Transcript Document No. 3

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

(TOWN OF HEMPSTEAD, NEW YORK)

and

N AND D RESTAURANTS, INC.

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# LEASE AGREEMENT

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Dated as of April 1, 2012

Town of Hempstead Industrial Development Agency
(N and D Restaurants, Inc. 2012 Facility)

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THIS LEASE AGREEMENT, dated as of April 1, 2012 (this "**Lease Agreement**"), is between the TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 350 Front Street, 2nd Floor, Hempstead, New York 11550 (the "**Agency**"), and N AND D RESTAURANTS, INC., a Florida business corporation authorized to transact business in the State of New York, having an address of c/o Darden Restaurants, Inc., 1000 Darden Center Drive, Orlando, Florida 32837 (the "**Company**").

RECITALS

Title 1 of Article 18-A of the General Municipal Law of the State of New York was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York (the "**State**");

The aforesaid act authorizes the creation of industrial development agencies for the Public Purposes of the State;

The aforesaid act further authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, renovate, refurbish, equip, lease, sell and dispose of land and any building or other improvement, and all real and personal property, including but not limited to machinery and equipment deemed necessary in connection therewith, whether now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living;

Pursuant to and in accordance with the provisions of the aforesaid act and Chapter 529 of the Laws of 1971, as amended (collectively, the "**Act**"), the Agency was created and is empowered to undertake the providing, financing and leasing of the Facility defined below;

The Facility shall consist of the acquisition of a leasehold interest in an approximately 19,618 square foot parcel of land located at 630 Old Country Road, Garden City, Town of Hempstead, Nassau County, New York (the "**Land**"), the construction thereon of an approximately 12,818 square foot building to house an approximately 403-seat restaurant to be known as Seasons 52 (the "**Improvements**"), and the acquisition and installation of certain equipment necessary to operate a restaurant (the "**Equipment**"; and, together with the Land and the Improvements, the "**Facility**"), all to be subleased by the Company to the Agency and further sub-subleased by the Agency to, and used by, the Company as a restaurant for residents of and visitors to the Town of Hempstead, including the following, as they relate to the acquisition, construction and equipping of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, construction and equipping of the Facility (excluding tools and machinery owned or rented by the general contractor or any

subcontractors or materialmen working the Facility), (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the acquisition, construction and equipping of the Facility, and (iii) all equipment, machinery and other tangible personal property (including installation costs with respect thereto) installed or placed in, upon or under such Facility;

WHEREAS, the Company holds a ground leasehold interest in and to the Land pursuant to the terms of a Ground Lease, dated March 7, 2011 (the "**Ground Lease**"), by and between The Retail Property Trust, a Massachusetts business trust (the "**Ground Lessor**") and the Company;

WHEREAS, the Company proposes to sublease the Land to the Agency pursuant to a certain Company Lease Agreement, dated as of April 1, 2012 (the "**Company Lease Agreement**"), by and between the Company and the Agency;

WHEREAS, the Agency is the fee owner of the Improvements and the Equipment;

WHEREAS, the Agency proposes to sub-sublease the Land and lease the Improvements and Equipment to the Company all pursuant to this Lease Agreement;

In order to define the Company's obligations regarding payments-in-lieu-of taxes, the Agency and the Company will enter into a Payment-in-Lieu-of-Tax Agreement, dated as of April 1, 2012 (the "**PILOT Agreement**"), by and between the Agency and the Company;

The Company will enter into a Recapture Agreement, dated as of April 1, 2011 (the "**Recapture Agreement**"), by and between the Agency and the Company in order to reflect the repayment obligations of the Company upon the occurrence of a Recapture Event (as defined therein);

The Company has agreed with the Agency, on behalf of the Agency and as the Agency's agent, to acquire, construct and equip the Facility in accordance with the Plans and Specifications.

AGREEMENT

For and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto do hereby mutually agree as follows:

## ARTICLE I
## DEFINITIONS

All capitalized terms used in this Lease Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Schedule A.

## ARTICLE II
## REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of Agency

. The Agency makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Agency is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to execute, deliver and perform each of the Agency Documents and the other documents contemplated thereby. Each of the Agency Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Agency.

(b) The Agency will acquire a subleasehold interest in the Land and will cause the Improvements to be constructed or renovated and the Equipment to be acquired and installed and will sub-sublease the Land and lease the Improvements and the Equipment to the Company pursuant to this Lease Agreement, all for the Public Purposes of the State.

(c) By resolution dated April 27, 2011, the Agency determined that, based upon the review by the Agency of the materials submitted and the representations made by the Company relating to the Facility, the Facility would not have a "significant impact" or "significant effect" on the environment within the meaning of the SEQR Act.

(d) Neither the execution and delivery of any of the Agency Documents and the other documents contemplated thereby or the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Agency Documents and the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof, the Agency's Certificate of Establishment or By-Laws, as amended, or any corporate restriction or any agreement or instrument to which the Agency is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Agency under the terms of the Act or any such law, ordinance, Certificate of Establishment, By-Laws, restriction, agreement or instrument, except for Permitted Encumbrances.

(e) Each of the Agency Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Agency enforceable against the Agency in accordance with its terms.

