

AMENDED AND RESTATED PROJECT AGREEMENT

THIS AMENDED AND RESTATED PROJECT AGREEMENT (the "Project Agreement"), made as of September 1, 2018, by and between the TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, with offices at the Town of Colonie Public Operations Center, 347 Old Niskayuna Road, Latham, New York 12110 (the "Agency"), and STARLITE ASSOCIATES, LLC, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 220 Harborside Drive, Schenectady, New York 12305 (the "Company").

WITNESSETH:

WHEREAS, Title I of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 232 of the Laws of 1977, as amended by Chapter 594 of the Laws of 1980 of the State, as amended (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company, on behalf of itself and entities formed or to be formed on behalf of the foregoing, submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (A)(1)(a) the acquisition of an interest in approximately 20 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Project Facility Land"), (b) the construction of an approximately 149,005 square foot building and related site work (the "Facility") on the Project Facility Land, and (c) the acquisition and installation therein and

thereon of various machinery, furniture, fixtures, apparatus and equipment (the "Equipment") (the Project Facility Land, the Facility and the Equipment being collectively referred to as the "Project Facility"), such Project Facility being leased to The Goldman Sachs Group, Inc. for use by The Ayco Company, L.P. ("Ayco"), upon completion of the acquisition, the construction and the installation thereof, as a new office complex and corporate headquarters; (2)(a) the acquisition of an interest in approximately 4 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Interconnector Road Land"), and (b) the construction and related site work of an interconnector road (the "Interconnector Road") on the Interconnector Road Land, which Interconnector Road Land and Interconnector Road (collectively, the "Interconnector Road Facility"), upon completion of the Interconnector Road, shall be transferred to the Town of Colonie (the "Town"); and (3)(a) the acquisition of an interest in approximately 0.5 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Stormwater Management Land"), and (b) site work on the Stormwater Management Land (the "Stormwater Management Land Improvements" and, collectively with the Stormwater Management Land, the "Stormwater Management Facility"), which Stormwater Management Facility, upon completion of the Stormwater Management Land Improvements, will be transferred to the Town; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from mortgage recording taxes (except as limited by Section 874 of the Act), real estate transfer taxes, sales and uses taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution of its members adopted on July 11, 2018 (the "Approving Resolution"), the Agency has conferred on the Company in connection with the Project certain financial assistance consisting of: (a) an exemption from New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility or used in the acquisition, construction, reconstruction or equipping of the Project Facility or the construction of the Interconnector Road Facility or site work at the Stormwater Management Facility; (b) an exemption from mortgage recording tax; and (c) an abatement from real property taxes through a 7-year payment in lieu of taxes agreement with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project (the "Taxing Jurisdictions") (collectively, the sales and use tax exemption benefit, the mortgage recording tax benefit, and the abatement from real property taxes benefit, are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, in order to facilitate acquisition, construction and installation of the Project Facility, (A) the Agency and the Company entered into a Project and Preliminary Sales Tax Benefit Agreement dated as of July 31, 2018 (the "Original Project Agreement") pursuant to which the Agency temporarily appointed the Company as its agent for purposes of the sales and use tax exemption that forms part of the Financial Assistance and (B) the Agency filed with the New York State Department of Taxation and Finance the form entitled "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (the form required to be file pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report"); and

WHEREAS, it has been estimated and confirmed by the Company that the Company has included within its Application for Financial Assistance that: (i) the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$12,000,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$960,000, (ii) the mortgage recording tax exemption amount shall be provided to a mortgage or mortgages in a total amount not exceeding \$35,000,000, and (iii) real property tax abatement benefits to be provided to the Company over the 7-year benefit period of the anticipated payment in lieu of taxes agreement are estimated to be approximately \$4,153,837 (such savings are estimated based on an estimated assessed value and tax rates of the Taxing Jurisdictions; actual savings are subject to change over the term of the Lease Agreement depending on the actual assessed value of the Project Facility and/or actual tax rates of the Taxing Jurisdictions); and

WHEREAS, the Company proposes to lease the Project Facility Land, the Interconnector Road Land, the Stormwater Management Land and all improvements thereon to the Agency, and the Agency desires to lease the Project Facility Land, the Interconnector Road Land, the Stormwater Management Land and all improvements thereon from the Company pursuant to the terms of a certain Underlying Lease dated as of September 1, 2018 (the "Underlying Lease"), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to acquire an interest in the Equipment pursuant to a bill of sale from the Company; and

WHEREAS, the Agency proposes to sublease the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility to the Company, and the Company desires to lease the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility from the Agency, upon the terms and conditions set forth in a certain Lease Agreement dated as of September 1, 2018 (the "Lease Agreement"); and

WHEREAS, in order to define the obligations of the Company regarding payments in lieu of taxes for the Project Facility, the Interconnector Road Facility (as applicable) and the Stormwater Management Facility, the Agency and the Company will enter into a Payment in Lieu of Tax Agreement, dated as of September 1, 2018 (the "PILOT Agreement"), by and between the Agency and the Company; and

WHEREAS, by this Amended and Restated Project Agreement, the Agency authorizes the Company to act as its agent for the purposes of undertaking the Project and the Agency delegates to the Company the authority to appoint sub-agents subject to the execution of this Project Agreement and compliance with the terms set forth herein and in the Approving Resolution; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency's sales and use tax exemption benefit as agent of the Agency to acquire, construct, equip and complete the Project Facility, to construct and complete the Interconnector Road Facility and the Stormwater Management Facility and to undertake the Project, the Agency and the Company will enter into this Amended and Restated Project Agreement; and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Approving Resolution and as more particularly described in the PILOT Agreement and this Project Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Project Agreement, other than Financial Assistance provided pursuant to the Original Project Agreement;

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows that the Original Project Agreement shall be amended and restated to read as follows:

ARTICLE I PURPOSE OF PROJECT

Section 1.01 Purpose of Project. It is understood and agreed by the parties hereto that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Underlying Lease, Lease Agreement, PILOT Agreement and this Project Agreement in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project Facility, the construction of the Interconnector Road Facility and site work at the Stormwater Management Facility to advance job opportunities, health, general prosperity and economic welfare of the people of the Town of Colonie and to otherwise accomplish the public purpose of the Act.

ARTICLE II REAL PROPERTY TAX EXEMPTION

Section 2.01. PILOT Agreement. Attached hereto and made a part hereof is Exhibit A, which contains an executed copy of the PILOT Agreement entered into by and between the Company and the Agency.

ARTICLE III SALES AND USE TAX EXEMPTION

Section 3.01. Scope of Authorization of Sales Tax Exemption. The Agency hereby authorizes the Company, subject to the terms and conditions of this Project Agreement, to act as its agent in connection with the acquisition, construction and installation of the Project Facility and the construction of the Interconnector Road Facility and the Stormwater Management Facility. The Agency's authorization with respect to such Sales Tax Exemption provided to the Company and its Sub-Agents (if any, as defined in and appointed pursuant to Section 3.02) pursuant to this Project Agreement and any Sub-Agent Appointment Agreements (as defined in Section 3.02) issued hereunder shall be subject to the limitations set forth in this Project Agreement. The right of the Company to act as agent of the Agency shall expire on December 31, 2019, unless extended by a resolution adopted by the members of the Agency. The value of the sales and use tax exemption benefits shall not exceed the amounts described in the Application and as set forth in Section 3.03(b) hereof unless approved by a resolution adopted by the members of the Agency. All contracts entered into by the Company as agent for the Agency shall include the following language:

"This contract is being entered into by _____ (the "Agent"), as agent for and on behalf of the Town of Colonie Industrial Development Agency (the "Agency"), in connection with a certain project of the Agency for the benefit of the Agent consisting in part of the acquisition and installation of certain machinery, furniture, fixtures, equipment, apparatus and building materials, all for incorporation, installation or use in certain premises located at 629 Columbia Street Extension, Latham, New York (the "Premises"). The machinery, furniture, fixtures, equipment, apparatus and building materials or services necessary for the completion of, to be incorporated or installed in or for use in in the Premises shall

be exempt from the sales and use taxes levied by the State of New York if the acquisition thereof is effected in accordance with the terms and conditions set forth in the Amended and Restated Project Agreement dated as of September 1, 2018 by and between the Agency and the Company (the "Project Agreement"); and the Agent hereby represents that this contract is in compliance with the terms of the Project Agreement. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

Section 3.02. Appointment of Sub-Agents. Subject to the terms and conditions of this Project Agreement, the Agency hereby delegates to the Company the authority to appoint sub-agents of the Agency in connection with the Project, which may be agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and such other parties as the Company chooses (each, a "Sub-Agent"). The appointment of each such Sub-Agent will be effective only upon: (1) the execution by the Sub-Agent and the Company of the Sub-Agent Appointment Agreement attached hereto as Exhibit B, the terms and provisions of which are incorporated herein, and (2) the receipt by the Agency of a fully executed Sub-Agent Appointment Agreement and a completed Form ST-60 in accordance with Section 3.03(e) below.

Section 3.03. Representations and Covenants of the Company.

(a) The Company hereby incorporates and restates its representations, covenants and warranties made in the Lease Agreement.

(b) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to State and local sales and use taxes are estimated in the amount up to \$12,000,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$960,000.

(c) The Company further covenants and agrees to complete "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (Form ST-60) for itself and each Sub-Agent and to provide said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(d) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance an "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Company and its Sub-Agents have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with Section 874(8) of the Act. The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Agency, but in no event later than February 15 of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of (1) the Company's authority

to act as agent for the Agency, and (2) the authority of any sub-agent of the Agency appointed by the Company pursuant to Section 3.02 hereof to act as agent for the Agency.

