TIF Fund	384.64	409.65	(25.01)	-6.11%
114-000 Northshore TC TIF Fund - County	79,583.06	77,028.51	2,554.55	3.32%
Total Bank Accounts	\$ 212,203.77	\$ 315,688.78	\$ (103,485.01)	-32.78%
Accounts Receivable				
125-000 Accounts Receivable (A/R)	420,336.70	528,471.28	(108,134.58)	-20.46%
Total Accounts Receivable	\$ 420,336.70	\$ 528,471.28	\$ (108,134.58)	-20.46%
Other Current Assets				
127-000 Prepaid Insurance	1,804.56	1,788.31	16.25	0.91%
Total Other Current Assets	\$ 1,804.56	\$ 1,788.31	\$ 16.25	0.91%
Total Current Assets	\$ 634,345.03	\$ 845,948.37	\$ (211,603.34)	-25.01%
Other Assets				
170-000 Loan to TDC	450,000.00	450,000.00	-	0.00%
Total Other Assets	\$ 450,000.00	\$ 450,000.00	\$ -	0.00%
TOTAL ASSETS	\$ 1,084,345.03	\$ 1,295,948.37	\$ (211,603.34)	-16.33%
LIABILITIES AND EQUITY				
Liabilities				
Current Liabilities				
Accounts Payable				
200-000 Accounts Payable	404,154.25	503,993.25	(99,839.00)	-19.81%
Total Accounts Payable	\$ 404,154.25	\$ 503,993.25	\$ (99,839.00)	-19.81%
Other Current Liabilities				
246-000 Northshore TC TIF - Liability	79,583.06	77,028.51	2,554.55	3.32%
247-000 Grassy Creek TIF - Liability	384.64	409.65	(25.01)	-6.11%
250-000 Grassy Creek Project Fund Liability	-	5,666.48	(5,666.48)	-100.00%
251-000 CGI Reimbursement Liability	43,000.00	43,000.00	-	0.00%
252-000 Workforce Training Liability	47,500.00	75,000.00	(27,500.00)	-36.67%
Total Other Current Liabilities	\$ 170,467.70	\$ 201,104.64	\$ (30,636.94)	-15.23%
Total Current Liabilities	\$ 574,621.95	\$ 705,097.89	\$ (130,475.94)	-18.50%
Total Liabilities	\$ 574,621.95	\$ 705,097.89	\$ (130,475.94)	-18.50%
Equity				
300-000 Opening Balance Equity	18,400.68	18,400.68	-	0.00%
320-000 Retained Earnings	537,875.85	591,668.41	(53,792.56)	-9.09%
Net Income	(46,553.45)	(19,218.61)	(27,334.84)	-142.23%
Total Equity	\$ 509,723.08	\$ 590,850.48	\$ (81,127.40)	-13.73%
TOTAL LIABILITIES AND EQUITY	\$ 1,084,345.03	\$ 1,295,948.37	\$ (211,603.34)	-16.33%

The Industrial Development Board of the County of Knox
Income Statement with Prior Year Comparison
For the 6 Periods Ended September 30, 2023

	<u>Apr - Sep, 2023</u>	<u>Apr - Sep, 2022 (PY)</u>	<u>Change</u>	<u>% Change</u>
Income				
410-000 Interest Revenue	10.73	23.90	(13.17)	-55.10%
415-000 Chamber Funding	7,682.45	-	7,682.45	
420-000 Base Rent Revenue	8,600.00	10,700.00	(2,100.00)	-19.63%
446-000 Assignment Fee	-	12,771.02	(12,771.02)	-100.00%
Total Income	\$ 16,293.18	\$ 23,494.92	\$ (7,201.74)	-30.65%
Gross Profit	\$ 16,293.18	\$ 23,494.92	\$ (7,201.74)	-30.65%
Expenses				
502-001 Operating Expenses	609.63	891.31	(281.68)	-31.60%
503-001 Advertising Expense	383.07	703.72	(320.65)	-45.56%
507-001 Insurance Expense	2,165.52	2,146.02	19.50	0.91%
511-001 Accounting Expense	11,700.00	5,500.00	6,200.00	112.73%
512-001 Legal Expense	35,738.42	8,972.50	26,765.92	298.31%
519-001 Administrative Expense	12,249.99	24,499.98	(12,249.99)	-50.00%
Total Expenses	\$ 62,846.63	\$ 42,713.53	\$ 20,133.10	47.14%
Net Operating Income	\$ (46,553.45)	\$ (19,218.61)	\$ (27,334.84)	-142.23%
Other Income				
430-000 PILOT Revenue	404,304.25	426,993.25	(22,689.00)	-5.31%
449-000 Oakwood Rent- Restricted	-	77,000.00	(77,000.00)	-100.00%
460-000 Grassy Creek Construction Revenue	-	13,778.03	(13,778.03)	-100.00%
470-000 Workforce Training Funds	-	75,000.00	(75,000.00)	-100.00%
Total Other Income	\$ 404,304.25	\$ 592,771.28	\$ (188,467.03)	-31.79%
Other Expenses				
560-000 Grassy Creek Construction Expense	-	13,778.03	(13,778.03)	-100.00%
570-000 Workforce Training Expense	-	75,000.00	(75,000.00)	-100.00%
587-001 PILOT Payment Expense	404,304.25	426,993.25	(22,689.00)	-5.31%
950-001 Transfer to TDC - Restricted Funds	-	77,000.00	(77,000.00)	-100.00%
Total Other Expenses	\$ 404,304.25	\$ 592,771.28	\$ (188,467.03)	-31.79%
Net Other Income	\$ -	\$ -	\$ -	
Net Income	\$ (46,553.45)	\$ (19,218.61)	\$ (27,334.84)	-142.23%

KCIDB PILOT Benefit Summary Tax Year 2023

Lessee	PILOT Type	Property ID	Lease Date	Term	End Date	Original Appraised Value	2023 Appraised Value	County PILOT Payments	City PILOT Payments	2023 County Tax Benefit	2023 City Tax Benefit	2023 Total Tax Benefit
1.) SREIT Marble Alley, L.L.C. <i>Formerly - Marble Alley Lofts, LLC</i>	Real	095IA02201	6/27/2014	10	12/31/2025	\$ 2,465,500.00	\$ 47,172,700.00	\$ 40,784.00	\$ 42,516.00	\$ 252,441.50	\$ 364,225.89	\$ 616,667.39
2.) *Gryphon Senior Living - Oakwood <i>Formerly Dover Development</i>	Real	081KCO40	8/20/2012	10	5/20/2023	\$ -	\$ 4,518,600.00	\$ -	\$ -	\$ 10,773.33	\$ -	\$ 10,773.33
3.) Markets at Choto	Real	162MB000114	12/23/2014	15	12/22/2029	\$ 623,600.00	\$ 931,100.00	\$ 150.00	\$ -	\$ 5,637.72	\$ -	\$ 5,637.72
4.) Fresenius Fresenius	Real Personal	110-02625	1/1/2015 1/1/2015	8 8	12/31/2024 12/31/2024	\$ 5,659,600.00	\$ 38,432,400.00	\$ 68,401.00	\$ -	\$ 170,494.80	\$ -	\$ 170,494.80
5.) America's Collectibles Network, Inc. (Jewelry TV) America's Collectibles Network, Inc. (Jewelry TV)	Real Personal	132-02301; 13201	9/1/2015	10	8/31/2026	\$ 9,371,000.00	\$ 28,668,100.00	\$ 104,181.00	\$ -	\$ 74,019.91	\$ -	\$ 74,019.91
6.) Lifetime Products, Inc.	Real	042-19511	7/29/2016	8	7/29/2024	\$ 9,543,500.00	\$ 34,235,200.00	\$ 68,816.00	\$ -	\$ 143,990.00	\$ -	\$ 143,990.00
7.) Dover Development (Knox High)	Real	094DH005	10/31/2016	15	10/31/2031	\$ 912,000.00	\$ 16,349,400.00	\$ 5,661.00	\$ 6,650.71	\$ 95,966.87	\$ 134,320.36	\$ 230,287.23
8.) White Oak Crossing	Real	137-177	12/20/2017	15	12/20/2032	\$ 451,800.00	\$ 6,432,600.00	\$ 36,000.00	\$ -	\$ 3,985.04	\$ -	\$ 3,985.04
9.) ELO Touch	Real	10401508	1/1/2021	5	12/31/2025	\$ 169,200.00	\$ 11,089,300.00	\$ 31,144.54	\$ -	\$ 37,786.55	\$ -	\$ 37,786.55
						\$ 29,196,200.00	\$ 187,829,400.00	\$ 355,137.54	\$ 49,166.71	\$ 795,095.73	\$ 498,546.25	\$ 1,293,641.97

*PILOT Unwind

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
DEVELOPMENT BOARD OF THE COUNTY OF KNOX AMENDING
THE PILOT LEASE AGREEMENT FOR LIFETIME PRODUCTS, INC.**

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, Lifetime Products, Inc. (“Applicant”) submitted an application (“Application”) to the IDB for certain tax incentives under the Tax Incentive Program in connection with construction, development, renovation, improvement, equipping, and installation of the Applicant’s manufacturing facility now located at 2015 Eastbridge Boulevard, Mascot, TN, 37806 (“Project”);

WHEREAS, on December 8, 2015, the Board of Directors of the IDB approved a resolution (the “Resolution”) authorizing the IDB to enter into a PILOT Lease with Applicant; and

WHEREAS, pursuant to the Resolution, Applicant closed the PILOT transaction on July 29, 2016 and entered into a Lease Agreement (“PILOT Lease”) with the IDB; and

WHEREAS, the commencement date of the PILOT Lease was 15 months prior to Applicant receiving the certificate of occupancy on October 11, 2017 for the new manufacturing facility; and

WHEREAS, by a Resolution of the Board of Directors of the IDB (the “Board”) dated August 10, 2021, the Board approved a one-year extension of the Measurement Period and Extension Determination Date as defined and mentioned in Section 4.02 of the PILOT Lease to meet its employment and capital investment thresholds through July 29, 2022;

WHEREAS, the IDB and the Applicant entered into a First Amendment to Lease Agreement dated August 10, 2021, to effectuate such extension;

WHEREAS, by a Resolution of the Board of Directors of the IDB (the “Board”) dated July 12, 2022, the Board approved a second one-year extension of the Measurement Period and Extension Determination Date as defined and mentioned in Section 4.02 of the PILOT Lease to meet its employment and capital investment thresholds through July 29, 2023;

WHEREAS, the IDB and the Applicant entered into a Second Amendment to Lease Agreement dated July 12, 2022, to effectuate such extension;

WHEREAS, the current PILOT Lease requires Applicant to have at least 500 employees with an average wage of \$37,984 by July 29, 2023 and for Applicant to invest \$115,686,000 in capital improvements related to the Project by July 29, 2023;

WHEREAS, the Measurement Period and Extension Determination Date have both expired, and the Applicant has not satisfied the Capital Improvements requirement or the number of Jobs requirement under the PILOT Lease;

WHEREAS, the Board desires to waive any and all defaults related to such failure of Tenant and to amend the requirements for the Capital Investment and number of Jobs required as further described in the PILOT Lease; and

WHEREAS, there has been submitted to the Board at its regular scheduled meeting on October 17, 2023, a Third Amendment to Lease Agreement between the IDB and the Applicant (“Lease Amendment”), which the IDB proposes to execute to carry out the transactions described above, a copy of which such instrument shall be filed with the records of the IDB.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX AS FOLLOWS:

1. The form of the Lease Amendment is hereby approved by the Board in all respects, and the IDB is hereby authorized and directed to enter into the Lease Amendment.

2. The officers of the Board of Directors of the IDB, or any of them, are authorized and directed to execute and deliver all documents necessary, including the Lease Amendment, with such completions, omissions, insertions and changes as may be approved by the officers or other representatives of the IDB executing them, their execution to constitute conclusive evidence of their approval of the form of such documents.

3. All other acts of the officers or other representatives of the IDB which are in conformity with the purposes and intent of this resolution and in furtherance of accomplishing the amendment to the PILOT Lease are hereby approved and confirmed.