(f) The Agency has been induced to enter into this Lease Agreement by the undertaking of the Company to utilize the Facility in the Town of Hempstead, New York in furtherance of the Public Purposes of the Agency.

Section 2.2 Representations and Covenants of Company

. The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a Florida business corporation authorized to transact business in the State of New York, is in good standing under the laws of the State of New York, and has full legal right, power and authority to execute, deliver and perform each of the Company Documents and the other documents contemplated thereby. Each of the Company Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Company.

(b) Neither the execution and delivery of any of the Company Documents and the other documents contemplated thereby or the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Company Documents and the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof, the Company's Articles of Incorporation or By-Laws, as amended, or any restriction or any agreement or instrument to which the Company is a party or by which it is bound, 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 such law, ordinance, Articles of Incorporation or By-Laws, as amended, restriction, agreement or instrument, except for Permitted Encumbrances, except that the written consent of the Ground Lessor is required with respect to this Lease Agreement and the Company Lease Agreement.

(c) The Facility and the design, acquisition, construction, equipping and operation thereof will conform with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility. The Company shall defend, indemnify and hold harmless the Agency from any liability, including reasonable attorney's fees, resulting from any failure by the Company to comply with the provisions of this subsection.

(d) Each of the Company Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms.

(e) The Company will complete or has completed construction of the Facility in accordance with the terms and provisions of the Plans and Specifications.

(f) The Facility is and will continue to be a "project" as such quoted term is defined in the Act. The Company will not take any action, or fail to take any action, which action or failure to act would cause the Facility not to constitute a "project" as such quoted term is defined in the Act.

(g) The Company hereby represents to the Agency that the Agency's involvement with the Facility (i) will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State nor an abandonment of one or more plants of the Company located in the State, or (ii) is reasonably necessary to discourage the Company from removing such other plant or facility to a location outside the State, or is reasonably necessary to preserve the competitive position of the Company in its industry and is an inducement to the Company to maintain and expand the Facility within the Town of

Hempstead and to promote services not otherwise readily available to the residents of the Town of Hempstead but for the Facility.

(h) The Company agrees to take any actions deemed necessary by the Agency, or its Chairman, Vice Chairman, Executive Director and Chief Executive Officer, Deputy Executive Director and Chief Financial Officer, or any member or officer of the Agency, counsel to the Agency or Transaction Counsel, in order to ensure compliance with Sections 2.2(g), 2.2(h) and 9.3 of this Lease Agreement. Without limiting the generality of the foregoing, the Company will provide the Agency with any and all information and materials describing proposed project occupants as necessary.

(i) The Company, as agent for the Agency, shall comply with all provisions of the Labor Law, the Executive Law and the Civil Rights Law of the State applicable to the acquisition, construction, and equipping of the Facility and shall include in all construction contracts all provisions which may be required to be inserted therein by such provisions. The Company shall comply with the relevant policies of the Agency with respect to such laws which are set forth as Exhibit C attached hereto. Except as provided in the preceding sentence, the provisions of this subsection do not create any obligations or duties not created by applicable law outside of the terms of this Lease Agreement.

## ARTICLE III
## FACILITY SITE AND TITLE INSURANCE

Section 3.1 Agreement to Convey to Agency

. The Company has conveyed or has caused to be conveyed to the Agency (i) subleasehold interest in the Land, including any buildings, structures or other improvements thereon, and (ii) lien-free title to the Improvements and the Equipment, in each case except for Permitted Encumbrances, acquired after the date hereof.

Section 3.2 Title Insurance

. The Company has obtained or will obtain a leasehold title insurance policy for the benefit of the Agency insuring leasehold title to the Land and the Improvements, in an amount equal to the fair market value of the Land and the Improvements, and except for Permitted Encumbrances.

Section 3.3 Reserved.

Section 3.4 Public Authorities Law Representations.

The parties hereto hereby acknowledge and agree that the Facility and the interest therein to be conveyed by this Lease Agreement are not "Property" as defined in Article 9, Title 5-A of the Public Authorities Law of the State because the Facility and the leasehold interests therein are securing the financial obligations of the Company. The Facility and the leasehold interests therein secure the obligations of the Company to the Agency under the PILOT Agreement, the Environmental Compliance and Indemnification Agreement and this Lease Agreement, including the Company's obligation to acquire, construct, equip and maintain the

Facility on behalf of the Agency and the Company's obligation to indemnify and hold harmless the Agency.

## ARTICLE IV
## ACQUISITION, CONSTRUCTION AND EQUIPPING OF FACILITY

Section 4.1 Acquisition, Construction and Equipping of Facility.

(a) The Company agrees that, on behalf of the Agency, it will acquire, construct and equip the Facility in accordance with the Plans and Specifications.

(b) The Company may revise the Plans and Specifications from time to time, however, any increase in the square footage of the building beyond 19,618 square feet shall require the written approval of the Agency.