(e) The Company further acknowledges and agrees that all purchases made in furtherance of the Project by the Company and any Sub-Agent shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123, a copy of which is attached hereto as Exhibit C), and it shall be the responsibility of the Company or the Sub-Agent, as the case may be, (and not the Agency) to complete Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services necessary for the completion of, to be incorporated or installed in or for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state, "I, [NAME OF AGENT], certify that I am a duly appointed agent of the Town of Colonie Industrial Development Agency and that I am purchasing the tangible personal property or services necessary for the completion of, to be incorporated or installed in or for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my Project Agreement with the Town of Colonie Industrial Development Agency." The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: Starlite Associates, LLC Project; 629 Columbia Street Extension, Latham, New York; IDA Project No.: 0105-18-02A.

(f) The Company acknowledges and agrees that the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

(g) Upon request by the Agency with reasonable notice to the Company, the Company shall make available at reasonable times to the Agency all such books, records, contracts, agreements, invoices, bills or purchase orders of the Company and any Sub-Agent, and require all appropriate officers and employees of the Company to respond to reasonable inquiries by the Agency, as shall be necessary (y) to indicate in reasonable detail those costs for which the Company or any Sub-Agent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (z) to permit the Agency to determine any amounts owed by the Company under this Section 3.02 or under Article 5.

Section 3.04. Hold Harmless Provisions.

(a) The Company hereby releases the Agency and its members, officers, agents (other than the Company) and employees from, agrees that the Agency and its members, officers, agents (other than the Company) and employees shall not be liable for and agrees to indemnify, defend and hold the Agency and its members, officers, agents (other than the Company) and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Agency's undertaking the Project, including, but not limited to, (1) liability for loss or damage to property or bodily injury to or death of any and all persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project Facility, the Interconnector Road Facility and/or the

Stormwater Management Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any person or property on, in or about the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, (2) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, installing, owning, leasing or selling the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, including, without limiting the generality of the foregoing, any sales or use taxes which may be payable with respect to goods supplied or services rendered with respect to the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, all liabilities or claims arising as a result of the Agency's obligations under this Project Agreement or the enforcement of or defense of validity of any provision of this Project Agreement, (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Sections 3.01 and 3.02 hereof, and (4) all causes of action and reasonable attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the gross negligence or intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company) or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its members, officers, agents (other than the Company) or employees by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(c) To effectuate the provisions of this Section 3.04, the Company agrees to provide for and insure, in the liability policies required by Section 3.05 of this Project Agreement, its liabilities assumed pursuant to this Section 3.04.

(d) Notwithstanding any other provisions of this Project Agreement, the obligations of the Company pursuant to this Section 3.04 shall remain in full force and effect after the termination of this Project Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency, or its officers, members, agents (other than the Company) or employees, relating thereto.

Section 3.05. Insurance Required.

(a) The Company agrees that it shall maintain all insurance required under the Lease Agreement.

(b) The Company agrees that it shall cause its general contractors for the Project to maintain, effective as of the date hereof and until the construction of the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, as the case may be, is complete, insurance with respect to the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, as the case may be, against such risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, with the Agency named on each such policy as an additional insured.

ARTICLE IV COMMITMENTS AND REPORTING

Section 4.01. Compliance Commitments. The Company agrees and covenants that it shall meet and maintain the following commitments beginning in the first year in which Financial Assistance is so claimed, and continuing through the term of the PILOT Agreement:

(a) The total investment actually made with respect to the Project at the Project's Completion Date (as defined in the Lease Agreement) shall equal or exceed \$28,704,000 (which represents the product of 80% multiplied by \$35,880,000, being the total project cost as stated in the Company's Application for Financial Assistance) (the "Investment Commitment").

(b) Ayco employed at least six hundred twenty-six (626) full time equivalent ("FTE") employees within the Town of Colonie at the date of the Application for Financial Assistance (the "Baseline FTE"). Ayco shall at all times maintain such Baseline FTE within the Town of Colonie. In addition to the Baseline FTE employees, Ayco shall (x) no later than December 31, 2020, create FTE employment at the Project Facility equal seventy-eight (78) FTE employees (representing 90% multiplied by the total number of new FTE employee positions proposed to be created by Ayco by December 31, 2020 as stated in the Application for Financial Assistance) and (y) no later than December 31, 2021, create FTE employment at the Project Facility equal to one hundred forty-four (144) FTE employees (representing 90% multiplied by the total number of new FTE employee positions proposed to be created by Ayco as stated in the Application for Financial Assistance). The employment requirements set forth in the paragraph (b) are hereinafter referred to as the "Employment Commitment". In no event shall any independent contractor as determined under the laws of the State of New York be included in calculating the number of FTE employees employed within the Town of Colonie and/or at the Project Facility.

(c) The Company shall annually provide to the Agency certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project (the "Reporting Commitment").

Section 4.02. Reporting Requirement. As part of the commitments set forth in Section 4.01, the Company shall provide annually, to the Agency, a certified statement and supporting documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors who work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial

Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit D contains a form of annual certification that the Company must complete and submit to the Agency on an annual basis. The Agency reserves the right to modify such form to require additional information that the Agency must have in order to comply with its reporting requirements under the Act.

ARTICLE V
SUSPENSION, DISCONTINUATION, RECAPTURE AND/OR TERMINATION OF
FINANCIAL ASSISTANCE

Section 5.01. Suspension, Discontinuation, Recapture and/or Termination of Financial Assistance. It is understood and agreed by the Parties hereto that the Agency is entering into the Underlying Lease, the Lease Agreement, the PILOT Agreement and this Project Agreement in order to provide Financial Assistance to the Company for the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility and to accomplish the public purposes of the Act.

(a) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Approving Resolution, the Company covenants and agrees that it is subject to recapture of all State sales and use tax exemption benefits if:

(1) the Company or its Sub-Agents, if any, authorized to make purchases for the benefit of the Project is not entitled to the State sales and use tax exemption benefits; or

(2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Sub-Agents, if any; or

(3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project document between the Company and the Agency.

Each of the foregoing four events are hereinafter referred to as a "State-Mandated Recapture Event". The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency's attention, whether a State-Mandated Recapture Event has occurred.

(b) In addition to Section 5.01(a), in accordance with the policies of the Agency and the Approving Resolution and this Project Agreement, the Company covenants and agrees that the Agency shall have the right to suspend, discontinue, recapture or terminate all or any portion of any Financial Assistance:

(1) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency; and/or such exemptions were for property or services not authorized by the Agency ("Local Sales Tax Benefit Violation");

(2) the Company fails to reach and maintain its Employment Commitment ("Job Deficit");

(3) the total investment actually made with respect to the Project on the Completion Date fails to meet the Investment Commitment ("Investment Deficit");

(4) the Company fails to meet its Reporting Commitment ("Reporting Failure"); or

(5) there otherwise occurs any event of default under any Basic Document (each, an "Event of Default") or a material violation of the terms and conditions of any Basic Document (a "Material Violation").

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency's attention, whether a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure, Event of Default or Material Violation (each a "Noncompliance Event") has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any Basic Document in accordance with the terms of the Basic Document.

At the time of any Noncompliance Event, the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance, and shall consider the following criteria in determining whether to proceed to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance:

- Whether the Company has proceeded in good faith.
- Whether the Project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the Company.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create a more adverse situation for the Company, such as the Company going out of business or declaring bankruptcy, which would not occur if the Agency's rights were not exercised.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create an adverse situation for the residents of the Town of Colonie.
- The assessment prepared in accordance with the Agency's Annual Assessment Policy.
- Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance (the "Determination"). The Determination shall provide terms, if any, by which the Company may remedy any Noncompliance Event upon which the Determination was based. The Company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume Financial Assistance to the Company (which will be at the Agency's sole discretion).

(c) If a State-Mandated Recapture Event occurs or the Agency makes a Determination, the Company agrees and covenants that it will: (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company; and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the State sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

(d) If the Lease Agreement for the Project is voluntarily terminated by the Company prior to the expiration of two-thirds of the total stated term of the Lease Agreement, the Agency reserves the right to require the Company to pay back all or some portion of the Financial Assistance in accordance with this Article V.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.01. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Project Agreement to the Agency regardless of any investigation made by the Agency.

Section 6.02. Notices. All notices, certificates and other communications under this Project Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by overnight delivery service, addressed as follows:

If to the Agency:

Town of Colonie Industrial Development Agency
Town of Colonie Public Operations Center
347 Old Niskayuna Road
Latham, New York 12110
Attention: Chairman

With a copy to: Barclay Damon LLP
80 State Street
Albany, New York 12207
Attention: M. Cornelia Cahill, Esq.

If to the Company: Starlite Associates, LLC
220 Harborside Drive
Schenectady, New York 12305
Attention: Gerald J. Hennigan

With a copy to: Thomas Owens, Esq.
220 Harborside Drive
Schenectady, New York 12305

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

Section 6.03. Amendments. No amendment, change, modification, alteration or termination of this Project Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 6.04. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Project Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Project Agreement or any part thereof.

Section 6.05. Counterparts. This Project Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 6.06. Governing Law. This Project Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Albany County, New York.

Section 6.07. Term. Except as specifically provided otherwise, the term of this Project Agreement shall be the longer of: (1) the term of the Lease Agreement; or (2) five years following the Project's completion date. The Project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of this Project Agreement.

Section 6.08 Mortgage Recording Tax Exemption. The Agency hereby grants to the Company exemption from mortgage recording taxes (except to the extent limited by Section 874 of the Act) for one or more Mortgages securing an aggregate principal amount not to exceed

\$35,000,000 or such greater amount as approved by the Agency in its sole and absolute discretion, in connection with the financing of the Project Work (the "Mortgage Recording Tax Exemption").

Section 6.09. Section Headings. The headings of the several Sections in this Project Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Project Agreement.