4. The terms of all prior resolutions approved by the Board respecting the Project not modified hereby are ratified in all respects, except as such may be modified hereby.

[Signature Page to Follows]

[Signature Page to Lifetime Resolution dated October 17, 2023]

**STATE OF TENNESSEE
COUNTY OF KNOX**

I, Shannon Coleman Egle, Secretary of The Industrial Development Board of the County of Knox (the “IDB”) and keeper of the official minutes of the Board of Directors thereof, 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 October 17, 2023, 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**

Shannon Coleman Egle, Secretary

Dated: October 17, 2023

THIRD AMENDMENT TO LEASE AGREEMENT

This **THIRD AMENDMENT TO LEASE AGREEMENT** (hereinafter “Agreement”), is made and entered into as of the ____ day of _____, 2023, 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”), and **LIFETIME PRODUCTS, INC.**, a corporation organized under the laws of the State of Utah (“Tenant”).

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated July 29, 2016, as evidenced by that certain Memorandum of Lease of even date recorded at Instrument No. 201608250013106 in the Knox County Register of Deeds office (as previously amended, the “Lease Agreement”) as a part of a payment-in-lieu of tax transaction between Landlord and Tenant and pursuant to which Landlord leases to Tenant certain real property and improvements more particularly described therein (the “Project”).

B. The Measurement Period has expired and Tenant has been unable to achieve and maintain the Capital Investment and number of Jobs requirements under the Lease Agreement, as such terms are defined therein.

C. Pursuant to the Lease Agreement, Tenant was required to make at least \$115,686,000 in Capital Investments in connection with the completion of the Project, but Tenant has made Capital Investments in an amount equal to \$100,071,494.

D. Pursuant to the Lease Agreement, Tenant was required to maintain at least 500 Jobs at the Project, but Tenant has only been able to maintain approximately 250 Jobs.

E. Landlord and Tenant has agreed to waive any and all defaults associated with the failure to achieve or maintain such Capital Investment and Jobs amounts and to amend the Lease Agreement as more particularly described herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Amendments to Lease Agreement.** The Lease Agreement is hereby amended as follows:

a. The below paragraph of the RECITALS is amended and restated in its entirety to reflect the new, reduced Jobs requirement and Capital Investment, as follows:

To induce Tenant to operate a sports equipment manufacturing facility on the Real Property, building a new building on the Real Property, invest at least \$100,071,494 in Capital Investments on the Real Property and employ at least 250 employees, Landlord has acquired the Real Property and will authorize Tenant to improve, renovate, construct, and operate a sports equipment manufacturing facility on the Real Property, building a new building on the Real Property, invest at least \$100,071,494 in Capital Investments and employ at least 250 employees in accordance with Tenant’s requirements, and Landlord will lease the Real Property, the facility and certain related personal property, to Tenant on the terms and conditions of this Lease.

b. The definition of “Jobs” in Section 1.01 is hereby amended and restated as follows:

“Jobs” means permanent full time and full time-equivalent positions of employment with Tenant; the minimum number of Jobs for purposes of this Lease shall be 250 positions. 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.

c. Section 3.01(a) of the Lease Agreement is hereby amended and restated as follows:

(a) That the Project will result in the creation during the Measurement Period of at least 250 Jobs paying Wages, on average of \$37,984 per Job; and

d. Section 3.01(b) of the Lease Agreement is hereby amended and restated as follows:

(b) That the Tenant will make a Capital Investment in the Project of at least \$100,071,494 during the Measurement Period;

e. Section 4.04(a) of the Lease Agreement is hereby amended and restated as follows:

(a) Tenant covenants and agrees at its expense to acquire and construct the Improvements and Equipment as described in the Application and Section 2.01 hereof, and in connection therewith, Tenant agrees to incur capital expenditures of not less than \$100,071,494. It is understood and agreed that such Improvements shall become the property of Landlord and part of the Premises leased hereunder. The cost of the acquisition and construction of the Improvements and Equipment shall be treated as “Additional Rent” payable by Tenant under this Lease.

The Lease Agreement is not amended in any other respect.

2. **Waiver of Defaults and No Other Defaults.** Landlord hereby waives any and all defaults or Events of Default associated with the failure of Tenant to achieve and maintain the minimum amount of Capital Investment and Jobs prior to the date hereof. Other than such failure, Tenant knows of no circumstances, facts or events which would or could lead to the occurrence of an Event of Default and hereby acknowledges that the Landlord is entering into this Amendment in reliance upon the representations and warranties made herein.
3. **Ratification of Lease Agreement.** Each of the parties hereto affirms its respective obligations under the Lease Agreement, as amended hereby, and each such party agrees that such obligations are valid and binding, enforceable in accordance with its terms, subject to no defense, counterclaim, or objection.
4. **Expenses and Closing Fee.** Tenant agrees to pay all fees and expenses (including attorneys’ fees) incurred by the Landlord in connection with this Amendment.
5. **Further Assurances.** Each party hereby covenants and agrees to execute and deliver, or cause to be executed and delivered, and to do or make, or cause to be done or made, upon the reasonable request of the other, any and all instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by the requesting party for the purpose of effecting the amendments described herein.

6. **Completeness and Modification.** This Amendment together with the Lease Agreement and the other documents executed in connection therewith constitute the entire agreement between the parties hereto as to the transactions contemplated hereby and supersede all prior discussions, understandings or agreements between the parties hereto.
7. **Governing Law.** This Amendment and all other instruments referred to herein shall be governed by, and shall be construed according to, the laws of the State of Tennessee, without resorting to its laws of conflicts.
8. **Counterparts.** To facilitate execution, this Amendment may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of the parties hereto appear on each counterpart hereof, and it shall be sufficient that the signature on behalf of each party hereto appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement.
9. **Time is of the Essence.** With regard to all dates and time periods set forth or referred to in this Amendment and the Lease Agreement, time is of the essence.

[SIGNATURE PAGE FOLLOWS]

[FIRST SIGNATURE PAGE FOR AMENDMENT TO LEASE AGREEMENT]

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

LIFETIME PRODUCTS, INC.

By: _____
Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

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 **LIFETIME PRODUCTS, INC.**, the within named bargainer, a Utah 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 corporation by himself/herself as such _____.

Witness my hand and official seal at office in the aforesaid county, this ____ day of _____, 2023.

Notary Public

My Commission expires: _____

[SECOND SIGNATURE PAGE FOR AMENDMENT TO LEASE AGREEMENT]

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

By: _____
Name _____

**STATE OF TENNESSEE
COUNTY OF KNOX**

Before me, the undersigned authority, a Notary Public in and for said county and state personally appeared Greg McWhorter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chair of **The Industrial Development Board of the County of Knox** the within named bargainor a corporation, and that he 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 as such Chair.

Witness my hand and official seal at office in the aforesaid county, this ____ day of _____, 2023.

Notary Public

My Commission expires: _____

LEASE AGREEMENT

This **LEASE AGREEMENT** (this “Lease”), is made and entered into as of the 29th day of July, 2016, 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”), and **LIFETIME PRODUCTS, INC.**, a corporation organized under the laws of the State of Utah (“Tenant”).

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 Tenant’s application and request under Landlord’s Property Tax Incentive Program, Landlord has acquired the Real Property (as defined below).

To induce Tenant to operate a sports equipment manufacturing facility on the Real Property, building a new building on the Real Property, invest at least \$115,686,000 in Capital Investments on the Real Property and employ at least 500 employees, Landlord has acquired the Real Property and will authorize Tenant to improve, renovate, construct, and operate a sports equipment manufacturing facility on the Real Property, building a new building on the Real Property, invest at least \$115,686,000 in Capital Investments and employ at least 500 employees in accordance with Tenant’s requirements, and Landlord will lease the Real Property, the facility and certain related personal 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 Premises, the Equipment and the Project.

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 as included in the Board Packet distributed at Landlord’s meeting on December 8, 2015, 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, including land acquisition costs, construction costs, site preparation work, other tax producing improvements to the Real Property, and Equipment purchases.

“Commencement Date” means the date this Lease is executed.

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

“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 Points” has the meaning provided in Section 4.02(b).

“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 are (a) described in Exhibit B attached hereto and incorporated herein by reference, as the same may be amended, modified, or supplemented from time to time, and (b) acquired or are to be acquired in connection with Tenant’s operation of the Improvements.

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

“Existing Tax Payment” has the meaning provided in Section 6.02.

“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).

“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 360,000 square foot expansion of the manufacturing building on the Real Property as of the date hereof.

“Jobs” means permanent full time and full time-equivalent positions of employment with Tenant; the minimum number of Jobs for purposes of this Lease shall be 500 positions. 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(c).

“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 five (5) 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).

“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 and Equipment 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 2015 Eastbridge Boulevard, Mascot, TN 37806, described 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 Tenant’s leasehold interest therein or the Equipment, all as amended from time to time.

“**Tax Year**” has the meaning provided in Section 6.02.

“**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 Tenant 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 shall make the Capital Investment provided in the Application and shall cause the Project to be undertaken and the Improvements to be completed at its expense 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 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 and acquire the Equipment, (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 and the acquisition of the Equipment 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 the acquisition of the Equipment, 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 the acquisition of the Equipment, 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.

Section 2.04 Equipment. In connection with the acquisition of the Equipment or the reimbursement of Tenant therefor, Tenant, following the acquisition of each item of Equipment, shall deliver to Landlord a bill of sale (naming Landlord as purchaser) specifically listing and identifying each such item of Equipment. Exhibit B shall be deemed to be amended upon delivery of each such bill of sale to include the information therefrom. Each such bill of sale shall be promptly delivered to Landlord after the acquisition of each such item of Equipment, but in no event later than the end of the calendar year in which the Equipment was acquired. Upon the completion of the Project, Tenant shall prepare and deliver to Landlord a revised Exhibit B specifically identifying each item of Equipment leased hereunder. At any

time, Tenant may add or substitute items of Equipment identified on Exhibit B and may replace or substitute items of equipment of equal or better value by delivering a bill of sale for each additional item of Equipment naming Landlord as purchaser and by delivering a revised Exhibit B to Landlord. In addition, Tenant may delete items of Equipment in accordance with Section 8.05.

ARTICLE III TERM AND CONCURRENT AGREEMENTS

Section 3.01 Capital Investment, Jobs and Wages. Tenant 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 during the Measurement Period of at least **500** Jobs paying Wages, on average of **\$37,984** per Job; and

(b) That the Tenant will make a Capital Investment in the Project of at least **\$115,686,000.00** during the Measurement Period;

provided, however, that Tenant 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 Premises, 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 Premises 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 to Landlord in the Application that it will complete and use the Project solely for the purpose of operating an outdoor products manufacturing 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 Premises 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 Premises 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, 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, 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 Premises or Landlord's interest therein, or convey title to the Premises 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 Premises, 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 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. 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 Premises to any Security Instrument in favor of any Lender, and to the right, title and interest of any Lender in and to the Premises. 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 Premises 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 Premises, 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 Premises or any interest therein without the prior written consent of Landlord. Any permitted assignment or subletting of the Premises 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 Premises, and if Landlord consents thereto, shall provide Landlord with an instrument executed by the assignee or sublessee(s) of the Premises certifying that the assignment or sublease of the Premises 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 Premises from that specified in the Application or if, as a result of any proposed sublease or assignment of the Premises, the beneficiary of the PTIP incentives would be a party other than Tenant, then Landlord may withhold its consent. 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.

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 July 29, 2024 ("Term"). The Lease may be terminated at an earlier date or extended in accordance with the terms and conditions of this Lease.

Section 4.02 Report on Determination Date. Within thirty (30) days after the fifth (5th) anniversary of the Commencement Date ("Determination Date"), the Tenant shall deliver to Landlord the Compliance Report in accordance with Section 5.06(c) which Landlord shall use to determine the Determination Date 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 Tenant'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 Tenant respecting the Project as of the Determination Date as described in the PTIP Policies and Procedures in effect as of the date hereof, provided that points for Capital Investment will be awarded on the basis of five (5) points for each \$10,000,000 of invested capital in excess of \$30,000,000.00.