(c) Except as set forth in Section 6.2 hereof, title to all materials, equipment, machinery and other items of Property incorporated or installed in the Facility shall vest in the Agency immediately upon the Company's obtaining an interest in or to the materials, equipment, machinery and other items of Property. The Company shall execute, deliver and record or file all instruments necessary or appropriate so to vest such title in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(d) The Agency hereby appoints the Company its true and lawful agent, and the Company hereby accepts such agency (i) to acquire, construct and equip the Facility in accordance with the Plans and Specifications, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be requisite or proper, all for constructing the Improvements and acquiring and installing the Equipment with the same powers and with the same validity as the Agency could do if acting on its own behalf, (iii) to pay all fees, costs and expenses incurred in the construction of the Improvements and the acquisition and installation of the Equipment from funds made available therefor in accordance with this Lease Agreement, (iv) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the construction of the Improvements and the acquisition and installation of the Equipment, and (v) to enforce the provisions of any contract, agreement, obligation, bond or other performance security. This agency appointment expressly excludes the Company from purchasing any motor vehicle, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets.

(e) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1.

(f) The Company, as agent for the Agency, shall comply with all provisions of the Labor Law of the State, except Section 220-d thereof and as hereinafter noted, applicable to the acquisition, construction and equipping of the Facility and shall include in all construction contracts all provisions which may be required to be inserted therein by such

provisions. The Company shall comply with all requirements set forth in Exhibit C attached hereto and made a part hereof.

Section 4.2 Reserved.

Section 4.3 Certificates of Completion

. To establish the Completion Date, the Company shall deliver to the Agency (i) a certificate signed by an Authorized Representative of the Company stating (a) that the acquisition, construction and equipping of the Facility has been completed in accordance with the Plans and Specifications therefor, and (b) that payment for all labor, services, materials and supplies used in such acquisition has been made or provided for; and (ii) such other certificates as may be satisfactory to the Agency, including without limitation, a final certificate of occupancy, if applicable. The Company agrees to complete the acquisition, construction and equipping of the Facility by December 31, 2012.

Section 4.4 Completion by Company.

(a) The Company shall pay in full all costs of acquiring, constructing and equipping the Facility in accordance with the Plans and Specifications. Title to all portions of the Facility acquired, installed or constructed at the Company's cost or expense shall immediately upon such acquisition, installation or construction vest in the Agency. The Company shall execute, deliver and record or file such instruments as the Agency may request in order to perfect or protect the Agency's leasehold interest in the Facility.

(b) The Company shall not be entitled to any reimbursement for such excess cost or expense from the Agency, nor shall it be entitled to any diminution or abatement of any other amounts payable by the Company under this Lease Agreement.

Section 4.5 Remedies to Be Pursued Against Contractors, Subcontractors, Materialmen and Their Sureties

. In the event of a default by any contractor, subcontractor, materialman or other Person under any contract made by it in connection with the Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Company at its expense, either separately or in conjunction with others, may pursue any and all remedies available to it and the Agency, as appropriate, against the contractor, subcontractor, materialman or other Person so in default and against any surety for the performance of such contract. The Company, in its own name or in the name of the Agency, may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman, surety or other Person which the Company deems reasonably necessary, and in such event the Agency, at the Company's expense, hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding.

Section 4.6 Construction Signage

. Subject to the approval of the Ground Lessor in accordance with the provisions of the Ground Lease, the Agency shall have the right to erect on the Facility site at the Agency's own cost and expense a sign stating that economic benefits in connection with the Facility has been provided through the Agency. The sign shall be located on the site in an area consented to by the Company.

## ARTICLE V
## DEMISING CLAUSES AND RENTAL PROVISIONS

Section 5.1 Demise of Facility

. The Company has subleased the land to the Agency pursuant to the Company Lease. The Agency is the fee owner of the Improvements and the Equipment. The Agency hereby sub-subleases the Facility, consisting of the Improvements, the Land as more particularly described in Exhibit A attached hereto and leases the Improvements built or to be built on the Land and leases the Equipment as more particularly described in Exhibit B attached hereto, to the Company and the Company hereby takes the Facility from the Agency upon the terms and conditions of this Lease Agreement.

Section 5.2 Duration of Lease Term; Quiet Enjoyment.

(a) The Agency shall deliver to the Company sole and exclusive possession of the Facility (subject to Sections 3.3, 8.3 and 10.2 hereof), and the leasehold estate created hereby shall commence, on the Closing Date and the Company shall accept possession of the Facility on the Closing Date.

(b) Except as provided in Section 10.2 hereof, the leasehold estate created hereby shall terminate at 11:59 p.m. on December 31, 2023, or on such earlier date as may be permitted by Section 11.1 hereof and the Agency shall reconvey the Facility to the Company subject to any Liens recorded against the Facility.

(c) Except as provided in Sections 8.3 and 10.2 hereof, the Agency shall neither take nor suffer or permit any action to prevent the Company during the Lease Term from having quiet and peaceable possession and enjoyment of the Facility and will, at the request of the Company and at the Company's cost, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Facility as hereinabove provided.

Section 5.3 Rents and Other Amounts Payable.

(a) The Company shall pay to the Agency on the Closing Date the balance of the Agency's administrative fee in the amount of $49,564.28 (equal to the administrative fee of $47,166.28, plus all public hearing costs equal to $1,398.00, plus an initial compliance fee of $2,500.00 and less the $1,500 application fee previously paid to the Agency). The Company shall pay basic rent for the Facility as follows: One Dollar ($1.00) per year commencing on the Closing Date and on each January 1 thereafter during the term of this Lease Agreement. In addition, the Company shall pay to the Agency an annual compliance fee of $1,000.00 on or before January 1 of each year commencing on February 1, 2012 and continuing through the term of the Lease Agreement.