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

TOWN OF COLONIE INDUSTRIAL
DEVELOPMENT AGENCY

By:  _____
John Kearney
Chairman

STARLITE ASSOCIATES, LLC

By: 

Gerald J. Hennigan
Authorized Representative

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

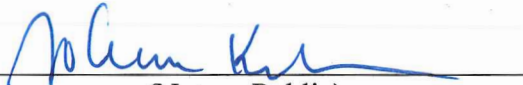
Gerald J. Hennigan, being first duly sworn, deposes and says:

1. That I am the Authorized Representative of Starlite Associates, LLC and that I am duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.



(Signature of Officer)

Subscribed and affirmed to me
under penalties of perjury
this 20th day of September, 2018.


(Notary Public)

JO-ANN KILMER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01KI 052388
QUALIFIED IN SARATOGA COUNTY
COMMISSION EXPIRES NOV. 20, 20 21

EXHIBIT A

PILOT Agreement

-See Attached-

CLOSING ITEM NO.: A-6

TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY

AND

STARLITE ASSOCIATES, LLC

PAYMENT IN LIEU OF TAX AGREEMENT

DATED AS OF SEPTEMBER 1, 2018

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and is for convenience of reference only.)

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PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT dated as of September 1, 2018 by and between the TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York (hereinafter referred to as the "Agency"), having an office for the transaction of business located at 347 Old Niskayuna Road, Latham, New York 12110, and STARLITE ASSOCIATES, LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 220 Harborside Drive, Schenectady, New York 12305 (the "Company").

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 232 of the Laws of 1977, as amended by Chapter 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, renovating, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell its projects, to charge and collect rent therefor, to mortgage any and all of its facilities and to enter into an agreement which includes provisions such as those contained herein (this Payment in Lieu of Tax Agreement being hereinafter referred to as the "Agreement"); and

WHEREAS, the Agency has determined to undertake a project on behalf of the Company, on behalf of itself and entities formed or to be formed on behalf of the foregoing (the "Project") consisting of the following: (A)(1)(a) the acquisition of an interest in approximately 20 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Project Facility Land"), (b) the construction of an approximately 149,005 square foot building and related site work (the "Facility") on the Project Facility Land, and (c) the acquisition and installation therein and thereon of various machinery, furniture, fixtures, apparatus and equipment (the "Equipment") (the Project Facility Land, the Facility and the Equipment being collectively referred to as the "Project Facility"), such Project Facility being leased to The Goldman Sachs Group, Inc. for use by The Ayco Company, L.P., upon completion of the acquisition, the construction and the installation thereof, as a new office complex and corporate headquarters; (2)(a) the acquisition of an interest in approximately 4 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Interconnector Road Land"), and (b) the construction and related site work of an interconnector road (the "Interconnector Road") on the Interconnector Road Land, which Interconnector Road Land and Interconnector Road (collectively, the "Interconnector Road Facility"), upon completion of the Interconnector Road, shall be transferred to the Town of

Colonie (the "Town"); and (3)(a) the acquisition of an interest in approximately 0.5 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Stormwater Management Land"), and (b) site work on the Stormwater Management Land (the "Stormwater Management Land Improvements" and, collectively with the Stormwater Management Land, the "Stormwater Management Facility"), which Stormwater Management Facility, upon completion of the Stormwater Management Land Improvements, will be transferred to the Town; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from mortgage recording taxes (except as limited by Section 874 of the Act), real estate transfer taxes, sales and uses taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, members of the Agency have determined that the Project constitutes a "project" within the meaning of the Act; and

WHEREAS, in connection with the Project, the Agency intends to acquire a leasehold interest in certain real property more particularly described in Exhibit "A-1" (the Project Facility Land), in Exhibit "A-2" (the Interconnector Road Land) and in Exhibit "A-3" (the Stormwater Management Land), pursuant to the terms and conditions of a lease to agency dated as of September 1, 2018 (the "Underlying Lease") by and between the Company, as landlord, and the Agency, as tenant; and

WHEREAS, the Agency proposes to sublease its interest in the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility to the Company pursuant to the terms and conditions of a certain lease agreement dated as of September 1, 2018 (the "Lease Agreement") by and between the Agency and the Company; and

WHEREAS, said Project Facility, Interconnector Road Facility and Stormwater Management Facility are to be used for any legal purpose under the Act; and

WHEREAS, said Project Facility, Interconnector Road Facility and Stormwater Management Facility are located within the boundaries of the Town of Colonie; and

WHEREAS, under the present provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York (the "Real Property Tax Law"), the Agency is not required to pay Real Estate Taxes (hereinafter defined) upon any of the property acquired by it or under its jurisdiction or supervision or control; and

WHEREAS, the Agency has expressed its reluctance to enter into the Underlying Lease unless the Company shall agree to make payments in lieu of Real Estate Taxes ("PILOT Payments") pursuant to this Agreement with respect to the Project; and

WHEREAS, the Agency has previously adopted a Uniform Tax Exemption Policy (the "Policy") to provided guidelines for the claiming of real property, sales and use tax and mortgage recording tax abatements; and

WHEREAS, this Agreement varies from the Policy; and

WHEREAS, the Agency caused a letter dated June 15, 2018 to be mailed to the chief executive officers of each of the Town of Colonie (the "Town"), the North Colonie Central School District (the "School District") and the County of Albany (the "County") (each a "Taxing Entity" and, collectively, the "Taxing Entities"), informing the Town, the School District and the County that the Agency would, at its meeting to be held on June 25, 2018, consider a proposed deviation from the Policy with respect to the payment in lieu of tax agreement to be entered into by the Agency with respect to the Project; and

WHEREAS, the Agency caused a second letter dated June 29, 2018 to be mailed to the chief executive officers of the Town, the School District and the County, informing the Town, the School District and the County that the Agency would, at its meeting to be held on July 11, 2018, further consider the proposed deviation from the Policy with respect to the payment in lieu of tax agreement to be entered into by the Agency with respect to the Project; and

WHEREAS, after considering the factors outlined in the Policy, by resolution duly adopted by the members of the Agency on July 11, 2018, the Agency has determined to deviate from the Policy; and

WHEREAS, the PILOT Payments contemplated by this Agreement are in lieu of Real Estate Taxes that may be payable with respect to the Project during the term of this Agreement;

NOW, THEREFORE, in consideration of the matters above recited, for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto formally covenant, agree and bind themselves as follows to wit:

ARTICLE I

REPRESENTATIONS AND WARRANTIES

SECTION 1.01. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company does hereby represent and warrant to the Agency as follows:

(A) Power: The Company has full legal power and authority to own its properties and conduct its business.

(B) Authorization: The Company has the legal power under the laws of the State of New York to enter into this Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement. The Company has duly authorized the execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated. The Company is not prohibited from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by (and the execution, delivery and performance of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of the compliance with the provisions of this Agreement will not conflict with or violate or constitute a breach of or a default under) the terms, conditions or provision of any law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Agreement nor the Company's performing all covenants and obligations on its part to be performed under and pursuant to this Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing. This Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms.

(C) Governmental Consent: No consent, approval or authorization of, or filing, registration or qualification with, any Governmental Authority on the part of the Company is required as a condition to the execution, delivery or performance of this Agreement by the Company or as a condition to the validity of this Agreement.

ARTICLE II

COVENANTS AND AGREEMENTS

SECTION 2.01. TAX-EXEMPT STATUS OF PROJECT FACILITY, INTERCONNECTOR ROAD FACILITY AND STORMWATER MANAGEMENT FACILITY.

(A) Assessment of Project Facility, Interconnector Road Facility and Stormwater Management Facility: Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of a leasehold interest in the Project Facility, Interconnector Road Facility and Stormwater Management Facility by the Agency and the filing by the Agency of Real Property Tax Exemption Form (Form RP-412-a), and for so long thereafter as the Agency shall have a leasehold interest in the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, as the case maybe, shall be assessed by the Town of Colonie, Albany County, New York (hereinafter referred to as the "Town") and by the various other taxing entities having jurisdiction over the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility, including, without limitation, any county, school district, or other political unit or units in which the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility are located (the Town and such other taxing entities being sometimes collectively referred to as the "Taxing Entities", and each of such Taxing Entities being sometimes individually referred to as a "Taxing Entity") as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to the acquisition by the Agency of the leasehold interest in the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility. The Company shall, promptly following acquisition by the Agency of the leasehold interest, take such action as may be necessary to ensure that the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility shall be assessed as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to such acquisition by the Agency and, for so long thereafter as the Agency shall have a leasehold interest in the Project Facility and /or the Interconnector Road Facility and/or the Stormwater Management Facility, and the Company shall take such further action as may be necessary to maintain such exempt assessment with respect to each Taxing Entity. The parties hereto understand that the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility shall not be entitled to such exempt status on the tax rolls of any Taxing Entity until the first tax year of such Taxing Entity following the tax status date of such Taxing Entity occurring subsequent to the date upon which the Agency obtains of record a leasehold interest in the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility. Pursuant to the provisions of the Lease Agreement, the Company will be required to pay all taxes and assessments lawfully levied and/or assessed against the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility, including taxes and assessments levied for the current tax year and all subsequent tax years until the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility shall be entitled to exempt status on the tax rolls of the respective Taxing Entities. Subject to Section 3.01 hereof, the Agency will reasonably cooperate with the Company to preserve the tax-exempt status of the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility and to achieve the purposes and effect of this Agreement.

(B) Special Assessments: The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Lease Agreement, the Company shall pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility.

SECTION 2.02. PAYMENTS IN LIEU OF TAXES.

(A) Agreement to Make Payments: The Company agrees that it shall make annual payments in lieu of property taxes in the amounts hereinafter provided to the respective Taxing Entities entitled to receive same pursuant to the provisions hereof. The Company also agrees to give the assessor a copy of this Payment in Lieu of Tax Agreement. The payments due hereunder shall be paid by the Company to the respective appropriate officer or officers of the respective Taxing Entities charged with receiving payments of taxes for such Taxing Entities (such officers being collectively hereinafter referred to as the "Receivers of Taxes") for distribution by the Receivers of Taxes to the appropriate Taxing Entities entitled to receive same pursuant to the provisions hereof. The Company shall pay interest and late charges as required by Section 874 of the Act.