(ii) The Board will award additional 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 Tenant qualified pursuant to the above criteria (the "Determination Date Points") and will evaluate the performance of Tenant under this Lease and the Application. Landlord and Tenant agree to extend or reduce the Term of the Lease in accordance with Sections 4.06 and 4.07.

(b) Tenant shall pay all reasonable expenses incurred by Landlord in evaluating 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 One Thousand Dollars (\$1,000.00) 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 Premises.

Section 4.04 Additional Rent.

(a) Tenant covenants and agrees at its expense to acquire and construct the Improvements and Equipment as described in the Application and Section 2.01 hereof, and in connection therewith, Tenant agrees to incur capital expenditures of not less than **\$115,686,000**. It is understood and agreed that such Improvements shall become the property of Landlord and part of the Premises leased hereunder. The cost of the acquisition and construction of the Improvements and Equipment 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 Premises 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 prime rate of interest as published in the Wall Street Journal, as adjusted from time to time, plus 2.00% per annum, 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.

Section 4.06 Extension of Term. In the event Determination Date Points qualify the Tenant for a Lease in excess of the current Term, Landlord will extend the Term to the total number of years for which Tenant qualifies 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 Points.

(a) Notwithstanding anything contained in this Lease to the contrary, in no event shall the Term of the Lease exceed fifteen (15) years.

(b) Landlord will be under no obligation to extend the Term if a Default or Event of Default has occurred, or but for the giving of notice or the passage of time, or both, would have occurred.

(c) Tenant shall pay all reasonable expenses incurred by Landlord in evaluating Tenant's performance and determining if an extension of this Lease is in order, including consulting fees, auditing fees and reasonable attorney fees.

(d) If Tenant qualifies for an extension of the Term, (i) Landlord will submit to Tenant, and Tenant will execute and deliver to Landlord within ninety (90) days of Tenant's receipt thereof, an amendment to this Lease or other documentation reasonably required by Landlord to memorialize or effect such extension of the Term, and (ii) upon executing and delivering such documents to Landlord, Tenant shall pay to Landlord an extension fee equal to 5.00% of the property tax savings from which Tenant will benefit for the extended Term (the "Extension Fee"). Landlord will calculate the tax savings based upon the assessed values and tax rates in effect at the time of the extension, and if the Municipality has not set a rate, the Board will use the assessments and tax rates in effect for the prior year. In the event Tenant fails to execute any such documents required by Lender or to pay the Extension Fee within such ninety (90)-day period, Landlord shall be under no obligation to extend the Lease as provided herein.

Section 4.07 Reduction in Term. In the event the Determination Date Points are insufficient to qualify the Tenant for a Lease equal to the Term, the parties agree to amend the Lease Term to a term equal to the total number of years for which Tenant qualifies 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 Points.

(a) Tenant shall pay all reasonable expenses incurred by Landlord in evaluating Tenant's performance and determining if reduction of the Term of this Lease is in order, including consulting fees, auditing fees and reasonable attorney fees.

(b) If the calculated Term of the Lease is less than the Measurement Period, then the Lease shall be terminated effective thirty (30) days after written notice from Landlord to Tenant. If Tenant fails to satisfy the Jobs and Wages requirements under Section 9.01(b) by the Measurement Date, then Tenant will have defaulted under the Lease and Tenant will be required to pay the Recapture Payment as provided in Section 9.04(c).

(c) If the calculated term of the Lease is greater than the Measurement Period but less than the current Term, (i) Landlord will provide written notice to Tenant of the calculated term of the Lease and the Lease will be automatically amended to comply with the new calculated term of the Lease, such amendment to be effective thirty (30) days after the written notice from Landlord to Tenant, and

Tenant agrees to execute an amendment to this Lease, an amendment to any memorandum of Lease of record with the Knox County Register of Deeds office or other documentation reasonably required by Landlord to memorialize or effect such new period of the Term, and (ii) upon executing and delivering such documents to Landlord, Tenant shall pay to Landlord any fees required hereunder including consulting fees, auditing fees and reasonable attorney fees.

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. Tenant hereby represents and warrants as follows to Landlord:

(a) Tenant is a corporation duly incorporated, validly existing, and in good standing under the laws of its jurisdiction of incorporation, with full corporate 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. Tenant is duly qualified to do business as a foreign corporation and is in good standing under the laws of the State of Tennessee.

(b) Tenant 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 pursuant hereto; (ii) perform and observe the provisions thereof; and (iii) carry out the transactions contemplated thereby. All action on the part of Tenant which is required for the execution, delivery, performance and observance by Tenant of this Lease has been duly authorized and effectively taken.

(c) Tenant 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 enforceable against Tenant in accordance with its terms subject to bankruptcy and other creditors' rights laws and principles of equity.

(e) 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 information disclosed by Tenant, 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) Tenant 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 is a party or by which Tenant or any of Tenant's property is bound and which has not been waived, or to Tenant's knowledge, any Legal Requirement. To Tenant'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, threatened against Tenant 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 board of directors 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 Premises 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, Tenant is not 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.

(j) Tenant estimates the cost of all Improvements and Equipment for acquiring, constructing and equipping the Project to be **\$115,686,000.00**.

(k) Tenant assumes 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 any common area maintenance assessments, special assessments, or other fees payable to TDC under the

EastBridge Business Park Design Standards and Restrictive Covenants dated June 13, 1997 and recorded in Warranty Book 2253 Pages 1-44 as Instrument #78541 in the Knox County Register of Deeds office.

Section 5.03 Acceptance of Improvements, No Warranties. Tenant acknowledges and agrees that (a) it has examined and is fully familiar with the Premises, (b) the Plans and Specifications for the construction of the Improvements have been prepared at Tenant's direction and (c) the Improvements are to be constructed under its supervision. Accordingly, Landlord makes no representation or warranty, either express or implied, and offers no assurance to Tenant or any other Person regarding the condition or title of the Premises, the suitability of the Improvements for 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 Premises 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 Premises 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.

Section 5.05 Release and Indemnification.

(a) Tenant hereby 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.

(b) Tenant 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, arising from (i) the occupation, use, possession, conduct, or management of, or from any work done in or about, the Premises 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 Premises, (ii) any condition of the Premises and the adjoining sidewalks and passageways, (iii) any breach or default on the part of Tenant in the performance of any covenant or agreement to be performed by Tenant pursuant to this Lease, (iv) any act or negligence of Tenant, 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 Premises or upon or under the sidewalks, (vi) Landlord's ownership of the Premises, 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.

(c) Upon notice from Landlord, Tenant 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 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, Tenant 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 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. Upon the request of Landlord, Tenant shall provide any and all other additional information reasonably requested by Landlord to determine Tenant's compliance with the Lease and the Application.

(b) Within ninety (90) days after the Measurement Date, Tenant 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 Measurement Date;

(ii) a certified listing of all full time employees of Tenant employed at the Project as of the Measured 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 Tenant'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 Tenant since such most recently filed Form 940, highlighting the information applicable to the employees employed at the Project, and (D) statements from Tenant's payroll processor detailing unemployment insurance premiums paid to the state of Tennessee during the Determination Period, together with a copy of Tenant'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 by Tenant evidencing the Capital Investment of Tenant with respect to the Project as of the Measurement Date which includes for each such invoice the invoice date, date of payment, payee name, amount, and brief description of expenditure/purpose ("Capital Improvements Invoice Listing"), together with copies of each such invoice; and

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

Such Compliance Report shall be certified by an Authorized Tenant Representative. The obligations of Tenant 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 by Landlord the final length of the term of this Lease pursuant to Sections 4.06 and 4.07 and whether a Recapture Payment is due and payable by Tenant pursuant to Section 9.04(c).

(c) Tenant 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) in the form attached hereto as Exhibit G, 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 Tenant 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 shall provide any and all information reasonably requested by Landlord to determine Tenant's compliance with the Lease and the Application. Further, Landlord shall have the right during the Term and for 3 years thereafter to audit the books and records of Tenant to ensure compliance with Section 5.06 and this Lease.

ARTICLE VI TAXES, OTHER CHARGES AND EXPENSES OF LANDLORD

Section 6.01 Agreement to Pay Additional Rent. Tenant 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 Premises 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 Premises 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 Premises.

(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 Premises 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 Premises 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) An application fee in the amount of **\$4,000** which shall be credited against the amount of the closing fee when such closing fee is paid and upon the execution of the Lease so long as such execution occurs within six (6) months from the date of the resolution of the Board of Directors of Landlord approving the Project (or as soon thereafter based upon reasonable conditions for the Project related to security financing and similar project requirements).

(g) Tenant shall pay a closing fee in an amount equal to **\$162,705** at the execution and delivery of this Lease by Tenant, such payment to be a condition precedent to the effectiveness of this Lease.

(h) 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.

(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 equal to the real property taxes payable to such Governmental Authority with respect to the Premises owned or leased by Tenant Knox County, Tennessee as of January 1, 2016 ("Existing Tax Payment"). The parties agree that the real property taxes for 2016 are \$68,816.00 for Knox County and 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 and personal property taxes with respect to the Premises constituting the Project in excess of the Existing Tax Payment. Such reduction shall not apply (a) in the event that Tenant assumes ownership of the Premises; 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 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 Premises 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 Premises 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 Premises 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. 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 Premises. In the event the payment in lieu of taxes obligation terminates, Tenant shall still have the right to exercise its option to purchase the Premises 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 reconvey the Premises to Tenant, subject to any then existing indebtedness created or incurred by or at the request of Tenant; and Tenant shall pay to Landlord, as consideration therefore, the sum of One Thousand Dollars (\$1,000.00).

(vi) All tax bills for payments in lieu of taxes as provided for in Section 6.02 shall be sent to Tenant at: P.O. Box 160010, Clearfield, UT 84016, 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 Premises 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 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 Premises were owned by a tax-paying entity.

Section 6.04 Survival. The obligations of Tenant 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 shall keep the Premises, 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 Premises 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 Premises 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 Premises 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 the following insurance:

(a) During the course of any construction or repair of improvements on the Premises, 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 Premises 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 Premises under the National Flood Insurance Act of 1968, as amended, whichever is less.

(c) Such other insurance on the Premises, 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 Premises, or to retain the proceeds upon the exercise of its option to purchase the Premises 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 maximum rate at the time of the advance. All premiums on insurance policies shall be paid promptly when due.

ARTICLE VIII MAINTENANCE, REPAIR, IMPROVEMENTS AND REPLACEMENT

Section 8.01 Tenant's Agreement to Maintain and Repair. Tenant acknowledges that Tenant is accepting the Premises "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 PREMISES 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 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 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 Premises 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 Premises, 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 Premises. 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 Premises, 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 Premises 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 Tenant's option to purchase under Section 11.01.

Section 8.04 Personal Property. Tenant 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 may deem desirable, provided however, that such installation shall not be permitted to interfere materially with the use and operation of the Premises as set forth in the Application.

Section 8.05 Removal of Personal Property. In the event Tenant determines that any improvements or items of personal property installed within the Premises have become inadequate, obsolete, or worn-out and that the removal thereof will not interfere with the operation or substantially decrease the use of the Project for the purposes of this Lease, Tenant may remove such items of personal property from the Premises and sell, trade-in, exchange, or otherwise dispose of the same, and Landlord will execute and deliver to Tenant, at Tenant's request, a bill of sale effecting the transfer of such item to Tenant.

**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 breaches the representations and warranties contained in the Application or in Sections 3.01(a), 4.04(a) or 5.02(j) of this Lease dealing with the creation and/or maintenance of Jobs or Wages or the amount of the Capital Investment, if Tenant fails to create, within the Measurement Period, and to maintain during the last six (6) months of the Measurement Period, at least 400 Jobs paying average Wages of \$37,984.00 per Job.

In the event Tenant 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 Tenant’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 herein or in the Application, or any other representation or warranty made by Tenant in any statement or certificate furnished by Tenant 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) Tenant 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 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 Premises, including, without limitation, any Security Instrument, but only if any such default or event of default causes the Premises 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 Premises 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) Tenant 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) Tenant 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), (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.