(b) In addition to the payments of basic rent pursuant to Section 5.3(a) hereof, throughout the Lease Term, the Company shall pay to the Agency as additional rent, within thirty (30) days of receipt of demand therefor, the expenses of the Agency and the members thereof incurred (i) by reason of the Agency's ownership or leasing of the Facility, or (ii) in connection with the carrying out of the Agency's duties and obligations under the Agency Documents, the payment of which is not otherwise provided for under this Lease Agreement. Such payments, if any, shall be as set forth in the Agency's standard fee schedule as published by the Agency from time to time. The foregoing shall not be deemed to include any annual or continuing administrative or management fee beyond any initial administrative fee or fee for services rendered by the Agency.

(c) The Company, under the provisions of this Section 5.3, agrees to make the above-mentioned payments in immediately available funds and without any further notice in lawful money of the United States of America. In the event the Company shall fail to timely make any payment required in Section 5.3(a) or 5.3(b), the Company shall pay the same together with interest on such payment at a rate equal to two percent (2%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made.

Section 5.4 Obligations of Company Hereunder Unconditional

. The obligations of the Company to make the payments required in Section 5.3 hereof, and to perform and observe any and all of the other covenants and agreements on its part contained herein, shall be a general obligation of the Company, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Agency. The Company agrees (i) it will not suspend, discontinue or abate any payment required hereunder, and (ii) it will not fail to observe any of its other covenants or agreements in this Lease Agreement.

## ARTICLE VI
## MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1 Maintenance and Modifications of Facility by Company.

(a) The Company shall not abandon the Facility or cause or permit any waste to

the Improvements. During the Lease Term, except in conjunction with a remodeling or upgrade of the Improvements, the Company shall not remove any part of the Facility outside of the jurisdiction of the Agency and shall (i) keep the Facility in as reasonably safe condition as its operations shall permit; (ii) make all necessary repairs and replacements to the Facility (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); and (iii) operate the Facility in a sound and economic manner.

(b) Without the written consent of the Agency, the Company from time to time may make any additions, modifications or improvements to the Facility or any part thereof, provided such actions do not increase the square footage of the building beyond 19,618 square feet. All such additions, modifications or improvements made by the Company shall become a part of the Facility and leasehold interest therein shall vest in the Agency immediately upon the Company's obtaining an interest in such Property. The Company agrees to deliver to the Agency all documents which may be necessary or appropriate to convey to the Agency a leasehold interest to such Property.

Section 6.2 Installation of Additional Equipment

. Subject to the provisions of Section 8.10 hereof, the Company or any permitted sublessee of the Company from time to time may install additional machinery, equipment or other personal property in the Facility (which may be attached or affixed to the Facility), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility. The Company from time to time may create or permit to be created any Lien on such machinery, equipment or other personal property. Further, the Company from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facility, provided that any such removal of such machinery, equipment or other personal property shall not occur (i) if any Event of Default has occurred; or (ii) if any such removal shall adversely affect the structural integrity of the Facility or impair the overall operating efficiency of the Facility for the purposes for which it is intended, and provided further, that if any damage to the Facility is occasioned by such removal, the Company agrees promptly to repair such damage at its own expense.

Section 6.3 Taxes, Assessments and Utility Charges.

(a) Subject to the PILOT Agreement, the Company agrees to pay, as the same become due and before any fine, penalty, interest (except interest which is payable in connection with legally permissible installment payments) or other cost may be added thereto or become due or be imposed by operation of law for the non-payment thereof, (i) all taxes, payments in lieu of taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Facility and any machinery, equipment or other Property installed or brought by the Company therein or thereon, including, without limiting the generality of the foregoing, any sales or use taxes imposed with respect to the Facility or any part or component thereof, or the rental or sale of the Facility or any part thereof, and any taxes levied upon or with respect to the income or revenues of the Agency from the Facility; (ii) all utility and other charges, including service charges, incurred or imposed for or with respect to the operation, maintenance, use, occupancy, upkeep and improvement of the Facility; (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements; and

(iv) all payments under the PILOT Agreement and the Recapture Agreement; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated under this Lease Agreement to pay only such installments as are required to be paid during the Lease Term.

(b) The Company may in good faith contest any such taxes, assessments and other charges. In the event of any such proceedings, the Company shall pay such taxes, assessments or other charges so contested under protest during the period of such proceedings and any appeal therefrom.

(c) The Agency agrees that if it or the Company contests any taxes, assessments or other charges as provided in paragraph (b) hereof, all refunds, if any, will be applied in accordance with the PILOT Agreement to the extent applicable.

(d) Within thirty (30) days of receipt of written request therefor, the Company shall deliver to the Agency official receipts of the appropriate taxing authorities or other proof satisfactory to the Agency evidencing payment of any tax which the Company is required to pay pursuant to Section 6.3(a) hereof.

Section 6.4 Insurance Required

. At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, if any, the Company shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by facilities of like size and type and shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company, but in no event less than the greater of $1,000,000. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, any contractor or subcontractor first occupy the Facility.