(B) Valuation of Project Facility Land, Project Facility Improvements, Interconnector Road Land, Stormwater Management Land: The assessed value of the Project Facility Land (the "Project Facility Land Assessed Value"), the Facility and any portion of the Equipment assessable as real property pursuant to the State Real Property Tax Law (the "Project Facility Improvements Assessed Value") (the Project Facility Land, the Facility and any portion of the Equipment assessable as real property pursuant to the State Real Property Tax Law being collectively referred to as the "Project Facility Improvements"), the Interconnector Road Land and the improvements thereto (the "Interconnector Road Facility Assessed Value") and the Stormwater Management Land and the improvements thereto (the "Stormwater Management Facility Assessed Value") for purposes of determining payments in lieu of taxes due hereunder shall be calculated as follows:

Commencing in first taxable year after execution hereof the Project Facility Land Assessed Value, the Project Facility Improvements Assessed Value, the Interconnector Road Facility Assessed Value and the Stormwater Management Facility Assessed Value shall be determined by the Assessor as follows: The Assessor shall appraise the Project Facility Land, the Project Facility Improvements, the Interconnector Road Facility and the Stormwater Management Facility in the same manner and using the same valuation method as other similar properties in the general area of the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The Company shall be entitled to prompt written notice of the initial Project Facility Land Assessed Value, the Project Facility Improvements Assessed Value, the Interconnector Road Facility Assessed Value and the Stormwater Management Facility Assessed Value and of any change thereto. If the Company is dissatisfied with the amount of the Project Facility Land Assessed Value, the Project Facility Improvements Assessed Value, the Interconnector Road

Facility Assessed Value and/or the Stormwater Management Facility Assessed Value as initially established or as changed, the Company shall have the right to contest the Project Facility Land Assessed Value, the Project Facility Improvements Assessed Value, the Interconnector Road Facility Assessed Value and/or the Stormwater Management Facility Assessed Value made for purposes of determining any payments due hereunder and to seek a refund of any such payments made hereunder. The Company's challenge to the Project Facility Land Assessed Value, the Project Facility Improvements Assessed Value, the Interconnector Road Facility Assessed Value and/or the Stormwater Management Facility Assessed Value and its determination to seek a refund of any payments made hereunder shall be made in accordance with New York Real Property Tax Law.

(C) Amount of Payments in Lieu of Taxes:

(1) With respect to each year during the term of this Agreement, determine the amount of general taxes and general assessments that would be payable to each Taxing Entity if the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility were owned by the Company and the Agency did not have a leasehold interest therein by multiplying (a) the Project Facility Land Assessed Value, the Project Facility Improvements Assessed Value, the Interconnector Road Facility Assessed Value and the Stormwater Management Facility Assessed Value specified in Subsection (B) of this Section 2.02, by (b) the tax rate or rates of such Taxing Entity that would be applicable to the Project Facility Land, the Project Facility Improvements, the Interconnector Road Facility and the Stormwater Management Facility, as the case may be, as if the Project Facility Land, the Project Facility Improvements, the Interconnector Road Facility and the Stormwater Management Facility, as the case may be, were owned by the Company and the Agency did not have a leasehold interest therein (hereinafter referred to as the "Project Facility Land Normal Tax", the "Project Facility Improvements Normal Tax", the "Interconnector Road Facility Normal Tax" and the "Stormwater Management Facility Normal Tax", respectively).

(2) The payments in lieu of taxes to be paid by the Company to the various Receivers of Taxes annually on behalf of each Taxing Entity pursuant to the terms of this Agreement shall be as follows:

(a) With respect to the Project Facility Improvements, the Company shall make payments equal to the Project Facility Improvements Normal Tax multiplied by the specified percentage as shown in the following table:

TAX YEAR	PERCENTAGE OF PROJECT FACILITY IMPROVEMENTS NORMAL TAXES
Beginning before the first tax status date after issuance of a certificate of occupancy for the Project Facility	100%
Beginning after the first tax status date after issuance of a certificate of occupancy for the Project Facility	
1	10%
2	20%
3	30%
4	40%
5	55%
6	70%
7	85%
8 and thereafter	100%

Notwithstanding the foregoing schedule, the Company further covenants and agrees that for any period that the Agency continues to hold a leasehold interest in the Project Facility after December 31, 2027, the Company shall pay 100% of the Project Facility Improvements Normal Tax. The Company shall not be liable or responsible for double tax payments associated with this Agreement and the restoration of the Project Facility to the assessment roll under Section 520 of the Real Property Tax Law.

(b) With respect to the Project Facility Land, the Interconnector Road Facility and the Stormwater Management Facility, the Company shall make payments equal to 100% of the Project Facility Land Normal Tax, 100% of the Interconnector Road Facility Normal Tax and 100% of the Stormwater Management Facility Normal Tax.

(3) All PILOT Payments will be allocated among the "affected tax jurisdictions" pro-rata in accordance with the applicable tax rates.

(D) Additional Amounts in Lieu of Taxes: (1) Commencing on the first tax year following the date on which any material modification or any structural addition shall be made to the Project Facility or any portion thereof or any additional building or other structure shall be constructed on the Project Facility Land that is not included in the definition of "Project Facility" (such structural additions and additional buildings and other structures being hereinafter referred to as "Additional Facilities") the Company agrees to make additional annual payments in lieu of property taxes with respect to such Additional Facilities (such additional payments being hereinafter collectively referred to as "Additional Payments") to the Receiver of Taxes with respect to such Additional Facilities, such Additional Payments to be computed separately for each Taxing Entity as follows:

(a) Determine the amount of general taxes and general assessments (hereinafter referred to as the "Additional Normal Tax") that would be payable to each Taxing Entity with respect to such Additional Facilities if such Additional Facilities were owned by the Company and the Agency did not have a leasehold interest therein as follows: (a) multiply the Additional Assessed Value (as hereinafter defined) of such Additional Facilities determined pursuant to subsection (D) of this Section 2.02 by (b) the tax rate or rates of such Taxing Entity that would be applicable to such Additional Facilities if such Additional Facilities were owned by the Company and the Agency did not have a leasehold interest therein, and (c) reduce the amount so determined by the amounts of any tax exemptions that would be afforded to the Company by such Taxing Entity if such Additional Facilities were owned by the Company and the Agency did not have a leasehold interest therein.

(b) In each fiscal tax year during the term of this Payment in Lieu of Tax Agreement (commencing in the fiscal tax year when such Additional Facilities would first appear on the assessment roll of any Taxing Entity, as if such Additional Facilities were owned by the Company and the Agency did not have a leasehold interest therein), the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax with respect to such Additional Facilities pursuant to this Payment in Lieu of Tax Agreement shall be an amount equal to one hundred percent (100%) of the Normal Tax due each Taxing Entity with respect to such Additional Facilities for such fiscal tax year (unless the Agency and the Company shall enter into a separate written agreement regarding payments in lieu of property taxes with respect to such Additional Facilities, in which case the provisions of such separate written agreement regarding payments in lieu of property taxes with respect to such Additional Facilities, in which case the provisions of such separate written agreement shall control).

(E) Valuation of Additional Facilities.

(1) The value of Additional Facilities for purposes of determining payments in lieu of taxes due under Section 2.02(E) hereof shall be determined by the Assessor of each respective Taxing Entity. The parties hereto agree that the Assessors shall (a) appraise the Additional Facilities in the same manner as other similar properties in the general area of the Project Facility, and (b) place a value for assessment purposes (hereinafter referred to as the "Additional Assessed Value") upon the Additional Facilities, equalized if necessary by using the appropriate equalization rates as

apply in the assessment and levy of real property taxes. The Company shall be entitled to written notice of the initial establishment of such Additional Assessed Value and of any change in such Additional Assessed Value.

(2) If the Company is dissatisfied with the amount of the Additional Assessed Value of the Additional Facilities as initially established or as changed, the Company shall have the right to contest the Additional Assessed Value of the Project Facility made for purposes of determining any payments due hereunder and to seek a refund of any such payments made hereunder. The Company's challenge to the Additional Assessed Value of the Project Facility and the determination of the Company to seek a refund of any payments made hereunder shall be made in accordance with the Real Property Tax Law.

(F) Statements: The Agency agrees to give the appropriate officer or officers of the respective Taxing Entities responsible for preparing the tax rolls for said Tax Entities a copy of this Agreement and request that said officers submit to the Company and to the Receiver of Taxes periodic statements specifying the amount and due date or dates of the payments due each Taxing Entity hereunder, such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such Taxing Entities.

(G) Time of Payments: Subject to Section 2.03(B) hereof, the Company agrees to pay the amounts due hereunder to the appropriate Receiver of Taxes within the period that such Taxing Entity allows payment of taxes levied in such fiscal tax year without penalty. The Company shall be entitled to receive receipts for such payments.

(H) Method of Payment: All payments by the Company hereunder shall be paid to the Receivers of Taxes by check in lawful money of the United States of America. The Receivers of Taxes shall in turn distribute the amounts so paid to the various Taxing Entities entitled to same.

(I) Transfer to Company: In the event the Agency no longer has a leasehold interest in the Project Facility and/or the Interconnector Road Facility and/or the Stormwater Management Facility, the Project Facility and/or the Interconnector Road Facility and/or the Stormwater Management Facility, as the case may be, shall be immediately subject to taxation pursuant to Section 302 and Section 520 of the Real Property Tax Law, as amended. However, in no event shall the Company be required to pay both payments in lieu of taxes and real property taxes for a concurrent tax year or any portion thereof. Therefore, should the Project Facility and/or the Interconnector Road be conveyed to the Company and thus become taxable pursuant to Real Property Tax Law Section 520, the Taxing Entities agree that any payments payable under this Agreement as payments in lieu of taxes shall be reduced by the amount of any taxes which are required to be paid under Real Property Tax Law Section 520 for any such concurrent tax year or any portion thereof, and should such payments in lieu of taxes already have been made, the Taxing Entities shall refund any such amounts owing to the Company.