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, 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 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.

(a) Except as otherwise expressly provided herein, 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 Premises and may remove Tenant and all other persons and any and all property from the Premises.

(b) Except as otherwise expressly provided herein, 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, 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 “Recapture Payment”) equal to the difference, if any, between (i) the total amount of the payments in lieu of taxes actually paid by or required to be paid by, or for the account of, Tenant during the Measurement Period, and (ii) the total amount of the payments in lieu of taxes for which Tenant would have been obligated to pay Landlord for a Lease term equal to the total number of years for which Tenant qualifies for at 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 Points. The obligation for any Recapture Payment(s) required pursuant to this Section 9.04(d) shall survive the termination of this Lease and shall be the obligation of Tenant, and the same shall constitute a lien upon the Premises.

(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 Premises 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; (ii) waive and agree 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 Premises 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 Premises 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 Premises 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 Premises or any part thereof shall have been relet, shall be liable 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 Premises 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 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 Premises 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 Premises 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 Premises.

Section 10.02 Termination of Lease Upon Condemnation. If all or substantially all of the Premises 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 Premises and the use thereof unsatisfactory to Tenant for the purposes for which they were intended, Tenant shall have the right to either acquire the Premises 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 Premises 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 Premises 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 Premises by Tenant.

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

Section 10.05 Substantial or Complete Casualty. If the entire Premises, 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 Premises as provided in Section 10.04, acquire the Premises pursuant to the provisions of Section 11.01, or terminate this Lease. If Tenant acquires the Premises, 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 Premises) 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. 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 Premises, 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 Tenant has not exercised the Purchase Option, the Landlord shall provide written notice of same to Tenant within ten (10) days after the date of such termination. The exercise of such option by Tenant shall not relieve 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. Tenant shall notify Landlord in writing thirty (30) days before the proposed date of purchase that Tenant desires to exercise its option to purchase hereunder. Upon payment by 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 Premises to Tenant, subject always to the liens of any Security Instrument.

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

Section 11.03 Conveyance of Title. In the event of any purchase of the Premises or any portion thereof by Tenant pursuant to any provision of this Lease, Landlord shall convey title by a quitclaim deed to Tenant subject to Permitted Encumbrances and other encumbrances and interests thereafter created by or for the account of Tenant. Landlord shall not otherwise be obligated to convey any better title to Tenant 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 Premises or Landlord's interest therein by any encumbrances other than (i) the Permitted Encumbrances, (ii) those which Tenant has subsequently requested to be placed, or caused to be placed, against the Premises, (iii) those which Tenant has subsequently approved in writing to be placed against the Premises, and (iv) those for which Tenant is responsible under the terms and provisions of this Lease and which arise out of any default by Tenant 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 right to acquire title to the Premises, free and clear of any such other conveyances or encumbrances, pursuant to Tenant's exercise of its option to purchase the Premises 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 Premises to Tenant 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 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.

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 or Tenant 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 or Tenant 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 Premises. Landlord, however, agrees that it will not take any action to interfere with Tenant's peaceful and quiet enjoyment of the Premises and that in the event the peaceful and quiet enjoyment of the Premises 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 December 8, 2015, 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 P.O. Box 160010, Clearfield, Utah 84016, Attn: Bob Adams, with a mandatory copy to Tenant’s counsel: Tim Schade, General Counsel, P.O. Box 160010, Clearfield, Utah 84016..

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.”

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 Premises 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.

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 Premises 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 any 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 Premises 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 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.

LIFETIME PRODUCTS, INC.

By: Brian Slagle

Name: Brian Slagle

Title: CFO

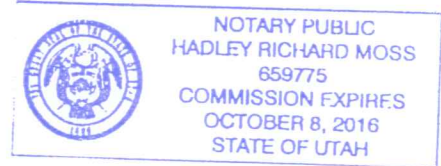
STATE OF Utah
COUNTY OF Davis

Before me, the undersigned authority, a Notary Public in and for said county and state, personally appeared Brian Slagle, 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 CFO of **LIFETIME PRODUCTS, INC.**, the within named bargainor, 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 corporation by himself/herself as such CFO.

Witness my hand and official seal at office in the aforesaid county, this 29 day of July, 2016.

Hadley Richard Moss
Notary Public

My Commission expires: 10/8/16



[SIGNATURE PAGE FOR LEASE AGREEMENT]

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

By: [Signature]

Name: William R. Coleman, III

Title: Vice Chair

**STATE OF TENNESSEE
COUNTY OF KNOX**

Before me, the undersigned authority, a Notary Public in and for said county and state personally appeared William R. Coleman, 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 Vice Chair 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 Vice Chair.

WITNESS my hand, at office, this 11th day of July, 2016.

[Signature]
Notary Public

My commission expires: December 21, 2016

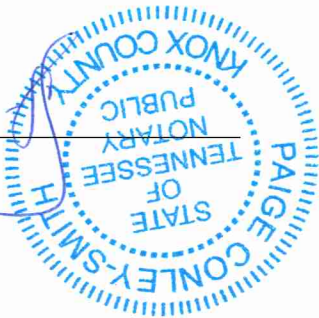


EXHIBIT A
PROPERTY DESCRIPTION

SITUATE in the Eighth (8th) Civil District of Knox County, Tennessee, within the EastBridge Business Park, and being more particularly described as follows:

BEGINNING at an iron pin at the intersection of the north right of way line of Mascot Road with the west right of way line of Boulevard "A" of the Eastbridge Business Park; thence with the north right of way line of Mascot Road, said right of way line being located 40 feet from the centerline of Mascot Road, the following three (3) calls and distances: 1) South 80 deg. 41 min. 24 sec. West, 868.79 feet to an iron pin; 2) along a curve to the right, said curve having a radius of 532.96 feet, an arc length of 640.53, and a chord bearing and distance of North 64 deg. 52 min. 48 sec. West, 602.67 feet to an iron pin; and 3) North 30 deg. 27 min. 00 sec. West, 997.82 feet to an iron pin; thence leaving the right of way line of Mascot Road, North 41 deg. 24 min. 30 sec. East, 927.84 feet to an iron pin; thence North 70 deg. 24 min. 30 sec. East, 810.00 feet to an iron pin on the west right of way line of Boulevard "A"; thence with the west right of way line of Boulevard "A", said right of way line being located 60 feet from the centerline of Boulevard "A", the following four (4) calls and distances: 1) South 19 deg. 35 min. 30 sec. East, 1,246.10 feet to an iron pin; 2) along a curve to the right, said curve having a radius of 1,849.86 feet, an arc length of 331.96 feet, and a chord bearing and distance of South 14 deg. 27 min. 03 sec. East, 331.51 feet to an iron pin; 3) South 09 deg. 18 min. 36 sec. East, 392.18 feet to an iron pin; and 4) South 27 deg. 45 min. 50 sec. West, 68.93 feet to the **POINT OF BEGINNING**, containing 60.941 acres (2,654,572 square feet) as per survey of Wilbur Smith Associated of Knoxville, Tennessee, dated September 28, 1988, filed for record in Plat Cabinet L, Slide 70-B and Slide 70-C in the Knox County Register of Deeds Office, and according to legal description of Robert H. Callaway, RLS, dated October 20, 1988.

SUBJECT TO 2016 taxes, which shall be prorated as of the date of closing and paid, and the following matters:

Matters depicted and disclosed by plat filed for record in Plat Cabinet L, Slides 70-B and 70-C in the Knox County Register of Deeds Office.

Restrictive Covenants and Development Standards for EastBridge Business Park dated November 28, 1988, filed for record in Warranty Book 1963, page 762, as corrected by instrument filed for record in Warranty Book 2060, page 95 1, both in the Knox County Register of Deed Office.

EastBridge Business Park Design Standards and Restrictive Covenants dated June 13, 1997, filed for record in Warranty Book 2253, page 1, as amended by instrument dated as of June 8, 2006, filed for record as Instrument No. 200606090103849, both in the Knox County Register of Deeds Office.

Rights of upper and lower riparian owners in and to the use of and the continued uninterrupted flow of any creeks, streams or branches flowing through or abutting subject property.

BEING the same property conveyed to Lifetime Products, Inc., by Special Warranty Deed from Warehouse and Industrial Builders, a Tennessee general partnership, successor to Warehouse and Industrial Builders, L.L.C., being successor by conversion to Warehouse and Industrial Builders, a Tennessee general partnership, dated November 24, 2015 and recorded as Instrument No. 201511240032358, in the Register's Office for Knox County, Tennessee.

TOGETHER WITH, but without warranty, all right, title and interest of First Party in and to any streets, alleyways, walkways, roadways, appurtenant easements for access and/or utilities and any strips or gores of land adjacent to, abutting or adjoining the property conveyed hereby on all sides thereof.

EXHIBIT B
DESCRIPTION OF PERSONAL PROPERTY

N/A

EXHIBIT C
PERMITTED ENCUMBRANCES

1. Easements, or claims of easements, not shown by the public records.
2. Any discrepancies, conflicts, encroachments, servitudes, shortages in area and boundaries or other facts which a correct survey would show.
3. Taxes and/or assessments levied or assessed against the subject property pursuant to the provisions of TCA 67-5-601, et seq., which have not been assessed and are not payable, as of the date of this Policy.
4. Taxes for the year 2016, and all taxes for subsequent years.
5. Matters depicted and disclosed by plat filed for record in Plat Cabinet L, Slides 70-B and 70-C in the Knox County Register of Deeds Office, to include the following:
 - a) permanent drainage easement along the southerly and westerly boundary lines of subject property; and
 - b) sewer easement running across the southeasterly corner of subject property.
6. Restrictive Covenants and Development Standards for EastBridge Business Park dated November 28, 1988, filed for record in Warranty Book 1963, page 762, as corrected by instrument filed for record in Warranty Book 2060, page 951, both in the Knox County Register of Deed Office.
7. EastBridge Business Park Design Standards and Restrictive Covenants dated June 13, 1997, filed for record in Warranty Book 2253, page 1, as amended by instrument dated as of June 8, 2006, filed for record as Instrument No. 200606090103849, both in the Knox County Register of Deeds Office.
8. Title to that portion of the property within the bounds of any roads and/or highways.
9. Rights of upper and lower riparian owners in and to the use of and the continued uninterrupted flow of any creeks, streams or branches flowing through or abutting subject property.
10. Unrecorded Lease by and between Warehouse & Industrial Builders, a Tennessee general partnership, and The Timken Corporation, an Ohio corporation, dated September 18, 2014.

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: Robin Holt
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	\$ _____

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 (job classification or title)	Number of Employees (full time equivalent)	Annual Wage (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 Year Expenditures	Cumulative Expenditures for PILOT Term

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	

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 _____, 2016.

Notary Public
My Commission expires: _____

Please submit completed and signed materials to:
The Development Corporation of Knox County
Attn: Robin Holt
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]

EXHIBIT G

BOARD OF EQUALIZATION REPORT

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.

<p>GENERAL INFORMATION County: _____ Year: _____</p> <p>Owner name: _____</p> <p>Lessee name and address: _____</p>	<p>This property is owned in the name of (select one):</p> <p><input type="checkbox"/> Industrial Development Board (T.C.A. §7-53-301)</p> <p><input type="checkbox"/> Health, Housing & Educational Facility Board (T.C.A. §48-101-307)</p> <p><input type="checkbox"/> Sports Authority Board (T.C.A. §7-67-108)</p>
---	--

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 IDH&ED 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	Assessor's id. no.
A. _____	State the city where the property is located	_____
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.

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
 9th Floor, W.R. Snodgrass TN Tower
 312 Rosa Parks Avenue
 Nashville, Tennessee 37243-1102
 (615)401-7883

FIRST AMENDMENT TO LEASE AGREEMENT

This **AMENDMENT TO LEASE AGREEMENT** (hereinafter "Agreement"), is made and entered into as of the 10th day of August, 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"), and **LIFETIME PRODUCTS, INC.**, a corporation organized under the laws of the State of Utah ("Tenant").