(c) Insurance protecting the Agency and the Company against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 8.2 hereof) or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident

or other occurrence, 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); comprehensive automobile liability insurance covering all owned, non-owned and hired autos, with a limit of liability of not less than $1,000,000 (combined single limit or equivalent for personal injury, including bodily injury or death, and property damage); and blanket excess liability coverage, in an amount not less than $5,000,000 combined single limit or equivalent, protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during the Construction Period.

(d) 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 Company shall cause itself or the general contractor to 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
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 (i), (ii) and (iii) above with a limit of not less than $5,000,000.

(e) A policy or policies of flood insurance in an amount not less than the greater of $1,000,000 or the amount that may be required or the maximum amount of flood insurance available with respect to the 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 Land is located within an area

identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

Section 6.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 6.4 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State and selected by the entity required to procure the same. The company issuing the policies required by Section 6.4(a) and (e) shall be rated "A" or better by A.M. Best Co., Inc. in Best's Key Rating Guide. 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 procuring entity is engaged. All policies of insurance required by Section 6.4 hereof shall provide for at least thirty (30) days' prior written notice to the Agency of the restriction, cancellation or modification thereof. The policy evidencing the insurance required by Section 6.4(c) hereof shall name the Agency as an additional insured. All policies evidencing the insurance required by Section 6.4(d)(ii), (iii) and (iv) shall name the Agency and the Company as additional insureds. The policies required under Section 6.4(a) shall contain appropriate waivers of subrogation.

(b) The policies (or a certificate and binder) of insurance required by Section 6.4(a), (c) and (e) hereof shall be deposited with the Agency on or before the Closing Date. A copy of the policy (or a certificate and binder) of insurance required by Section 6.4(d)(ii), (iii) and (iv) hereof shall be delivered to the Agency on or before the Closing Date. The Company shall deliver to the Agency 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 of the types and in the amounts required by Section 6.4 hereof and complying with the additional requirements of Section 6.5(a) hereof. Prior to the expiration of each such policy or policies, the Company shall furnish to the Agency and any other appropriate Person a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by this Lease Agreement. The Company shall provide such further information on the insurance certificate with respect to the insurance coverage required by this Lease Agreement as the Agency may from time to time reasonably require.

Section 6.6 Application of Net Proceeds of Insurance

. The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.4 hereof shall be applied as follows: (i) the Net Proceeds of the insurance required by Section 6.4(a) and (e) hereof shall be applied as provided in Section 7.1 hereof, and (ii) the Net Proceeds of the insurance required by Section 6.4(b), (c) and (d) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 6.7 Right of Agency to Pay Taxes, Insurance Premiums and Other Charges

. If the Company fails after notice and lapse of the cure period set forth in Article X (i) to pay any tax, together with any fine, penalty, interest or cost which may have been added thereto or become due or been imposed by operation of law for nonpayment thereof, payments in lieu of taxes pursuant to the PILOT Agreement, assessment or other governmental charge required to be paid by Section 6.3 hereof, (ii) to maintain any insurance required to be maintained by Section 6.4 hereof, (iii) to pay any amount required to be paid by any law or ordinance relating to the use or occupancy of the Facility or by any requirement, order or notice of violation thereof issued by any governmental person, (iv) to pay any mechanic's Lien which is recorded or filed against the Facility or any part thereof (unless contested in accordance with the provisions of Section 8.9(b) hereof), or (v) to pay any other amount or perform any act required to be paid or performed by the Company hereunder, the Agency may pay or cause to be paid such tax, payments in lieu of taxes pursuant to the PILOT Agreement, assessment or other governmental charge, premium for such insurance or any such other payment, or may perform any such act. No such payment shall be made or act performed by the Agency until at least ten (10) days shall have elapsed since notice shall have been given by the Agency to the Company, and in the case of any tax, assessment or governmental charge or the amounts specified in clauses (iii) and (iv) hereof, no such payment shall be made in any event if the Company is contesting the same in good faith to the extent and as permitted by this Lease Agreement, unless an Event of Default hereunder shall have occurred and be continuing. No such payment by the Agency shall affect or impair any rights of the Agency hereunder arising in consequence of such failure by the Company. The Company shall, on demand, reimburse the Agency for any amount so paid or for expenses or costs incurred in the performance of any such act by the Agency pursuant to this Section (which shall include all reasonable legal fees and disbursements), together with interest thereon from the date of payment of such amount, expense or cost by the Agency at the Prime Rate.

## ARTICLE VII
## DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage or Destruction of the Facility.

(a) If the Facility or any part or component shall be damaged or destroyed (in whole or in part) at any time during the Lease Term:

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

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement or the PILOT Agreement (whether or not the Facility is replaced, repaired, rebuilt, restored or relocated);

(iii) the Company shall promptly give written notice thereof to the Agency;

(iv) upon the occurrence of such damage or destruction, the Net Proceeds derived from the insurance shall be paid to the Company;

(v) if the Facility is not replaced, repaired, rebuilt, restored or relocated, as provided herein and in Section 7.1(b) hereof, this Lease Agreement shall be terminated at the option of the Agency, and the provisions either of Sections 11.2, 11.3 and 11.4 hereof or of Section 7.1(f) hereof shall apply.