SECTION 2.03. CREDIT FOR TAXES PAID. (A) Credits: The parties hereto acknowledge and agree that the obligation of the Company to make the payments provided in Section 2.02 of this Agreement shall be in addition to any and all other taxes and governmental charges of any kind

whatsoever that the Company may be required to pay under the Lease Agreement. It is understood and agreed, however, that should the Company pay in any calendar year to any Taxing Entity any amounts in the nature of general property taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Project Facility and/or the Interconnector Road Facility and/or the Stormwater Management Facility, or the interest therein of the Company or the occupancy thereof by the Company (but not including, by way of example, sales and use taxes, or special assessments and special ad valorem levies described in Section 2.01(B) above) then the Company's obligation to make payments in lieu of property taxes for such calendar year to such Taxing Entity hereunder shall be reduced by the amounts which the Company shall have so paid to such Taxing Entity in such calendar year, but there shall be no cumulative or retroactive credit as to any payment in lieu of property taxes due to any other Taxing Entity or as to any payment in lieu of property taxes due to such Taxing Entity in any other calendar year.

(B) Method of Claiming Credits: If the Company desires to claim a credit against any particular payment in lieu of tax due hereunder, the Company shall give the governing body of the affected Taxing Entity prior written notice of its intention to claim any credit pursuant to the provisions of this Section 2.03, said notice to be given by the Company at least thirty (30) days prior to the date on which such payment in lieu of tax is due pursuant to the provisions of Section 2.02(G) hereof. In the event that the governing body of the appropriate Taxing Entity desires to contest the Company's right to claim such credit, then said governing body, the Agency and the Company shall each select an arbitrator in accordance with the rules of the American Arbitration Association, which arbitrators shall, at the sole cost and expense of the Company, determine whether the Company is entitled to claim any credit pursuant to the provisions of this Section 2.03 and, if so, the amount of the credit to which the Company is entitled. It is understood that the arbitrators are empowered to confirm the amount of the credit claimed by the Company or to determine a lower or higher credit. When the Company shall have given notice, as provided herein, that it claims a credit, the amount of any payment in lieu of property taxes due hereunder against which the credit may be claimed may be withheld (to the extent of the credit claimed by the Company, but only to the extent that such credit may be claimed against said payment in lieu of taxes pursuant to the provisions of this Section 2.03) until the decision of the arbitrators is rendered. After the decision of the arbitrators is rendered, the payment in lieu of taxes due with respect to any reduction or disallowance by the arbitrators in the amount of the credit claimed by the Company shall, to the extent withheld as aforesaid, be immediately due and payable, together with interest thereon from the date such payment in lieu of tax was originally due, at the rate of eighteen percent (18%) per annum, and such amount and shall be paid by the Company within thirty (30) days of said decision.

SECTION 2.04. INTEREST. If the Company shall fail to make any payment required by this Agreement when due, their obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with late charges and interest thereon, as required by Section 874 of the Act and as more fully described in Section 4.05 hereof.

ARTICLE III

LIMITED OBLIGATION OF THE AGENCY

SECTION 3.01. NO RECOURSE; LIMITED OBLIGATION OF THE AGENCY. Notwithstanding anything contained in this Agreement to the contrary:

(A) No Recourse: All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, officer, agent (other than the Company), servant or employee of the Agency in his or her individual capacity, and no recourse under or upon any obligation, covenants or agreement contained in this Agreement, or otherwise based upon or in respect of this Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent (other than the Company), servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Agreement, it being expressly understood that this Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent (other than the Company), servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Agreement under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent (other than the Company), servant or employee under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Agreement.

(B) Limited Obligation: The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the Town of Colonie, New York, and neither the State of New York nor the Town of Colonie, New York shall be liable thereon, and further such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Lease Agreement).

(C) Further Limitation: Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Company, and (2) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses (including, without limitation, attorneys' fees and expenses) or other costs, the Agency shall have received from the Company security or indemnity and an agreement from the Company to defend and hold harmless the Agency

satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. EVENTS OF DEFAULT. Any one or more of the following events shall constitute an event of default under this Agreement, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(A) Failure of the Company to pay any amount due and payable by the Company pursuant to this Agreement and continuance of said failure for a period of fifteen (15) days after written notice to the Company stating that such payment is due and payable;

(B) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed hereunder (other than as referred to in subsection (A) above) and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure and requesting that it be remedied; provided that if such default cannot reasonably be cured within such thirty (30) day period, the Company shall have commenced action to cure the breach of covenant, condition or agreement within said thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same;

(C) Any warranty, representation or other statement by or on behalf of the Company contained in this Agreement shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Agreement; or

(D) The occurrence and continuance of an "Event of Default" under the Lease Agreement, beyond any applicable cure period (if any).

SECTION 4.02. REMEDIES ON DEFAULT. Whenever any Event of Default shall have occurred with respect to this Agreement, the Agency (or if such Event of Default concerns a payment required to be made hereunder to any Taxing Entity, then with respect to such Event of Default such Taxing Entity) may take whatever action at law or in equity as may appear necessary or desirable to the Agency or such Taxing Entity, as the case may be, to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Agreement, including without limitation, terminating the Company's status as agent of the Agency and causing the surrender of the Underlying Lease to be duly recorded. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises. The Company irrevocably agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of record of the State of New York, consents to the jurisdiction of each such court in any such suit, action or proceeding, and waives any objection that it may have to the laying of the venue of any such suit, action or proceeding in any of such courts.

SECTION 4.03. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. If the Company should default in performing any of its obligations, covenants or agreements under this Agreement and the Agency or any Taxing Entity should employ attorneys or incur other expenses for the collection of

any amounts payable hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency or such Taxing Entity, as the case may be, the reasonable expenses so incurred, whether or not an action is commenced together with interest thereon at the maximum rate allowed by law.

SECTION 4.04. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive: No remedy herein conferred upon or reserved to the Agency or any Taxing Entity is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay: No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required: In order to entitle the Agency or any Taxing Entity to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Agreement or the Act.

(D) No Waiver: In the event any provision contained in this Agreement should be breached by either party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

SECTION 4.05. PAYMENT OF INTEREST AND PENALTIES. Pursuant to Section 874(5) of the Act, as amended, if the Company shall fail to make or cause to be made any such payments in lieu of real estate taxes when due, the amount or amounts so in default shall continue as an obligation of the Company until fully paid, and the Company hereby agrees to pay or cause to be paid the same, together with a late payment penalty equal to five percent (5%) of the amount due. Additionally, if the Company shall fail to make any payment required by this Section 4.05 when due and such delinquency shall continue beyond the first month, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the affected Taxing Entity until such payment in default shall have been made in full, and the Company shall pay the same to the affected Taxing Entity together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the same rate per annum which would be payable if such amounts were delinquent taxes, until so paid in full.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM OF AGREEMENT. This Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the approval of this Agreement by resolution of the Agency and the execution and delivery of this Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Agreement shall continue to remain in effect until the earlier to occur of (1) the latest of the dates on which the Agency's interest in the Project Facility or the Interconnector Road Facility or the Stormwater Management Facility, pursuant to the Underlying Lease is terminated, or (2) the occurrence of an Event of Default hereunder. Notwithstanding the foregoing, this Agreement will terminate with respect to the Interconnector Road Facility and/or the Stormwater Management Facility, when the Agency no longer has a leasehold interest in the Interconnector Road Facility and/or the Stormwater Management Facility, as the case may be.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Agreement shall be payable by check in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Agency is required to do or accomplish any act or thing hereunder, the Company may, with the prior written consent of the Agency, cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Agency.

SECTION 5.04. AMENDMENT OF AGREEMENT. This Agreement may not be amended, changed, modified, altered or terminated unless such amendment, change, modification, alteration or termination is in writing and, in the case of any amendment, change, modification or alteration of this Agreement, unless the Company and its respective successors and assigns shall assume in writing the obligations of such amended, changed, modified or altered Agreement.

SECTION 5.05. NOTICES. (A) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) received at the applicable address stated below by registered or certified mail, postage prepaid, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by the affidavit of the person who attempted to effect such delivery. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

If to the Agency:

Town of Colonie Industrial Development Agency
347 Old Niskayuna Road
Latham, New York 12110
Attention: Chairman

With a copy to:

M. Cornelia Cahill, Esq.
Barclay Damon LLP
80 State Street
Albany, New York 12207

With a copy to:

Assessor
Town of Colonie
Memorial Town Hall
534 Loudon Road
Latham, New York 12110

If the Company:

Starlite Associates, LLC
220 Harborside Drive
Schenectady, New York 12305
Attention: Gerald J. Hennigan

With a copy to:

Thomas Owens, Esq.
220 Harborside Drive
Schenectady, New York 12305

(B) Any notice given to the Agency hereunder also shall be sent to the Town of Colonie (the "Town") at the address set forth above.

(C) The Agency, the Company and the Town may, with notice given hereunder to each of the others, designate any further of different addresses to which subsequent notices, certificates or other communications to them shall be sent.

SECTION 5.06. BINDING EFFECT. This Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Agreement are intended to be for the benefit of the Agency and the respective Taxing Entities.

SECTION 5.07. SEVERABILITY. If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subsection, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the

remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.08. COUNTERPARTS. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.09. APPLICABLE LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.


SECTION 5.10 DEFINITIONS. Capitalized terms used but not otherwise defined herein shall have the same meanings ascribed to them in the Lease Agreement dated as of September 1, 2018, by and between the Company and the Agency unless the context requires otherwise.