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated July 29, 2016, as evidenced by that certain Memorandum of Lease of even date recorded at Instrument No. 201608250013106 in the Knox County Register of Deeds office (the "Lease Agreement") as a part of a payment-in-lieu of tax transaction between Landlord and Tenant and pursuant to which Landlord leases to Tenant certain real property and improvements more particularly described therein.

B. Landlord and Tenant have agreed to make certain amendments to the Lease Agreement more particularly described herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Amendments to Lease Agreement.** The Lease Agreement is hereby amended as follows:
 - a. The definition of the term "Measurement Period" as set forth in **Section 1.01** of the Lease Agreement is hereby amended and restated in its entirety as follows:

"Measurement Period" means the time period covering the six (6) years after the Commencement Date.

- b. Section 4.02 of the Lease Agreement is hereby amended and restated as follows:

Section 4.02. Report on Determination Date. Within thirty (30) days after the sixth (6th) anniversary of the Commencement Date ("Determination Date"), the Tenant shall deliver to Landlord the Compliance Report in Accordance with Section 5.06(c) which Landlord shall use to determine the Determination Date Points (as defined below) in accordance with this Section 4.02.

Subsections 4.02(a) and 4.02(b) remain unchanged.

2. The Lease Agreement is not amended in any other respect.
3. **Ratification of Lease Agreement.** Each of the parties hereto affirms its respective obligations under the Lease Agreement, as amended hereby, and each such party agrees that such obligations are valid and binding, enforceable in accordance with its terms, subject to no defense, counterclaim, or objection.

[Signatures on Following Page]

[SIGNATURE PAGE FOR AMENDMENT TO LEASE AGREEMENT]

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

LIFETIME PRODUCTS, INC.

By: [Signature]
Name: Brian Stagle
Title: CFO

STATE OF UTAH
COUNTY OF DANES

Before me, the undersigned authority, a Notary Public in and for said county and state, personally appeared BRIAN STAGLE, 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 CFO of LIFETIME PRODUCTS, INC., the within named bargainor, a Utah 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 corporation by himself/herself as such CFO.

Witness my hand and official seal at office in the aforesaid county, this 16th day of August, 2021.

[Signature]
Notary Public

My Commission expires: 4/21/2024



THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX

By: _____
Name: Greg McWhorter, Chair

STATE OF TENNESSEE
COUNTY OF KNOX

Before me, the undersigned authority, a Notary Public in and for said county and state personally appeared Greg McWhorter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chair of The Industrial Development Board of the County of Knox the within named bargainor a corporation, and that he 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 as such Chair.

Witness my hand and official seal at office in the aforesaid county, this _____ day of August, 2021.

Notary Public

My Commission expires: _____

[SIGNATURE PAGE FOR AMENDMENT TO LEASE AGREEMENT]

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

LIFETIME PRODUCTS, INC.

By: _____
Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

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 LIFETIME PRODUCTS, INC., the within named bargainer, a Utah 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 corporation by himself/herself as such _____.

Witness my hand and official seal at office in the aforesaid county, this ____ day of August, 2021.

Notary Public

My Commission expires: _____

THE INDUSTRIAL DEVELOPMENT BOARD OF
THE COUNTY OF KNOX

By: [Signature]
Name: Greg McWhorter, Chair

STATE OF TENNESSEE
COUNTY OF KNOX

Before me, the undersigned authority, a Notary Public in and for said county and state personally appeared Greg McWhorter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chair of **The Industrial Development Board of the County of Knox** the within named bargainer a corporation, and that he 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 as such Chair.

Witness my hand and official seal at office in the aforesaid county, this 10th day of August, 2021.

[Signature]
Notary Public

My Commission expires: Aug 3, 2024



SECOND AMENDMENT TO LEASE AGREEMENT

This **SECOND AMENDMENT TO LEASE AGREEMENT** (hereinafter "Agreement"), is made and entered into as of the 12th day of July, 2022, 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"), and **LIFETIME PRODUCTS, INC.**, a corporation organized under the laws of the State of Utah ("Tenant").

RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated July 29, 2016, as evidenced by that certain Memorandum of Lease of even date recorded at Instrument No. 201608250013106 in the Knox County Register of Deeds office (as previously amended, the "Lease Agreement") as a part of a payment-in-lieu of tax transaction between Landlord and Tenant and pursuant to which Landlord leases to Tenant certain real property and improvements more particularly described therein.

B. Landlord and Tenant have agreed to make certain amendments to the Lease Agreement more particularly described herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Amendments to Lease Agreement.** The Lease Agreement is hereby amended as follows:
 - a. The definition of the term "Measurement Period" as set forth in **Section 1.01** of the Lease Agreement is hereby amended and restated in its entirety as follows:

"Measurement Period" means the time period commencing on the date hereof and ending on July 29, 2022.

- b. Section 4.02 of the Lease Agreement is hereby amended and restated as follows:

Section 4.02. Report on Determination Date. Within thirty (30) days of the expiration of the Measurement Period ("Extension Determination Date"), the Tenant shall deliver to Landlord the Compliance Report in Accordance with Section 5.06(c) which Landlord shall use to determine the Determination Date Points (as defined below) in accordance with this Section 4.02.

Subsections 4.02(a) and 4.02(b) remain unchanged.

The Lease Agreement is not amended in any other respect.

2. **Ratification of Lease Agreement.** Each of the parties hereto affirms its respective obligations under the Lease Agreement, as amended hereby, and each such party agrees that such obligations are valid and binding, enforceable in accordance with its terms, subject to no defense, counterclaim, or objection.

[SIGNATURE PAGES FOR AMENDMENT TO LEASE AGREEMENT]

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

LIFETIME PRODUCTS, INC.

By: [Signature]
Name: Brian Stagle
Title: CFO

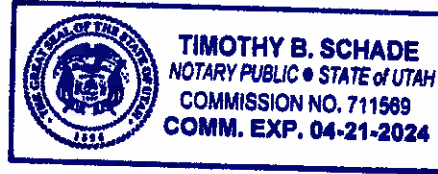
STATE OF UTAH
COUNTY OF DAVES

Before me, the undersigned authority, a Notary Public in and for said county and state, personally appeared BRIAN STAGLE, 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 CFO of LIFETIME PRODUCTS, INC., the within named bargainer, a Utah 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 corporation by himself/herself as such CFO.

Witness my hand and official seal at office in the aforesaid county, this 17th day of AUGUST, 2022.

[Signature]
Notary Public

My Commission expires: 4/21/2024



[SIGNATURE PAGES FOR AMENDMENT TO LEASE AGREEMENT]

THE INDUSTRIAL DEVELOPMENT BOARD OF
THE COUNTY OF KNOX

By: [Signature]
Name Greg McWhorter

STATE OF TENNESSEE
COUNTY OF KNOX

Before me, the undersigned authority, a Notary Public in and for said county and state personally appeared Greg McWhorter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chair of **The Industrial Development Board of the County of Knox** the within named bargainor a corporation, and that he 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 as such Chair.

Witness my hand and official seal at office in the aforesaid county, this 12th day of July, 2022.

[Signature]
Notary Public

My Commission expires: 08/02/2025



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

October 17, 2023

WHEREAS, Elo Touch Solutions, Inc. (collectively with applicable affiliates, “ETS”), a Delaware corporation, with an office located in Knoxville, Tennessee; and

WHEREAS, ETS is constructing or has constructed its Americas Operations Center business on approximately 7.25 acres of property located at 2439 Bertelkamp Lane in Knox County, Tennessee (the “American Operations Center”); and

WHEREAS, FastTrack Economic Development Program guidelines (“FEDP Guidelines”) established by the State of Tennessee (the “State”) authorizes county governments, municipal governments or other political subdivisions of the State to make application with the Tennessee Department of Economic and Community Development for a FastTrack Economic Development Grant (“FastTrack Grant”) and to receive and expend such grant funds in accordance with such FEDP Guidelines; and

WHEREAS, on behalf of ETS, The Industrial Development Board of the County of Knox (“IDB”) applied for and received from the State a FastTrack Grant to assist with the cost of the Americas Operations Center and certain related infrastructure; and

WHEREAS, on July 21, 2021, the IDB entered into an Accountability Agreement with ETS and the State pertaining to the FastTrack Grant (“Accountability Agreement”); and

WHEREAS, ETS and the State of Tennessee have agreed to make certain amendments to the Accountability Agreement in accordance with an Amendment to the Accountability Agreement, the form of which has been presented to the Board of Directors of the IDB at this meeting (“Accountability Agreement Amendment”), and have requested that the IDB execute and deliver the same in connection with such amendments.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX:

1. The form of the Accountability Agreement Amendment is hereby approved by the Board in all respects, and the IDB is hereby authorized and directed to enter into the Accountability Agreement Amendment.

2. The officers of the Board of Directors of the IDB, or Mike Odom, President and CEO of The Development Corporation of Knox County (which provides staff for the IDB), or any of them, are authorized and directed to execute and deliver all documents necessary, including the Accountability Agreement Amendment, with such completions, omissions, insertions and changes as may be approved by the officers or other representatives of the IDB executing them, their execution to constitute conclusive evidence of their approval of the form of such documents.

3. The officers of the Board of Directors of the IDB or Mike Odom, President and CEO of The Development Corporation of Knox County (which provides staff for the IDB), or any of them, are hereby authorized and directed to execute and deliver all certificates and instruments and to take all such

further actions as they may consider necessary or desirable in connection with the Accountability Agreement Amendment.

4. All other acts of the officers or other representatives of the IDB which are in conformity with the purposes and intent of this resolution and in furtherance of accomplishing the amendment to the Accountability Agreement are hereby approved and confirmed.

[Signature Page to Follow]

[Signature Page to Elo Touch Solution Resolution dated October 17, 2023]

I, Shannon Coleman Egle, Secretary of THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE COUNTY OF KNOX (the “Board”) do hereby certify that the foregoing is a true and complete extract of the minutes of the Board of Directors of the Board at a meeting duly called and held on October 17, 2023, 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**

Dated: October 17, 2023

Shannon Coleman Egle, Secretary

**STATE OF TENNESSEE
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

FASTTRACK ECONOMIC DEVELOPMENT PROGRAM

AMENDMENT TO THE ACCOUNTABILITY AGREEMENT

This Amendment to the Accountability Agreement (this “Amendment”) is made and entered into as of _____ by and among the Tennessee Department of Economic and Community Development, a department of the State of Tennessee (the “State”), Industrial Development Board of the County of Knox (the “Development Authority”), and Elo Touch Solutions, Inc. (the “Company”) (the State, the Development Authority, and the Company, collectively, the “Parties”).

RECITALS

WHEREAS, the Parties entered into that certain Accountability Agreement, dated as of July 29, 2021 (the “Original Agreement”), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Parties desire to amend the Original Agreement as set forth herein in order to amend Section 4.1 relative to the Baseline Report;

WHEREAS, one of the economic development incentives offered by the State under the Original Agreement was an award from the FastTrack Economic Development Program (“FEDP”) and the State has provided an incentives award (the “Award”) under the FEDP to the Development Authority for the project summarized in Section 1.2 of the Original Agreement (the “Project”);

WHEREAS, the Development Authority, in accordance with its statutory purposes, utilized the Award to participate in the Project to assist the Company;

WHEREAS, in consideration for the Award, the Company committed to maintain the number of jobs noted in Section 2.1 of the Original Agreement;

Now, therefore, upon and in consideration of the respective promises and covenants contained herein and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. All terms and provisions of the Original Agreement which are inconsistent with the provisions of this Amendment are hereby modified and amended to conform hereto; capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Original Agreement.