(b) Any replacements, repairs, rebuilding, restorations or relocations of the Facility by the Company after the occurrence of such damage or destruction shall be subject to the following conditions:

(i) the Facility shall be in substantially the same condition and value as an operating entity as existed prior to the damage or destruction;

(ii) the Facility shall continue to constitute a "project" as such term is defined in the Act; and

(iii) the Facility will be subject to no Liens, other than Permitted Encumbrances.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be promptly and fully paid for by the Company in accordance with the terms of the applicable contracts and shall automatically become a part of the Facility as if the same were specifically provided herein.

(d) If the Company shall exercise its option to terminate this Lease Agreement pursuant to Section 11.1 hereof, any Net Proceeds derived from insurance shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof, to the extent not already paid by the Company. If an Event of Default hereunder shall have occurred and will be continuing and the Agency shall have exercised its remedy under Section 10.2 hereof such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 10.2 and Section 10.4 hereof, to the extent not already paid by the Company.

(e) All such remaining Net Proceeds shall be paid to the Company.

(f) If the Facility has been substantially damaged or destroyed and is not replaced, repaired, rebuilt, restored or relocated, the Facility may be reconveyed to the Company.

Section 7.2 Condemnation.

(a) If title to or use of the Facility shall be taken by Condemnation (in whole or in part) at any time during the Lease Term:

(i) the Agency shall have no obligation to replace, repair, rebuild, restore or relocate the Facility or to acquire, by construction or otherwise, facilities of substantially the same nature as the Facility ("**Substitute Facilities**");

(ii) there shall be no abatement or reduction in the amounts payable by the

Company under this Lease Agreement or the PILOT Agreement (whether or not the Facility is replaced, repaired, rebuilt, restored or relocated or Substitute Facilities are acquired);

(iii) the Company shall promptly give written notice thereof to the Agency;

(iv) upon the occurrence of such Condemnation, the Net Proceeds derived therefrom shall be paid to the Company; and

(v) if the Facility is not replaced, repaired, rebuilt, restored or relocated, as provided herein and in Section 7.2(b) hereof, this Lease Agreement shall be terminated at the option of the Agency, and the provisions of either Sections 11.2, 11.3 and 11.4 hereof or of Section 7.2(f) hereof shall apply.

(b) Any replacements, repairs, rebuilding, restorations, relocations of the Facility by the Company after the occurrence of such Condemnation or acquisitions by the Company of Substitute Facilities shall be subject to the following conditions:

(i) the Facility or the Substitute Facilities shall be in substantially the same condition and value as an operating entity as existed prior to the Condemnation;

(ii) the Facility or the Substitute Facilities shall continue to constitute a "project" as such term is defined in the Act;

(iii) the Facility or the Substitute Facilities will be subject to no Liens, other than Permitted Encumbrances; and

(iv) any other conditions the Agency may reasonably impose pursuant to the applicable mortgage obtained by the Company.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be promptly and fully paid for by the Company in accordance with the terms of the applicable contracts and shall automatically become a part of the Facility as if the same were specifically described herein.

(d) If the Company shall exercise its option to terminate this Lease Agreement pursuant to Section 11.1 hereof, any Net Proceeds derived from the Condemnation shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof, to the extent not already paid by the Company. If any Event of Default hereunder shall have occurred and Agency shall have exercised its remedies under Section 10.2 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 10.2 and Section 10.4 hereof, to the extent not already paid by the Company.

(e) If the entire amount of every outstanding loan, if any, and interest thereon and all other amounts due and owing to the Agency hereunder has been fully paid, all such remaining Net Proceeds shall be paid to the Company.

(f) If the Facility has been substantially condemned and is not replaced, repaired, rebuilt, restored or relocated and a Substitute Facility is not acquired, constructed and equipped, the Facility may be reconveyed to the Company.

Section 7.3 Condemnation of Company-Owned Property

. The Company shall be entitled to the proceeds of any Condemnation award or portion thereof made for damage to or taking of the Facility.

Section 7.4 Waiver of Real Property Law Section 227

. The Company hereby waives the provisions of Section 227 of the Real Property Law of the State or any law of like import now or hereafter in effect.

## ARTICLE VIII
## SPECIAL COVENANTS

Section 8.1 No Warranty of Condition or Suitability by Agency

. THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF, OR TITLE TO, THE FACILITY OR THAT THE FACILITY IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS.

Section 8.2 Hold Harmless Provisions.

(a) The Company agrees that the Agency, its directors, members, officers, agents (except the Company), and employees shall not be liable for and agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents (except the Company), and employees harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the 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 Facility or the Land, relating to a time period in which this Lease Agreement and the Company Lease Agreement are in effect and for all applicable periods of statute of limitation in connection therewith, or (ii) liability arising from or expense incurred in connection with the Agency's acquisition, construction, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing all claims arising from the breach by the Company of any of its covenants contained herein, the exercise by the Company of the authority conferred upon it pursuant to Section 4.1(d) of this Lease Agreement and all causes of action and attorneys' fees (whether by reason of third party claims or by reason of the enforcement of any provision of this Lease Agreement (including without limitation this Section) or any of the other documents delivered on the Closing Date by the Agency) and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred on account of and do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its directors, members, officers, agents (except the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency, or any of its

members, directors, officers, agents or employees, and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law, and upon the application of any such prohibition by the final judgment or decision of a competent court of law, the remaining provisions of these indemnities shall remain in full force and effect. However, if the Company is fulfilling its defense and indemnity obligations as set forth above, using counsel chosen by the Company's insurer (for an insured matter) or counsel reasonably acceptable to the Agency (for an uninsured matter), then if the Agency chooses to also retain its own counsel, it shall do as at the Agency's expense unless a conflict of interest develops such that the Company and the Agency need to have independent counsel.