SECTION 5.11 LACK OF TAX MAP NUMBER FOR INTERCONNECTOR ROAD LAND. The Company and the Agency acknowledge that as of the date of delivery of this Agreement the Interconnector Road Land has not been assigned a tax map number because the Interconnector Road Facility will be transferred to the Town upon completion of the Interconnector Road and so long as the Interconnector Road Land does not have a tax map number the provisions in this Agreement with respect to the Interconnector Road Land shall be of no force and effect. In the event that the Interconnector Road Land is assigned a tax map number, the Interconnector Road Facility shall be subject to this Agreement as provided herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

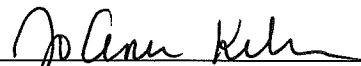
IN WITNESS WHEREOF, the Agency and the Company have caused this Agreement to be executed in their respective names, by their duly authorized representatives, all being done as of the date first above written.

TOWN OF COLONIE INDUSTRIAL
DEVELOPMENT AGENCY

By: 
John Kearney
Chairman

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

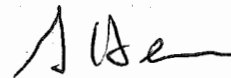
On the 7th day of September in the year 2018 before me, the undersigned, a notary public in and for the State of New York, personally appeared John Kearney, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

JO-ANN KILMER
NOTARY PUBLIC STATE OF NEW YORK
NO. 01K1 052388
QUALIFIED IN SARATOGA COUNTY
COMMISSION EXPIRES NOV. 20, 2021

STARLITE ASSOCIATES, LLC

By: _____



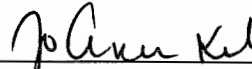
Gerald J. Hennigan
Authorized Representative

STATE OF NEW YORK)

) SS.:

COUNTY OF SARATOGA)

On the 21st day of September in the year 2018 before me, the undersigned, a notary public in and for the State of New York, personally appeared Gerald J. Hennigan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

JO-ANN KILMER
Notary Public, State of New York
No. 01K15052388
Qualified in Saratoga County,
Commission Expires Nov. 20, 2021

EXHIBIT A-1

DESCRIPTION OF THE PROJECT FACILITY LAND

- See attached -

**No. 629 COLUMBIA STREET
COLONIE, NEW YORK**

ALL that certain parcel of land situate in the Town of Colonie, County of Albany and State of New York being more particularly bounded and described as follows:

Beginning at a point on the northerly bounds of Columbia Street at its intersection with the division line between the lands now or formerly of William F. Pompa as described in R2017-23086 to the east and the Lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162 to the west; Thence along the northerly bounds of Columbia Street the following two (2) courses and distances:

1. South 75° 23' 00" West for a distance of 11.23 feet to a point;
2. South 58° 23' 00" West for a distance of 230.12 feet to a point;

Thence along the division line between the lands now or formerly of 621 Columbia St LLC as described in Book 2729 of Deeds at Page 392 and R2018-18771 to the west and south and the lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162 to the east and north the following five (5) courses and distances:

1. North 04° 00' 20" West for a distance of 320.17 feet to a point;
2. South 58° 15' 10" West for a distance of 333.12 feet to a point;
3. South 61° 45' 20" West for a distance of 276.57 feet to a point;
4. South 00° 06' 50" East for a distance of 39.77 feet to a point;
5. South 56° 31' 17" West for a distance of 95.89 feet to a point on a Proposed Town Road; Thence along the easterly bounds of a Proposed Town Road the following nine (9) courses and distances:

1. North 47° 15' 09" West for a distance of 211.73 feet to the beginning of a curve;
2. Along said curve turning to the right with a central angle of 28° 04' 27", having a radius of 290.00 feet, an arc length of 142.10 feet and whose chord bears North 33° 12' 56" West for a distance of 140.68 feet to point of compound curvature;
3. Along said curve turning to the right with a central angle of 27° 02' 36", having a radius of 341.00 feet, an arc length of 160.95 feet and whose chord bears North 05° 39' 24" West for a distance of 159.46 feet to a point of tangency;
4. North 07° 51' 53" East for a distance of 131.07 feet to the beginning of a curve;
5. Along said curve turning to the left with a central angle of 10° 45' 20", having a radius of 401.00 feet, an arc length of 75.28 feet and whose chord bears North 02° 29' 13" East for a distance of 75.17 feet to a point of tangency;
6. North 02° 53' 27" West for a distance of 151.16 feet to a point;
7. North 39° 16' 33" West for a distance of 102.36 feet to a point;
8. North 17° 14' 03" West for a distance of 73.31 feet to a point;
9. North 47° 58' 38" West for a distance of 4.34 feet to a point; Thence through the lands now or formerly of Starlite Associates LLC for the following five (5) courses and distances:

1. North 43° 25' 04" East for a distance of 81.08 feet to a point;
2. North 57° 51' 34" East for a distance of 482.96 feet to a point;
3. South 68° 38' 07" East for a distance of 348.87 feet to a point;
4. South 07° 28' 06" West for a distance of 363.04 feet to a point;

5. South $70^{\circ} 17' 16''$ East for a distance of 408.15 feet to a point; Thence South $04^{\circ} 38' 50''$ East along the westerly line of said lands now or formerly of William F. Pompa as described in R2017-23086 a distance of 417.72 feet to the Point of Beginning.

CONTAINING 863,135 Square Feet or 19.81 Acres of Land more or less.

EXHIBIT A-2

DESCRIPTION OF THE INTERCONNECTOR ROAD LAND

- See attached -

PROPOSED TOWN ROAD
COLONIE, NEW YORK

ALL that certain parcel of land situate in the Town of Colonie, County of Albany and State of New York being more particularly bounded and described as follows:

Beginning at a point on the northerly bounds of Columbia Street at its intersection with the division line between the lands now or formerly of Starlite Associates LLC as described in R2018-18774 to the southwest and the remaining land now or formerly of 621 Columbia St LLC to the northeast; Thence from said Point of Beginning along the northerly bounds of Columbia Street the following three (3) courses and distances:

1. South $61^{\circ} 45' 20''$ West for a distance of 17.34 feet to a point;
2. South $71^{\circ} 43' 17''$ West for a distance of 127.55 feet to a point;
3. South $71^{\circ} 43' 20''$ West for a distance of 39.50 feet to a point; Thence through the lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162 the following fourteen (14) courses and distances:

1. North $18^{\circ} 16' 40''$ West for a distance of 45.52 feet to a point;
2. North $47^{\circ} 15' 09''$ West for a distance of 56.07 feet to a point;
3. North $33^{\circ} 45' 25''$ West for a distance of 34.28 feet to a point;
4. North $47^{\circ} 15' 09''$ West for a distance of 256.42 feet to the beginning of a curve;
5. Along said curve turning to the right with a central angle of $55^{\circ} 07' 02''$, having a radius of 407.00 feet, an arc length 391.53 feet and whose chord bears North $19^{\circ} 41' 38''$ West for a distance of 376.60 feet to a point of tangency;
6. North $07^{\circ} 51' 53''$ East for a distance of 135.25 feet to the beginning of a curve;
7. Along said curve turning to the left with a central angle of $40^{\circ} 06' 15''$, having a radius of 341.00 feet, an arc length of 238.68 feet and whose chord bears North $12^{\circ} 11' 14''$ West for a distance of 233.84 feet to a point of intersection with a non-tangential line;
8. North $59^{\circ} 20' 02''$ West for a distance of 110.09 feet to a point;
9. North $49^{\circ} 39' 11''$ West for a distance of 102.69 feet to a point;
10. North $69^{\circ} 53' 28''$ West for a distance of 197.32 feet to a point;
11. North $55^{\circ} 12' 34''$ West for a distance of 113.09 feet to a point;
12. South $44^{\circ} 29' 24''$ West for a distance of 4.02 feet to the beginning of a curve;
13. Along said curve turning to the left with a central angle of $32^{\circ} 58' 01''$, having a radius of 341.00 feet, an arc length of 196.21 feet and whose chord bears South $28^{\circ} 00' 24''$ West for a distance of 193.51 feet to a point of tangency;
14. South $11^{\circ} 31' 23''$ West for a distance of 68.35 feet to a point on the easterly bounds of Old Loudon Road; Thence along the easterly bounds of Old Loudon Road the following two (2) courses and distances;

1. North $08^{\circ} 28' 30''$ West for a distance of 107.11 feet to a point;
2. North $10^{\circ} 27' 30''$ West for a distance of 44.33 feet to the beginning of a non-tangential curve; Thence through the lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162 the following four (4) courses and distances:

1. Along said curve turning to the right with a central angle of $22^{\circ} 25' 08''$, having a radius of 401.00 feet, arc length of 156.90 feet and whose long chord bears North $33^{\circ} 16' 50''$ East for a distance of 155.90 feet to a point of tangency;
2. North $44^{\circ} 29' 24''$ East for a distance of 4.82 feet to the beginning of a curve;

3. Along said curve turning to the left with a central angle of $93^{\circ} 49' 07''$, having a radius of 25.00 feet, an arc length of 40.94 feet and whose long chord bears North $02^{\circ} 25' 10''$ West for a distance of 36.51 feet to a compound curve;

4. Along said curve turning to the left with a central angle of $14^{\circ} 06' 57''$, having a radius of 620.00 feet, an arc length of 152.75 feet and whose long chord bears North $56^{\circ} 23' 11''$ West for a distance of 152.36 feet to a point of intersection with a non-tangential line on the easterly bounds of Old Loudon Road; Thence along the easterly bounds of Old Loudon Road the following three (3) courses and distances:

1. North $06^{\circ} 25' 30''$ West for a distance of 46.56 feet to a point;
2. North $36^{\circ} 34' 30''$ West for a distance of 30.18 feet to a point;
3. North $14^{\circ} 34' 40''$ East for a distance of 30.68 feet to a point; Thence through the lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162 the following eighteen (18) courses and distances:

1. South $73^{\circ} 50' 59''$ East for a distance of 70.52 feet to a point;
2. South $44^{\circ} 52' 09''$ West for a distance of 37.33 feet to the beginning of a non-tangential curve;
3. Along said curve turning to the right with a central angle of $23^{\circ} 17' 13''$, having a radius of 680.00 feet, an arc length of 276.37 feet and whose chord bears South $51^{\circ} 26' 53''$ East for a distance of 274.47 feet a point of intersection with a non-tangential line;
4. North $36^{\circ} 36' 24''$ East for a distance of 70.36 feet to a point;
5. South $01^{\circ} 40' 21''$ East for a distance of 33.16 feet to a point;
6. South $59^{\circ} 17' 08''$ East for a distance of 63.57 feet to a point;
7. South $67^{\circ} 08' 11''$ East for a distance of 150.60 feet to a point;
8. South $67^{\circ} 51' 28''$ East for a distance of 112.18 feet to a point;
9. South $47^{\circ} 58' 38''$ East for a distance of 79.24 feet to a point;
10. South $17^{\circ} 14' 03''$ East for a distance of 73.31 feet to a point;
11. South $39^{\circ} 16' 33''$ East for a distance of 102.36 feet to a point;
12. South $02^{\circ} 53' 27''$ East for a distance of 151.16 feet to the beginning of a curve;
13. Along said curve turning to the right with a central angle of $10^{\circ} 45' 20''$, having a radius of 401.00 feet, an arc length of 75.28 feet and whose chord bears South $02^{\circ} 29' 13''$ West for a distance of 75.17 feet to a point of tangency;
14. South $07^{\circ} 51' 53''$ West for a distance of 131.07 feet to the beginning of a curve;
15. Along said curve turning to the left with a central angle of $27^{\circ} 02' 36''$, having a radius of 341.00 feet, an arc length of 160.95 feet and whose long chord bears South $05^{\circ} 39' 24''$ East for a distance of 159.46 feet to a compound curve;
16. Along said curve turning to the left with a central angle of $28^{\circ} 04' 27''$, having a radius of 290.00 feet, an arc length of 142.10 feet and whose long chord bears South $33^{\circ} 12' 56''$ East for a distance of 140.68 feet to a point of tangency;
17. South $47^{\circ} 15' 09''$ East for a distance of 408.40 feet to a point;
18. South $79^{\circ} 41' 51''$ East a distance of 112.73 feet to the Point of Beginning.

CONTAINING 177,994 Square Feet or 4.09 Acres of Land more or less.

Date: September 5, 2018

Revised: September 7, 2018

File: S:/docs/greg/170158-starliteroad.doc

EXHIBIT A-3

DESCRIPTION OF THE STORMWATER MANAGEMENT LAND

- See attached -

PROPOSED PARCEL No. 5
STORMWATER MANAGEMENT AREA
COLONIE, NEW YORK

ALL that certain parcel of land situate in the Town of Colonie, County of Albany and State of New York being more particularly bounded and described as follows:

Beginning at a point within the bounds of the lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162, said point located the following two (2) courses and distances from the intersection between the easterly bounds of Old Loudon Road with the division line between the lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162 to the south and the lands now or formerly of Lia 965 Loudon Realty LLC as described in Book 2938 of Deeds at Page 808 to the north:

1. South $14^{\circ}34'40''$ West along the easterly bounds of Old Loudon Road for a distance of 22.04 feet to a point;
2. South $73^{\circ}50'59''$ East along the northerly of a Proposed Town Road for a distance of 70.52 feet to the point of beginning; Thence from said Point of Beginning, through the lands now or formerly of Starlite Associates LLC as described in Book 3036 of Deeds at Page 162 the following seven (7) courses and distances:

1. South $79^{\circ}58'15''$ East for a distance of 148.77 feet to a point;
2. South $59^{\circ}25'08''$ East for a distance of 75.07 feet to a point;
3. South $44^{\circ}30'54''$ East for a distance of 24.83 feet to a point;
4. South $01^{\circ}40'21''$ East for a distance of 59.25 feet to a point;
5. South $36^{\circ}36'24''$ West along said Proposed Town Road for a distance of 70.36 feet to a point of intersection with a non-tangential curve;
6. Along said curve turning to the left with a central angle of $23^{\circ}17'13''$, having a radius of 680.00 feet, an arc length of 276.37 feet along said Proposed Town Road and whose chord bears North $51^{\circ}26'53''$ West for a distance of 274.47 feet to a point of intersection with a non-tangential line;
7. North $44^{\circ}52'09''$ East along said Proposed Town Road for a distance of 37.33 feet to the Point of Beginning.

CONTAINING 21,957 Square Feet or 0.50 Acres of Land more or less.

Date: September 7, 2018

File: S:/docs/greg/170158-stormwater.doc

EXHIBIT B

FORM OF SUB-AGENT APPOINTMENT AGREEMENT

THIS SUB-AGENT APPOINTMENT AGREEMENT (the "Agreement"), dated as of _____, 20__, is by and between [STARLITE ASSOCIATES, LLC, a limited liability company] of the State of New York, having an office for the transaction of business at 220 Harborside Drive, Schenectady, New York 12305 (the "Company"), and [NAME OF SUB-AGENT], a _____ of the State of New York, having an office for the transaction of business at _____ (the "Sub-Agent").

WITNESSETH:

WHEREAS, the Town of Colonie Industrial Development Agency (the "Agency") was created by Chapter 232 of the Laws of 1977, as amended by Chapter 594 of the Laws of 1980 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York (the "State"); and

WHEREAS, pursuant to a resolution of the Agency adopted July 11, 2018 (the "Approving Resolution") and the Amended and Restated Project Agreement dated as of September 1, 2018 (the "Project Agreement") by and between the Agency and the Company, the Agency authorized the Company to act as its agent for the purposes of undertaking a project for the benefit of the Company (the "Project") consisting of: (A)(1)(a) the acquisition of an interest in approximately 20 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Project Facility Land"), (b) the construction of an approximately 149,005 square foot building and related site work (the "Facility") on the Project Facility Land, and (c) the acquisition and installation therein and thereon of various machinery, furniture, fixtures, apparatus and equipment (the "Equipment") (the Project Facility Land, the Facility and the Equipment being collectively referred to as the "Project Facility"), such Project Facility being leased to The Goldman Sachs Group, Inc. for use by The Ayco Company, L.P., upon completion of the acquisition, the construction and the installation thereof, as a new office complex and corporate headquarters; (2)(a) the acquisition of an interest in approximately 4 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Interconnector Road Land"), and (b) the construction and related site work of an interconnector road (the "Interconnector Road") on the Interconnector Road Land, which Interconnector Road Land and Interconnector Road (collectively, the "Interconnector Road Facility"), upon completion of the Interconnector Road, shall be transferred to the Town of Colonie (the "Town"); and (3)(a) the acquisition of an interest in approximately 0.5 acres of land located at 629 Columbia Street Extension in the Town of Colonie, Albany County, New York (the "Stormwater Management Land"), and (b) site work on the Stormwater Management Land (the "Stormwater Management Land Improvements" and, collectively with the Stormwater Management Land, the "Stormwater Management Facility"), which Stormwater Management Facility, upon completion of the Stormwater Management Land Improvements, will be transferred to the Town; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from

mortgage recording taxes (except as limited by Section 874 of the Act), real estate transfer taxes, sales and uses taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by the Project Agreement, the Agency delegated to the Company the authority to appoint sub-agents subject to compliance with the terms set forth therein;

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. The Company hereby appoints the Sub-Agent as an agent of the Agency for the purpose of assisting the Company and the Agency in the completion of the Project and benefitting from the State and local sales and use tax exemption relative to expenditures made in furtherance thereof. The Sub-Agent is only an agent of the Agency for the aforementioned purposes. The Sub-Agent hereby agrees to limit its activities as agent for the Agency under the authority of this Agreement to acts reasonably related to the completion of the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility.

2. The Sub-Agent covenants, agrees and acknowledges:

a. To make all records and information regarding State and local sales and use tax exemption benefits claimed by it in connection with the Project available to the Company and the Agency upon request. The Sub-Agent agrees to comply with all procedures and policies established by the State Department of Taxation and Finance, or any similar entity, regarding the documenting or reporting of any State and local sales and use tax exemption benefits, including providing to the Company all information of the Sub-Agent necessary for the Company to complete the State Department of Taxation and Finance's "Annual Report of Sales and Use Tax Exemptions" (Form ST-340).

b. To be bound by and comply with the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein. Without limiting the scope of the foregoing, the Sub-Agent acknowledges that pursuant to Section 875(3) of the Act, the Agency shall recover, recapture, receive or otherwise obtain from the Sub-Agent the portion of the Financial Assistance (the "Recapture Amount") consisting of: (1) (a) that portion of the State sales and use tax exemption claimed by the Sub-Agent to which the Sub-Agent was not entitled, which is in excess of the amount of the State sales and use tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State sales and use tax exemption claimed by the Sub-Agent, if the Sub-Agent fails to comply with a material term or condition regarding the use of the property or services as represented to the Agency in the application to the Agency in regard to the Project or otherwise; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise.

c. That the failure of the Sub-Agent to promptly pay such Recapture Amount to the Agency will be grounds for the State Commissioner of Taxation and Finance to collect

sales and use taxes from the Sub-Agent under Article 28 of the Tax Law, together with interest and penalties. In addition to the foregoing, the Sub-Agent acknowledges and agrees that for purposes of exemption from State sales and use taxation, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the Tax Law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

d. That all purchases made by the Sub-Agent in connection with the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123, a copy of which is attached hereto as Exhibit A), and it shall be the responsibility of the Sub-Agent (and not the Agency) to complete Form ST-123. The Sub-Agent acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Sub-Agent is making purchases of tangible personal property or services necessary for the completion of, to be incorporated or installed in or for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Sub-Agent acknowledges and agrees that the bill or invoice should state, "I, [NAME OF SUB-AGENT], certify that I am a duly appointed agent of the Town of Colonie Industrial Development Agency and that I am purchasing the tangible personal property or services necessary for the completion of, to be incorporated or installed in or for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my Sub-Agent Appointment Agreement." The Sub-Agent further acknowledges and agrees that the following information shall be used by the Sub-Agent to identify the Project on each bill and invoice: Starlite Associates, LLC Project; 629 Columbia Street Extension, Latham, New York; IDA Project No.: 0105-18-02A.

d. That the Sub-Agent shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), for such claims or liabilities that arise as a result of the Sub-Agent acting as agent for the Agency pursuant to this Agreement or otherwise.