2. Section 4.1 of the Original Agreement is deleted and replaced as follows:

- 4.1 Baseline Report. On or before the 60th day following the Effective Date (or such later date as shall have been approved by the State), the Company shall deliver to the State a report substantially similar to Exhibit B (the “Baseline Report”) that provides the number of the Company’s Jobs existing as of the Start Date; provided that, notwithstanding the provisions of Section 1.18 that limit the definition of a Job to positions that are created and filled between the Start Date and the End Date, for purposes of establishing the number of Jobs as of the Start Date, persons employed prior to the Start Date and who otherwise meet the definition of a Job will be included in the calculation of the number of Jobs as of the Start Date (“Baseline Jobs”). The Baseline Report must be accompanied by back-up data in the form of a headcount listing of all Baseline Jobs at the Facility as of the Start Date. Back-up data shall provide reasonable assurance that information provided to the State pursuant to this Agreement is true and correct in all material respects.
3. Exhibit B of the Original Agreement is deleted and replaced with the new Exhibit B attached hereto.
4. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Tennessee. The Company agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Company acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
5. Exhibits. The Exhibits and Attachment hereto attached will be construed to be a part of this Amendment by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each Exhibit and Attachment were set forth in full and at length every time it is referred to or otherwise mentioned.
6. Authorized Signatures. Each of the individuals executing this Amendment represents that they are authorized to execute this Amendment on behalf of their respective entities.
7. Notice. All instructions, notices, consents, demands, or other communications required or contemplated by this Amendment shall be in writing and shall be made via email or first-class U.S. mail. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address or email address as set forth below or to that of such other party or address as may be hereafter specified by written notice.

The Development Authority:

Ray Christian
Industrial Development Board of the County of Knox
17 Market Square
Knoxville, TN 37902
Email: rchristian@knoxdevelopment.org
Phone: 865-246-2642

The State:

Tennessee Department of Economic and Community Development
Attn: General Counsel
312 Rosa Parks, 27th Floor
Nashville, TN 37243
Email: ecd.legal@tn.gov
Telephone: 615-741-1888

The Company:

Elo Touch Solutions, Inc.
2439 Bertlecamp Lane
Knoxville, TN 37931
Attn: Director, Global Logistics
Logistics@elotouch.com
408-597-8000

With a Copy to:

Elo Touch Solutions, Inc.
670 N. McCarthy Blvd., Suite 100
Milpitas, CA 95035
Attn: President
EloSales@elotouch.com
408-597-8000

With a Copy to:

Elo Touch Solutions, Inc.
1755 N. Collins Rd, Suite 525
Richardson, TX 75080
Attn: General Counsel
Legal@elotouch.com
408-597-8000

8. Execution in Counterparts. This Amendment may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same Agreement.

9. Amendment and Modification. This Amendment may be modified or amended only by a written document signed by each party.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have hereunto set their signatures the day and year first written above.

**Tennessee Department of Economic
and Community Development**

By: _____

Name: _____

Title: _____

Date: _____

Elo Touch Solutions, Inc.

By: _____

Name: _____

Title: _____

Date: _____

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

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

Original Agreement

EXHIBIT B



Baseline Report

Start Date: July 24, 2019	Baseline Jobs
Elo Touch Solutions, Inc.	

Back-up data as described in Section 4.1. must be submitted by the Company on or before the 60th day following the Effective Date of this Agreement. The Company understands and agrees that the information provided in this Baseline Report will be used to determine the number of Net New Jobs.

Elo Touch Solutions, Inc.

By: _____
Title: _____
Date: _____

 GOVERNMENTAL GRANT CONTRACT (cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)					
Begin Date	End Date	Agency Tracking #	Edison ID		
July 24, 2019	July 23, 2022	33006-10022	71666		
Grantee Legal Entity Name				Edison Vendor ID	
Industrial Development Board of the County of Knox				175597	
Subrecipient or Recipient		CFDA #			
<input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Recipient		Grantee's fiscal year end 06/30			
Service Caption (one line only)					
FastTrack Economic Development Program – Elo Touch Solutions, Inc.					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount
22	\$500,000.00				\$500,000.00
TOTAL:	\$500,000.00				\$500,000.00
Grantee Selection Process Summary					
<input type="checkbox"/> Competitive Selection					
<input checked="" type="checkbox"/> Non-competitive Selection					
Grantees under the Economic Development Growth Program are selected based on factors including job creation and capital investment. All applications are reviewed, and grants are approved by ECD's Grant Committee.					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.				CPO USE - GG	
					
Speed Chart (optional)		Account Code (optional)			

RER 2194

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
AND
INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Economic and Community Development hereinafter, referred to as the "State" or the "Grantor State Agency" and Industrial Development Board of the County of Knox, hereinafter referred to as the "Grantee," is for the provision of assisting Elo Touch Solutions, Inc. (the "Company"), as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # *175597*

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. The Grantee shall utilize FastTrack Economic Development Program funds to assist the Company in the following project: New construction at 2439 Bertelkamp Lane, Knoxville, TN 37932 (the "Facility").
- A.3. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.
- a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
 - b. the Accountability Agreement, attached and incorporated hereto as Attachment C.

B. TERM OF CONTRACT:

- B.1. This Grant Contract shall be effective for the period beginning on July 24, 2019 ("Effective Date") and ending on July 23, 2022, ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.
- B.2. In the event the Grantee completed a Request to Incur Cost form ("RTIC") and the RTIC was approved by the State, the contract Effective Date shall be the date established by the RTIC. If applicable, the RTIC is attached as Attachment D.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Five Hundred Thousand Dollars and No/100 (\$500,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment A is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

ECD.Invoices@tn.gov

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: Department of Economic and Community Development, FastTrack Economic Development Program.
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period—it must detail, at minimum, all of the following:
 - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
 - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.

- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to one percent (1%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.
- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date, in form and substance acceptable to the State.
- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - b. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this Grant Contract shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
 - d. The Grantee must close out its accounting records at the end of the Term in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Julia Eschbach, Contract Specialist
 Department of Economic and Community Development
 312 Rosa L. Parks Avenue, 27th Floor
 Nashville, TN 37243
 Email: julia.eschbach@tn.gov
 Telephone # 615.253.1900

FAX # 615.532.1296

The Grantee:

Ray Christian
 Industrial Development Board of the County of Knox
 17 Market Square
 Knoxville, TN 37902
 Email: rchristian@knoxdevelopment.org
 Phone: 865-246-2642

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
 - b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This

provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.
- D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.
- If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment B.
- When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.
- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.
- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.

- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tol=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.


The obligations set forth in this Section shall survive the termination of this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.
- E.2. Grantee Participation. Grantee Participation amounts detailed in the Grant Budget are intended as a goal for the total project, and the amount of actual Grantee Participation expenditures will not impact the maximum amounts reimbursable to the Grantee as detailed by the Grant Budget column, "Grant Contract."

IN WITNESS WHEREOF,

INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX:

 <hr style="border: 0.5px solid black;"/>	<p>July 9, 2021</p> <hr style="border: 0.5px solid black;"/>
GRANTEE SIGNATURE	DATE
<p>Greg McWhorter, Chair</p>	

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:

Robert Rolfe/st

ROBERT O. ROLFE, COMMISSIONER

7/30/21
DATE

ATTACHMENT A

GRANT BUDGET				
Grantee:		Industrial Development Board of the County of Knox		
Grantee Contact:		Ray Christian, rchristian@knoxdevelopment.org, 865-246-2642		
Contact:				
Company:		Elo Touch Solutions, Inc.		
Program:		FastTrack Economic Development Grant Program		
The Grant Budget line-item amounts below shall be applicable only to expense incurred during the following				
Applicable Period:				
		BEGIN: July 24, 2019	END: July 23, 2022	
POLICY 03 Object Line-Item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1. 2	Salaries, Benefits & Taxes	0.00	0.00	0.00
4, 16	Professional Fee, Grant & Award ²	500,000.00	0.00	500,000.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	0.00	0.00	0.00
11, 12	Travel, Conferences & Meetings	0.00	0.00	0.00
13	Interest ²	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation ²	0.00	0.00	0.00
18	Other Non-Personnel ²	0.00	0.00	0.00
20	Capital Purchase ²	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
25	GRAND TOTAL	500,000.00	0.00	500,000.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A*. (posted on the Internet at: <https://www.tn.gov/finance/looking-for/policies.html>).

² Applicable detail follows this page if line-item is funded.

ATTACHMENT A**GRANT BUDGET LINE-ITEM DETAIL:**

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
New construction at 2439 Bertelkamp Lane, Knoxville, TN 37932 (the "Facility").	500,000.00
TOTAL	500,000.00

INTEREST	AMOUNT
n/a	n/a
TOTAL	n/a

DEPRECIATION	AMOUNT
n/a	n/a
TOTAL	n/a

OTHER NON-PERSONNEL	AMOUNT
n/a	n/a
TOTAL	n/a

CAPITAL PURCHASE	AMOUNT
n/a	n/a
TOTAL	n/a

ATTACHMENT B

Parent Child Information

The Grantee should complete this form and submit it with the Grant Contract. The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year.

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number:

Is Industrial Development Board of the County of Knox a parent? Yes No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is Industrial Development Board of the County of Knox a child? Yes No

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

ATTACHMENT C

Accountability Agreement

STATE OF TENNESSEE
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
ACCOUNTABILITY AGREEMENT

This Accountability Agreement (this “Agreement”) is made and entered into as of July ^{July 29, 2021}, 2021 by and among the Tennessee Department of Economic and Community Development, a department of the State of Tennessee (the “State”), Industrial Development Board of the County of Knox (the “Development Authority”), and Elo Touch Solutions, Inc. (the “Company”) (the State, the Development Authority, and the Company, collectively, the “Parties”).

RECITALS

WHEREAS, the purpose of the State’s incentive programs is to promote long-term job growth by providing financial assistance to eligible applicants to induce and assist companies to relocate, expand, or construct projects in Tennessee;

WHEREAS, one of the economic development incentives offered by the State is an incentive award under the FastTrack Economic Development Program (the “Award”) and the State has committed, subject to approval by the State Funding Board and approval of the Grant Contract, as defined herein, to provide the Award to the Development Authority for the Project summarized in Section 2.2 (the “Project”);

WHEREAS, the Development Authority, in accordance with its statutory purposes, will utilize the Award to participate in the Project to assist the Company;

WHEREAS, in consideration for the Award, the Company has committed to create the number of jobs noted in Section 3.1; and

WHEREAS, on or after the date of the execution of this Agreement and subsequent to approval of the Award by the State Funding Board, the Development Authority has or will execute a grant contract between the State and the Development Authority (the “Grant Contract”) that provides the terms of the Award, a copy of which is attached hereto as Attachment A and incorporated into this Agreement, and the Company has or will execute a grant contract between the Development Authority and the Company with respect to the Award.

Now, therefore, upon and in consideration of the respective promises and covenants contained herein and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I – CAPITALIZED TERMS

Capitalized terms used herein shall have the meanings ascribed thereto in this Article I of the Agreement, unless the meanings of such terms have been otherwise specified in a different context. For purposes of this Agreement:

- 1.1 “Adjusted Award Amount” has the meaning assigned to such term in Section 5.1.
- 1.2 “Agreement” has the meaning assigned to such term in the preamble hereto.
- 1.3 “Assumption Agreement” has the meaning assigned to such term in Section 6.2.
- 1.4 “Award” has the meaning ascribed to such term in the preamble hereto.
- 1.5 “Award Amount” has the meaning assigned to such term in Section 2.1.
- 1.6 “Baseline Jobs” has the meaning assigned to such term in Section 4.1.
- 1.7 “Change of Control” has the meaning assigned to such term in Section 6.2.
- 1.8 “Committed Jobs” has the meaning assigned to such term in Section 3.1.
- 1.9 “Company” has the meaning assigned to such term in the preamble hereto.
- 1.10 “Compliance Period” means the fourth, fifth, and sixth Interim Dates.
- 1.11 “Development Authority” has the meaning assigned to such term in the preamble hereto.
- 1.12 “End Date” means the end date of this Agreement which shall be the last day of the Compliance Period. All references to the End Date shall include any extensions granted herein.
- 1.13 “Event of Default” has the meaning assigned to such term in Section 5.1.
- 1.14 “Facility” has the meaning assigned to such term in Section 2.2.
- 1.15 “Force Majeure” means any of the following events that directly impact the Company’s ability to meet the Performance Requirement: flood, earthquake, storm, lightning, fire, or other Acts of God; sabotage or terrorism.
- 1.16 “Grant Contract” has the meaning assigned in the preamble hereto.
- 1.17 “Interim Date” means each anniversary of the Start Date. All references to an Interim Date include any extensions granted herein.
- 1.18 “Job” means a new, full-time position that is created and filled during the period beginning on the Start Date and ending on the End Date and that is held by a Company employee who is offered medical benefits. Except as provided in Section 1.20, all Jobs must be created and filled at the Facility. Jobs shall also include full-time positions created and filled after the Start Date which are temporarily located at a Company location in the State, that are intended to be permanently located at the

Facility after completion of the Facility. A Job shall be deemed filled at the Facility if the Company employee resides in Tennessee and reports to the Facility.