(b) Notwithstanding any other provisions of this Lease Agreement, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Lease 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, the payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the Agency, or its members, directors, officers, agents and employees, relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the Agency or its members, directors, officers, agents or employees by any employee or 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, disability benefits or other employee benefit acts.

Section 8.3 Right to Inspect Facility

. The Agency and its duly authorized agents of the Agency shall have the right at all reasonable times to inspect the Facility, except from 11:00 A.M. to 2:00 P.M. and 5:00 P.M. to 9:00 P.M. The foregoing inspection right does not include the right to perform any invasive or environmental testing unless the Agency is ordered to do so by an appropriate governmental agency with jurisdiction under Environmental Laws, in which event Section 3(e) of the Environmental Compliance and Indemnification Agreement shall apply. The Agency's inspection will be limited to once every six (6) months. The Agency agrees to provide at least 24 hours prior written notice of such inspection.

Section 8.4 Company to Maintain Its Existence

. The Company agrees that during the Lease Term it will maintain its existence, will not dissolve, liquidate or otherwise dispose of substantially all of its assets and will not consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it without the prior written consent of the Agency, which consent shall not be unreasonably withheld or conditioned, or its consideration be unreasonably delayed. The Company shall provide prior written notice to the Agency of any subsequent sale, transfer or conveyance (not including any transfer or conveyance as security) of a controlling interest in

the Company and any such sale, transfer or conveyance of a controlling interest in the Company shall be subject to the Agency's prior written consent, which consent shall not be unreasonably withheld or conditioned, or its consideration be unreasonably delayed. Notwithstanding the foregoing, the Company shall have the right, without consent, to and sell, transfer and/or convey a controlling interest in the Company to, and/or merge with, an entity that is a parent, subsidiary or other affiliated entity that is wholly owned by a parent of the Company.

Section 8.5 Qualification in State

. The Company throughout the Lease Term shall continue to be duly authorized to do business in the State.

Section 8.6 Agreement to File Annual Statements and Provide Information

. The Company shall (i) file with the New York State Department of Taxation and Finance an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility in compliance with Sections 874(8) of the New York State General Municipal Law, (ii) submit copies of such annual statements to the Agency at the time of filing with the Department of Taxation and Finance, (iii) agree whenever requested by the Agency to provide and certify or cause to be provided and certified such information concerning the Company, its finances, operations, employment and affairs necessary to enable the Agency to make any report required by law, governmental regulation including, without limitation, any reports required by the Act, the Public Authorities Accountability Act of 2005, or the Public Authorities Reform Act of 2009, as amended from time to time, or any of the Agency Documents or Company Documents, and (iv) submit such information within thirty (30) days following written request from the Agency, provided that such requested information is not such that it could result in selective disclosure of material information by the Company.

Section 8.7 Books of Record and Account; Financial Statements

. The Company at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and financial affairs of the Company. The Company shall furnish to the Agency, within thirty (30) days of their filing, copies of all 10K and 10Q reports, if any, filed with the Securities and Exchange Commission, pursuant to the Securities Exchange Act of 1934, as amended, relative to the Company.

Section 8.8 Compliance with Orders, Ordinances, Etc.

(a) The Company, throughout the Lease Term, agrees that it will promptly comply, and cause any sublessee, tenant or occupant of the Facility to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to the acquisition, construction and equipping thereof, or to any use, manner of use or condition thereof, of all federal, state, county, municipal and other governments,

departments, commissions, boards, courts, authorities, officials and officers having jurisdiction over the Facility or any part thereof, and of any companies or associations insuring the premises.

(b) The Company shall keep or require the Facility to be kept free of Hazardous Substances, except in compliance with all applicable Environmental laws and Environmental Permits. Without limiting the foregoing, the Company shall not cause or permit the Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable federal, state and local laws or regulations, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company or any contractor, subcontractor, tenant or subtenant, a release of Hazardous Substances onto the Facility or onto any other property. The Company shall comply with and require compliance by all contractors, subcontractors, tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and require that all contractors, subcontractors, tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Company shall (i) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Substances on, from or affecting the Facility (A) in accordance with all applicable federal, state and local laws, ordinances, rules, regulations and policies, and (B) in accordance with the orders and directives of all federal, state and local governmental authorities; and (ii) defend, indemnify and hold harmless the Agency, and its members, employees, agents, officers and directors from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to any of the following for which a claim is made against the Agency or the Agency incurs expenses or liabilities due to its leasehold interest in the Premises by virtue of the Company Lease Agreement, (A) the presence, disposal, release or threatened release of any Hazardous Substances which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals or otherwise, (B) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances, (C) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Substances, and/or (D) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Agency, which are based upon or in any way related to such Hazardous Substances, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses. The provisions of this Section shall be in addition to any and all other obligations and liabilities the Company may have to the Agency at common law, and shall survive the transactions contemplated herein.