The Sub-Agent shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation only to Sub-Agent's work on or for the Project Facility, the Interconnector Road Facility and/or the Stormwater Management Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

The foregoing defenses and indemnities shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule

of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

e. That as agent for the Agency or otherwise, the Sub-Agent will comply at the Sub-Agent's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Sub-Agent with respect to the Project Facility, the Interconnector Road Facility and the Stormwater Management Facility.

f. That Section 875(7) of the Act requires the Agency to post on its website all resolutions and agreements relating to the Sub-Agent's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement, and that Public Officers Law Article 6 declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Sub-Agent feels that there is information about the Sub-Agent in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Sub-Agent's competitive position, the Sub-Agent must identify such elements in writing, supply same to the Agency prior to or contemporaneously with the execution hereof and request that such elements be kept confidential in accordance with Public Officers Law Article 6. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the Act.

3. During the construction period, if any (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Sub-Agent shall carry liability insurance of the type and providing the minimum limits set forth below:

i. Workers' compensation and employer's liability with limits in accordance with applicable law.

ii. Comprehensive general liability providing coverage for:

Premises and Operations
Products and Completed Operations
Owners Protective
Company's Protective
Contractual Liability
Personal Injury Liability
Broad Form Property Damage (including completed operations)
Explosion Hazard Collapse Hazard
Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

iii. Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

iv. Excess "umbrella" liability providing liability insurance in excess of the coverages in (ii) and (iii) above with a limit of not less than \$4,000,000.

iv. Excess "umbrella" liability providing liability insurance in excess of the coverages in (ii) and (iii) above with a limit of not less than \$4,000,000.

A policy or policies of flood insurance in an amount not less than the greater of \$500,000 or the maximum amount of flood insurance available with respect to the Project Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Agency that no portion of the Project Facility Land, the Interconnector Road Land and/or the Stormwater Management Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE SUB-AGENT'S BUSINESS OR INTEREST.

4. (A) All insurance required pursuant to paragraph 3 hereof, shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Sub-Agent and authorized to write such insurance in the State and satisfactory and having a Best rating satisfactory to the Agency. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Sub-Agent is engaged. All policies evidencing such insurance shall name the Sub-Agent as insured and the Agency as additional insured, as their interests may appear, and provide for at least thirty (30) days' written notice to the Sub-Agent and the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof. The policy evidencing the insurance required by paragraph 3 hereof shall name the Agency as an additional insured on a primary and noncontributory basis with any coverage held by the Agency, if any. All insurance required hereunder shall be in form, content and coverage satisfactory to the Agency. Certificates and policies satisfactory in form and substance to the Agency to evidence all insurance required hereby shall be delivered to the Agency as of the date hereof. The Sub-Agent shall deliver to the Agency on or before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by paragraphs 3 and 4 hereof. At least thirty (30) days prior to the expiration of any such policy, the Sub-Agent shall furnish to the Agency evidence that the policy has been renewed or replaced, or is no longer required by this Agreement.

(B) All premiums with respect to the insurance required by paragraph 3 hereof shall be paid by the Sub-Agent; provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Sub-Agent shall pay immediately upon demand all sums so expended by the Agency, together with interest thereon at the rate of interest equal to ten percent (10%) per annum or the maximum rate permitted by law, whichever is less.

5. Failure of the Sub-Agent to comply with any of the provisions of this Agreement shall result in the immediate nullification of the appointment of the Sub-Agent and the immediate termination of this Agreement and may result in the loss of the Sub-Agent's or the Company's State and local sales and use tax exemption with respect to the Project at the sole discretion of the Agency. In addition, such failure may result in the recapture of the State and local sales and use taxes avoided.

6. The Company acknowledges that the assumption of certain obligations by the Sub-Agent in accordance with this Agreement does not relieve the Company of its obligations under any provisions of the Approving Resolution, the Lease Agreement by and between the Company and the Agency dated as of September 1, 2018, the Project Agreement or of any other agreement entered into by the Company in connection with the Project.

7. The Company and the Sub-Agent agree that the Agency is a third-party beneficiary of this Agreement.

8. This Agreement shall be in effect until the earlier of: (i) the completion of the work on the Project by the Sub-Agent; or (ii) the Sub-Agent's loss of status as an agent of the Agency as set forth herein. Notwithstanding the foregoing, the provisions of Sections 2(b), 2(c) and 2(e) shall survive the termination of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Company and the Sub-Agent have caused this Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

STARLITE ASSOCIATES, LLC

By: _____

Name:

Title:

[NAME OF SUB-AGENT]

By: _____

Name:

Title:

Exhibit A to Sub-Agent Appointment Agreement

Form ST-123 (see attached)



New York State Department of Taxation and Finance

New York State Sales and Use Tax

IDA Agent or Project Operator

Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

ST-123

(2/14)

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities*, for more information.

Name of seller	Name of agent or project operator
Street address	Street address
City, town, or village State ZIP code	City, town, or village State ZIP code
Agent or project operator sales tax ID number (see instructions)	

Mark an **X** in one: ☐ Single-purchase certificate ☐ Blanket-purchase certificate (valid only for the project listed below)**To the seller:**

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA		
Name of project	IDA project number (use OSC number)	
Street address of project site		
City, town, or village	State	ZIP code
Enter the date that you were appointed agent or project operator (mm/dd/yy)	/	/
Enter the date that agent or project operator status ends (mm/dd/yy)	/	/

Exempt purchases(Mark an **X** in boxes that apply)

- ☐ A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- ☐ B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- ☐ C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, WA Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center:

(518) 485-2889

To order forms and publications:

(518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

Exhibit C

Form ST-123
(see attached)



New York State Department of Taxation and Finance

New York State Sales and Use Tax

IDA Agent or Project Operator**Exempt Purchase Certificate****Effective for projects beginning on or after June 1, 2014****ST-123**

(7/14)

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller			Name of agent or project operator		
Street address			Street address		
City, town, or village			City, town, or village		
State			State		
ZIP code			ZIP code		
Agent or project operator sales tax ID number (see instructions)					

Mark an **X** in one: ☐ Single-purchase certificate ☒ Blanket-purchase certificate (valid only for the project listed below)**To the seller:**

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA		
Town of Colonie Industrial Development Agency		
Name of project		IDA project number (use OSC number)
Starlite Associates, LLC Project		0105-18-02A
Street address of project site		
629 Columbia Street Extension		
City, town, or village		State
Latham		NY
ZIP code		12110
Enter the date that you were appointed agent or project operator (mm/dd/yy) 07 / 31 / 18		Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 19

Exempt purchases(Mark an **X** in boxes that apply)

- ☒ A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- ☐ B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- ☐ C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

EXHIBIT D

FORM OF ANNUAL REPORTING QUESTIONNAIRE

Dated: _____

Please complete the below information in connection with the financial assistance your project is receiving from the Town of Colonie Industrial Development Agency and return to the address below no later than 30 days from the date hereof. Failure to accurately and timely provide the requested information could subject your project to suspension or forfeiture of benefits previously received or currently receiving, pursuant to the Agency's Recapture Policy.

Name of company: _____

Name of project: _____

Address of project: _____

SALES TAX EXEMPTION BENEFITS:

Did your company receive sales tax exemption benefits on your project during 20__?
(Circle one) YES NO

If yes, enter the amount of sales tax exemption claimed in 20__ : \$ _____
(Attach a copy of Form ST-340 submitted to the Department of Taxation and Finance)

JOB CREATION/RETENTION:

Current number of FTEs (as of 12/31/____): _____

Total jobs created in 20__: _____

Total jobs retained from prior year: _____

(Full-time equivalent or FTE = >30 hours/week)

(Attach copies of Form NYS-45 for all four quarters of 20__)

(If Form NYS-45 does not accurately reflect the FTE at the project location, also include an internal report verifying the job information)

Include Full time equivalent independent contractors/employees of independent contractors

Number of residents of the Agency's defined Labor Market Area employed at the Project: _____

Number of residents of the Town of Colonie ("Town") employed at the Project: _____

Number of FTE construction jobs during 20__ : _____

For salary and benefit information, indicate whether the numbers provided in the application remain accurate; if not, provide new numbers.

JOBS CREATED:

Professional/Managerial/Technical Jobs _____
Number of Town residents in such Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Skilled Jobs _____
Number of Town residents in such Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Semi-skilled or Unskilled Jobs _____
Number of Town residents in such Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

JOBS RETAINED:

Professional/Managerial/Technical Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Skilled Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Semi-skilled or Unskilled Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

CAPITAL INVESTMENT:

Complete the amounts of the capital investment categories listed below as of December 31, 20__:

Purchase of land \$ _____
Purchase of existing buildings \$ _____
Renovations/additions to existing buildings \$ _____
New building construction \$ _____
Machinery and equipment costs \$ _____
Utilities, roads and appurtenant costs \$ _____

Date: _____

I hereby certify to the Town of Colonie Industrial Development Agency that the information provided above is true and accurate. I understand that failure to report completely and accurately may be subject to penalty of perjury and result in enforcement of provisions of the Company Documents executed in connection with the above project, including but not limited to event of default under the Company Documents and suspension or forfeiture of benefits previously received or currently receiving, pursuant to our Recapture Policy.

Name: _____
Title: _____

Return to:
Joseph LaCivita, Executive Director
Town of Colonie Industrial Development Agency
Town of Colonie Public Operations Center
347 Old Niskayuna Road
Latham, New York 12110