- 1.19 “Minimum Performance Requirement” has the meaning assigned to such term in Section 3.3
- 1.20 “Net New Jobs” means the cumulative number of Jobs filled on each Interim Date. Net New Jobs shall not include positions transferred to the Facility from another Company location in the State of Tennessee but may include positions transferred to the Facility from a Company location outside of Tennessee. Additionally, Net New Jobs shall not include positions created as a result of a merger, acquisition, or other business combination unless such positions are new positions in the State of Tennessee.
- 1.21 “Net New Jobs (Average)” has the meaning assigned to such term in Section 3.3.
- 1.22 “Notification Letter” has the meaning assigned to such term in Section 5.2.
- 1.23 “Parties” has the meaning assigned to such term in the preamble hereto.
- 1.24 “Performance Requirement” has the meaning assigned to such term in Section 3.1.
- 1.25 “Project” has the meaning assigned to such term in Section 2.2.
- 1.26 “Protest Letter” has the meaning assigned to such term in Section 5.2.
- 1.27 “Repayment Amount” has the meaning assigned to such term in Section 5.1.
- 1.28 “Start Date” means July 24, 2019.
- 1.29 “State” has the meaning assigned to such term in the preamble hereto.
- 1.30 “Successor Company” has the meaning assigned to such term in Section 6.2.

ARTICLE II – AWARD

- 2.1 Grant Award Amount. Subject to approval by the State Funding Board and approval of the Grant Contract, the State shall provide to the Development Authority an Award of Five Hundred Thousand Dollars and No/100 (\$500,000.00) (the “Award Amount”) for the Project.
- 2.2 Project Description. The Development Authority and the Company shall use the Award to implement the project (the “Project”), which is defined as follows:

New construction at 2439 Bertelkamp Lane, Knoxville, TN 37932 (the “Facility”), with costs to be incurred by ETS Partners, LLC on the Company’s behalf.

ARTICLE III – PERFORMANCE REQUIREMENT

- 3.1 **Company Commitment.** As consideration for the Award, and as part of the Project, the Company shall create, fill, and maintain Sixty-One (61) Jobs (“Committed Jobs”) between the Start Date and End Date in accordance with Section 3.3 (the “Performance Requirement”).
- 3.2 **Force Majeure.** The State may, in its sole discretion, extend the End Date, Interim Dates, or interim reporting periods required by Section 4.2 due to an event of Force Majeure. However, an extension of the End Date, Interim Dates, or interim reporting periods required by Section 4.2 shall be for a term no longer than one year following the original End Date, Interim Date or interim reporting period.
- 3.3 **Compliance with the Performance Requirement.** Pursuant to Section 4.2, the Company shall annually submit a report of the Net New Jobs filled on each Interim Date during the period commencing on the Start Date and ending on the End Date. Upon the End Date, the number of Net New Jobs for each of the Interim Dates that comprise the Compliance Period shall be added together and divided by three to determine the average number of Net New Jobs (“Net New Jobs (Average)”). In accordance with the formula in Item 3 of Exhibit A, the Net New Jobs (Average) shall be divided by the number of Committed Jobs to determine the performance percentage (the “Performance Percentage”) as of the End Date. The Company shall be deemed in compliance with the Performance Requirement if the Performance Percentage as of the End Date is equal to or greater than ninety percent (90%). The Company’s failure to be in compliance with the Performance Requirement as of the End Date shall result in the repayment to the State of all or a portion of the Award Amount that has been received by the Development Authority in accordance with Article V. Further, if the Performance Percentage is below fifty percent (50%) (the “Minimum Performance Requirement”), the Company shall repay to the State all of the Award Amount that has been received by the Development Authority in accordance with Article V.

ARTICLE IV – REPORTING REQUIREMENTS

- 4.1 **Baseline Report.** The State and the Company agree that the Company has forty-one (41) existing jobs (“Baseline Jobs”) prior to creation of Net New Jobs under this agreement. This is reflected in Exhibit B (the “Baseline Jobs Statement”). The Company must submit, prior to or concurrently with execution of this Agreement by the Company, back-up data in the form of a headcount listing of all positions at the Facility as of the date Baseline Jobs were reported in the company’s Application for Incentives submitted to the State seeking incentives for the Project. Back-up data shall provide reasonable assurance that information provided to the State pursuant to this Agreement is true and correct in all material respects.
- 4.2 **Performance Reports.** On or before the 60th day (or such later date as shall have been approved by the State) following each Interim Date during the period commencing on the Start Date and ending on the End Date the Company shall deliver to the State

a report substantially similar to Exhibit C (a “Performance Report”) that provides the number of Net New Jobs filled on the Interim Date applicable to such report. Each Performance Report shall be signed by a duly authorized representative of the Company and shall certify the number of Net New Jobs filled on the Interim Date applicable to such Performance Report. Performance Reports shall include appropriate back-up data for the Jobs reported in the form of a headcount listing of all positions at the Facility filled on the Interim Date. Back-up data shall provide reasonable assurance that information provided to the State pursuant to this Agreement is true and correct in all material respects.

ARTICLE V – DEFAULT

- 5.1 Event of Default and Repayment Amount. For purposes of this Agreement, the term “Event of Default” means the occurrence of any of the following events: (i) the Company fails to satisfy the Performance Requirement as of the End Date pursuant to Section 3.3, (ii) the Company fails to satisfy the Minimum Performance Requirement as of the End Date pursuant to Section 3.3, (iii) the Company ceases to operate or fails to complete the Project described in Section 2.2 between the Start Date and the End Date or (iv) the Company fails to provide any of the Performance Reports required pursuant to Sections 4.1 and 4.2 or the back-up data applicable to such reports on or before the due dates established in Sections 4.1 and 4.2 within thirty (30) days after written notice of such failure and opportunity to cure.

In the case of an Event of Default, the Company shall repay directly to the State all or a portion of the Award Amount (the “Repayment Amount”) as calculated in this Section 5.1. The Repayment Amount for an Event of Default under Section 5.1(i) above shall be determined by (A) multiplying the Award Amount by the Performance Percentage (the “Adjusted Award Amount”), and (B) the Company shall be liable to repay to the State any portion of the Award Amount that has been received by the Development Authority that exceeds the Adjusted Award Amount. (See Exhibit D.) The Repayment Amount for an Event of Default under Sections 5.1(ii), 5.1(iii), and 5.1(iv) above shall be one-hundred percent (100%) of the Award Amount that has been received by the Development Authority.

- 5.2 Notification of Default. In the event the Company has failed to meet the Performance Requirement or Minimum Performance Requirement or has otherwise defaulted as described in Sections 5.1(iii) or 5.1(iv) of this Agreement, the State will deliver written notice (a “Notification Letter”) to the Development Authority and the Company of such failure or default that will include a summary of the basis of the State’s claim and will also include a demand that the Company pay the State the Repayment Amount (in which case such Notification Letter will include the State’s determination of the Repayment Amount).
- 5.3 Repayment. No later than forty-five (45) days after the date of its receipt of a Notification Letter in which the State demands such repayment, the Company shall

submit the Repayment Amount to the State. Any portion of the Repayment Amount that remains unpaid after the end of such forty-five (45) day period shall accrue interest from and after such period at the rate provided under TENN. CODE ANN. §47-14-105 and, should the Company fail to remit the Repayment Amount to the State, the State shall have the right to seek any and all remedies available to it through its administrative processes or to seek remedies available at law or equity. Notwithstanding the foregoing, if the Company believes that the State has improperly demanded payment of the Repayment Amount (either in whole or in part), the Company shall have the right to remit the Repayment Amount demanded by the State pursuant to the State's Notification Letter under protest, in which case (i) the Company shall provide to the State a written explanation of the nature of the protest (the "Protest Letter"); (ii) the Repayment Amount paid by the Company shall not be subject to interest as described in this Section 5.3 if paid within the forty-five (45) day period described above; and (iii) the Company shall not be deemed to have waived any rights or defenses with respect to the Award Amount or the Repayment Amount (including, without limitation, any rights or defenses the Company may have under this Agreement or the Grant Contract with respect to the Award); provided, however, that the Company shall not be entitled to file a claim against the State with respect to funds repaid pursuant to this Section 5.3 after the first anniversary of the date on which the Company receives the Notification Letter pursuant to which the Company shall have repaid such funds. Further, any such claim against the State shall be made to the Tennessee Claims Commission in accordance with Title 9, Chapter 8 of the Tennessee Code Annotated and shall be limited to disputes relating to matters described in the Protest Letter.

ARTICLE VI - MISCELLANEOUS

- 6.1 Records. The Company shall maintain documentation regarding the reporting requirements of Sections 4.1 and 4.2 for the later of (i) three (3) years following the End Date or (ii) one year after the resolution of any claim against the State filed pursuant to Section 5.3. The documentation shall be subject to audit by the State or its duly appointed representative at any reasonable time and upon reasonable notice. In the event that any audit conducted pursuant to this Section 6.1 reveals that the Company has inaccurately calculated or reported the number of Jobs consistent with the intent of this Agreement, the State may adjust the number of Jobs as reported by the Company to a number of Jobs consistent with the intent of this Agreement and adjust the Performance Percentage and Repayment Amount accordingly.

In the event the State adjusts the Performance Percentage and Repayment Amount based upon the State's audit, the State will deliver a Notification Letter to the Development Authority and the Company of such adjustment that will include a summary of the basis of the State's claim and will also include a demand that the Company pay the State the Repayment Amount (in which case such Notification Letter shall include the State's determination of the Repayment Amount). The Company shall follow the Repayment procedure described in Section 5.3.

- 6.2 Change of Control. Change of Control is defined as (i) a reorganization, merger,

consolidation or other transaction that will result in the transfer of ownership of more than fifty percent (50%) of the Company's shares except in the case of an initial public offering that does not result in a successor entity, or (ii) the liquidation or dissolution of the Company or sale of substantially all of the Company's assets.

In the event of a Change of Control that occurs during the period between the Start Date and the End Date, (A) the Company must notify the State of such Change of Control promptly following the approval of the Change of Control pursuant to corporate, partnership, limited liability company, or other similar proceedings applicable to the Change of Control event and (B) either the new owner or other successor entity resulting from the Change of Control (the "Successor Company") following the completion of the applicable transaction must assume the obligations contained in this Agreement by executing an assumption agreement in a form acceptable in all reasonable respects to the State (the "Assumption Agreement"). However, if the Company continues as a legal entity after a Change of Control, the Company and the Successor Company shall be jointly and severally liable for the obligations contained in this Agreement. In lieu of executing an Assumption Agreement, the Company or the Successor Company may elect to pay the State the Award Amount that has been received by the Development Authority pursuant to the Grant Contract.

- 6.3 Communication and Notices. All notices or other communications required or contemplated by this Agreement shall be in writing and shall be made by certified, first class mail, return receipt requested, by overnight courier service with an asset tracking system, or by email. Any such communication, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address or email address set forth below or to that of such other party or address as may be hereafter specified by written notice.

The Development Authority:

Ray Christian
 Industrial Development Board of the County of Knox
 17 Market Square
 Knoxville, TN 37902
 Email: rchristian@knoxdevelopment.org
 Phone: 865-246-2642

The State:

Tennessee Department of Economic and Community Development
 Attn: General Counsel
 312 Rosa Parks, 27th Floor
 Nashville, TN 37243
 Email: ecd.legal@tn.gov
 Telephone: 615-741-1888

The Company:

Elo Touch Solutions, Inc.
 2439 Bertlekamp Lane
 Knoxville, TN 37931
 Attn: Director, Global Logistics
Logistics@elotouch.com
 408-597-8000

With a Copy to:

Elo Touch Solutions, Inc.
 670 N. McCarthy Blvd., Suite 100
 Milpitas, CA 95035
 Attn: President
EloSales@elotouch.com
 408-597-8000

With a Copy to:

Elo Touch Solutions, Inc.
 1755 N. Collins Rd, Suite 525
 Richardson, TX 75080
 Attn: General Counsel
Legal@elotouch.com
 408-597-8000

All notices or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- 6.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Company agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Company acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Title 9, Chapter 8 of the Tennessee Code Annotated.
- 6.5 Exhibits. The Exhibits and Attachment hereto attached will be construed to be a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each Exhibit and Attachment were set forth in full and at length every time it is referred to or otherwise mentioned. In the event of a discrepancy or ambiguity

regarding the grant of funds from the State to the Development Authority under the Grant Contract, the terms of the Grant Contract shall govern.

- 6.6 Severability. If any one or more of the provisions contained herein will for any reason be held by any court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 6.7 Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the State. The failure of the State to require the performance of any term or obligation of this Agreement, or the waiver by the State of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
- 6.8 Authorized Signatures. Each of the individuals executing this Agreement represents that they are authorized to execute this Agreement on behalf of their respective entities.
- 6.9 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have hereunto set their signatures the day and year first written above.

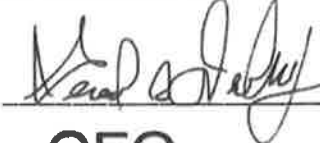
Tennessee Department of Economic and Community Development

By: Robert O Riffe/stk

Title: Commissioner

Date: July 29, 2021

Elo Touch Solutions, Inc.

By: 

Title: CFO

Date: 7-23-2021

Industrial Development Board of the County of Knox

By: _____

Title: Greg McWhorter
Chair

Date: July 26, 2021

IN WITNESS WHEREOF, the Parties have hereunto set their signatures the day and year first written above.

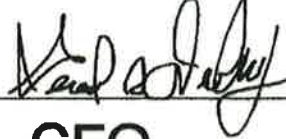
**Tennessee Department of Economic
and Community Development**

By: _____

Title: _____

Date: _____


Elo Touch Solutions, Inc.

By:  _____

Title: **CFO**

Date: **7-23-2021**

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

By:  _____

Title: **Greg McWhorter
Chair**

Date: **July 26, 2021**

EXHIBIT A

Performance Percentage Calculation

For purposes of determining compliance with the Performance Requirement, the Performance Percentage shall be calculated in accordance with Section 3.3 and as illustrated below.

1. Committed Jobs pursuant to Section 3.1

Committed Jobs _____

2. Compliance Period pursuant to Section 1.10

- 3rd, 4th, and 5th Interim Dates
- 4th, 5th, and 6th Interim Dates
- 5th, 6th, and 7th Interim Dates

3. Net New Jobs Created

A.	Compliance Period Performance Report 1	
B.	Compliance Period Performance Report 2	
C.	Compliance Period Performance Report 3	
D.	Add lines A., B., and C. Total =	
E.	Divide line D. by 3. Net New Jobs (Average) =	

4. Performance Percentage

$$\frac{\text{Net New Jobs (Average)}}{\text{Committed Jobs}} = \text{_____ \% (Performance Percentage)}$$

EXHIBIT B**Baseline Jobs Statement**

Start Date: July 24, 2019	Baseline Jobs
Elo Touch Solutions, Inc.	41

Back-up data as described in Section 4.1. must be submitted by the Company prior to or concurrently with execution of this Agreement. The Company understands and agrees that the information provided in this Baseline Jobs Statement will be used to determine the number of Net New Jobs.

Elo Touch Solutions, Inc.

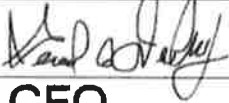
By: 
 Title: CFO
 Date: 7-23-2021

EXHIBIT C**Performance Report**

ECD Grant Number: _____

Date Report Submitted: _____

Check the applicable reporting period:

- 1st Interim 2nd Interim 3rd Interim 4th Interim 5th Interim
 6th Interim

Unless the State agrees to an extension, this report must be submitted to the State no later than 60 days following each Interim Date for the period commencing on the Start Date and ending on the End Date. Net New Jobs shall be calculated according to the definition provided in the Agreement.

Back-up data as described in Section 4.2. must be submitted by the Company concurrently with this report.

Interim Date:	Net New Jobs (Reporting Period Only)	Net New Jobs (Cumulative since Start Date)
July 24, 20 _____		
Elo Touch Solutions, Inc.		

The undersigned company represents that the individual executing this report on behalf of the company is an authorized signatory of the company. I hereby certify that each Job reported above complies with the definition provided in the Accountability Agreement and that all information contained in this Performance Report is true and accurate.

Elo Touch Solutions, Inc.

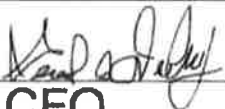
By:  _____
Title: **CFO** _____
Date: **7-23-2021** _____

EXHIBIT D

Repayment Amount Calculation (Required only if Performance Percentage is less than 90%)

STEP 1

Award Amount * Performance Percentage = Adjusted Award Amount

STEP 2

Award Amount - Adjusted Award Amount = Repayment Amount

Example A – Repayment Required

A \$1,500,000 Award to retrofit a building was part of Company A's consideration to locate in Tennessee. As part of the deal, Company A committed to create 800 jobs. At the End Date, Company A created an average of 528 Jobs.

- Award Amount = \$1,500,000
- Commitment = 800 jobs
- Net New Jobs (Average) created = 528 (66% Performance Percentage)
- $\$1,500,000 \times 66\% = \$990,000$ Adjusted Award Amount
- $\$1,500,000 - \$990,000 = \$510,000$
- Repayment Amount = \$510,000 (34% of Award Amount)
- IF company received less than full Award Amount, must repay difference between amount received and \$990,000

Example B – Repayment Required

A \$1,000,000 Award to retrofit a building was part of Company B's consideration to locate in Tennessee. As part of the deal, Company B committed to create 1,000 jobs. At the End Date, Company B created an average of 440 Jobs.

- Award Amount = \$1,000,000
- Commitment = 1,000 jobs
- Net New Jobs (Average) created = 440 (44% Performance Percentage)
- Company must repay all grant funds received

Example C – No Repayment Necessary

A \$500,000 Award to retrofit a building was part of Company C's consideration to locate in Tennessee. As part of the deal, Company C committed to create 600 jobs. At the End Date, Company C created an average of 546 Jobs.

- Award Amount = \$500,000
- Commitment = 600 jobs
- Net New Jobs (Average) created = 546 (91% Performance Percentage)
- No repayment required

ATTACHMENT A

Grant Contract

ATTACHMENT D


Request to Incur Costs

**FASTTRACK GRANT REQUEST TO INCUR COST (RTIC)
PRIOR TO CONTRACT EXECUTION**

1. The Industrial Development Board of the County of Knox ("Grantee") requests permission on behalf of Elo Touch Solutions, Inc ("Company") to begin incurring eligible expenses for the Company's project prior to the award of a state contract under the:

- FastTrack Job Training Assistance Program (FJTAP) beginning on the following date: _____
- FastTrack Infrastructure Development Program (FIDP) beginning on the following date: _____
- FastTrack Economic Development Grant Program (ED) beginning on the following date: 7/24/2019

2. I acknowledge that all FastTrack grant activities must be conducted according to the program guidelines as may be amended by ECD from time to time. I understand that failure to provide any of the required documentation will render the FastTrack application ineligible for approval by the ECD Grant Committee.
3. I acknowledge that the Company may not submit reimbursement requests to the State for payment until the FastTrack contract has been executed and that such reimbursement requests will be submitted in the form required by ECD.
4. I acknowledge that approval of permission to begin hiring and/or incur eligible expenses prior to grant award is not to be construed as approval of the grant, that this permission merely makes it possible for a grant to be approved at a later date, and that it is possible the grant will never be awarded or may be awarded for a lesser amount than requested.
5. I acknowledge that all FastTrack grants are subject to the approval of the ECD Grant Committee and that permission to incur costs, if approved, does not indicate the likelihood of such approval.
6. I acknowledge that all FastTrack grants are subject to the review and approval of the Central Procurement Office and the Office of the Comptroller and that permission to incur costs, if approved, does not indicate the likelihood of such approval.
7. I acknowledge that any grant over \$750,000 is subject to the approval of the Tennessee State Funding Board and that permission to incur costs, if approved, does not indicate the likelihood of such approval.
8. ECD and its staff are prohibited from providing any verbal or written assurance that a grant will be awarded and any such verbal or written assurance is void.

Grantee Signature:  Date: 6/18/21
Company Signature (If Applicable): _____ Date: _____
Name, Title: MIKE ODOM, INTERIM PRESIDENT AND COO

FOR ECD USE ONLY

DATE RTIC APPROVED BY ECD GRANT COMMITTEE: 03/22/2021
FastTrack Program RTIC Date: 07/24/2019 Program Name: FEDP Add'l Program/Date: N/A
Juandale Cooper, ECD FastTrack Director Approval:  06/21/2021

**THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF KNOX
and
THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE
COUNTY OF KNOX**

**Board of Directors Meeting
Public Input Policy**

The Board of Directors (each the “Board”) of each of The Industrial Development Board of the County of Knox and The Health, Educational and Housing Facility Board of the County of Knox conduct all meetings, including committee meetings, in compliance with the Tennessee open meetings law. Tennessee law requires that meetings be open for public observation, and that the Board reserve a period of time at each meeting for public comment related to matters that are germane to the agenda items to be considered at such meeting.

It is the policy of the Board to allow members of the public to speak once on any agenda item for up to three (3) minutes. If a member of the public wishes to speak to the Board, he or she must sign up to speak before the meeting by registering on the sign-up sheet that will be available at the meeting, whether with regard to a specific agenda item or as part of the general public forum described below. An agenda will be made available for review by members of the public with the sign-up sheet. Only persons who have registered to speak prior to the convening of the meeting will be allowed to speak.

A person speaking on an agenda item will be granted time by the presiding officer of the Board to speak when his or her topic of interest is addressed on the agenda. When a number of persons desire to speak to an issue, each side shall be limited to three (3) speakers which shall be determined on a first-come, first serve basis according to the order of names on the sign-up sheet. The Board may extend the number of speakers, or the time allowed for speakers by a vote of majority of the directors present.

At the conclusion of the Board’s regularly scheduled business, a general public forum will be opened to the public. This forum will allow for persons to speak to items that were not on the agenda. The public forum will be limited to thirty (30) minutes. The order of speakers will be determined according to the order of names on the sign-up sheet. The presiding officer of the Board will then call on those persons one at a time to stand and address the Board for no more than three (3) minutes per speaker.

All speakers, members of the audience, and the Board shall remember that the meeting is a Board meeting. All persons are to show proper respect to each other and shall maintain the proper decorum in the meeting at all times. Persons who fail to observe the rules as to proper decorum shall not be permitted to speak and may be removed from the meeting.

Time allocated for public forum provides an opportunity for community members to share their ideas, insights, and concerns with the Board; it is not, however, intended to be a time for discussion between the Directors and the speaker or a time for obtaining either answers to questions raised or responses to requests made for information or action. As appropriate, response to questions raised and/or requests made by the speaker may be made by the Board member or staff at a later time after they have had sufficient opportunity to consider and deliberate on them.

All members of the public are encouraged to submit written information by either of the following methods:

Mail: 17 Market Square, Suite 201
Knoxville, Tennessee 37902

Email: mmcwhorter@knoxvillechamber.com

Written information should be provided at least two (2) business days prior to a board meeting to ensure that the information can be made available to the Board prior to the meeting.

DRAFT

**THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE
COUNTY OF KNOX
Meeting of Board of Directors
Public Input Sign-Up Sheet**

Meeting Date: _____

1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		
1. Name:	2. Agenda Item? Y N (circle)	3. If yes, which agenda item number?
4. Address:		