(c) Notwithstanding the provisions of subsections (a) and (b) hereof, the Company may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom. If at any time the then existing use or occupancy of the Facility shall,

pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Company shall either not cause or permit such use or occupancy to be discontinued without the prior written consent of the Agency, or, shall exercise its termination right pursuant to Section 11.1 hereof.

(d) Notwithstanding the provisions of this Section 8.8, if, because of a breach or violation of the provisions of subsections (a) or (b) hereof (without giving effect to subsection (c) hereof), the Agency or any of its respective members, directors, officers, agents or employees shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Agency, the Company shall immediately provide legal protection and/or pay amounts necessary, in the reasonable opinion of the Agency, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

(e) Notwithstanding any provisions of this Section 8.8, the Agency retains the right to defend itself in any action or actions which are based upon or in any way related to such Hazardous Substances. In any such defense of themselves, if the Company is fulfilling its defense and indemnity obligations set forth above, using counsel reasonably acceptable to the Agency, then if the Agency chooses to also retain its own counsel, it shall do so at the Agency's expense. However, if the Company fails to fulfill its defense and indemnity obligations as set forth above, or a conflict of interest develops such that the Company and the Agency need to have independent counsel, then the Agency shall have the right to select its own counsel, and any and all reasonable costs of such defense, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses, shall be paid by the Company.

Section 8.9 Discharge of Liens and Encumbrances.

(a) Throughout the Lease Term, the Company shall not permit or create or suffer to be permitted or created any Lien created or suffered, except for Permitted Encumbrances, upon the Facility or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Facility or any part thereof unless such lien shall be discharged or bonded within thirty (30) days of the filing or perfection thereof.

(b) Notwithstanding the provisions of subsection (a) hereof, the Company may in good faith contest any such Lien. In such event, the Company may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom. Mechanics' Liens shall be discharged or bonded within thirty (30) days of the filing or perfection thereof.

Section 8.10 Identification of Equipment

. All Equipment which is or may become the Property of the Agency pursuant to the provisions of this Lease Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency. All Equipment and other Property of whatever nature affixed or attached to the Land or used or to be used by the Company in connection with the Land or the Improvements shall be

deemed presumptively to be owned by the Agency, rather than the Company, unless the same were utilized for purposes of construction of the Facility or were installed by the Company and title thereto was retained by the Company as provided in Section 6.2 of this Lease Agreement and such Equipment and other Property were properly identified by such appropriate records as were approved by the Agency.

Section 8.11 Depreciation Deductions and Investment Tax Credit

. The parties agree that, as between them, the Company shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility and to any investment credit with respect to any part of the Facility.

Section 8.12 Employment Opportunities; Notice of Jobs

. The Company covenants and agrees that, in consideration of the participation of the Agency in the transactions contemplated herein, it will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, cause any new employment opportunities created in connection with the initial opening of the Facility to be listed with the regional office of the New York State Department of Labor in which the Facility is located. The Company also agrees, and shall cause any and all sublessees to agree, that in connection with the initial opening of the Facility they will, except as otherwise provided by collective bargaining contracts or agreements to which they are parties, consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the Referral Agencies.

## ARTICLE IX
## RELEASE OF CERTAIN LAND; ASSIGNMENTS AND SUBLEASING

Section 9.1 Restriction on Sale of Facility; Release of Certain Land.

(a) Except as otherwise specifically provided in this Article IX and in Article X hereof, the Agency shall not sell, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof, or any of its rights under this Lease Agreement, without the prior written consent of the Company in its sole and absolute discretion.

(b) The Agency and the Company from time to time may release from the provisions of this Lease Agreement and the leasehold estate created hereby any part of, or interest in, the Land which is not necessary, desirable or useful for the Facility. In such event, the Agency, at the Company's sole cost and expense, shall execute and deliver any and all instruments necessary or appropriate so to release such part of, or interest in, the Land and convey such leasehold interest thereto, or interest therein, to the Company or such other Person as the Company may designate. As a condition to such conveyance, the Agency shall be provided with a copy of the instrument transferring such title or interest in such Land, an instrument survey of the Land to be conveyed, together with a certificate of an Authorized Representative of the Company stating that there is then no Event of Default under this Lease Agreement and that such part of, or interest in, the Land is not necessary, desirable or useful for the Facility.

(c) No conveyance of any part of, or interest in, the Land effected under the

provisions of this Section 9.1 shall entitle the Company to any abatement or diminution of the rents payable by it under this Lease Agreement or any abatement or diminution of the amounts payable by it under the PILOT Agreement.

Section 9.2 Removal of Equipment.

(a) The Agency shall not be under any obligation to remove, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary item of Equipment. In any instance where the Company determines that any item of Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company, may remove such items from the Facility and may sell, trade-in, exchange or otherwise dispose of the same, as a whole or in part, provided that such removal will not materially impair the operation of the Facility for the purpose for which it is intended or change the nature of the Facility so that it does not constitute a "project" under the Act.

(b) The Agency shall execute and deliver to the Company all instruments necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Equipment. The Company shall pay any costs (including reasonable counsel fees) incurred in transferring title to any item of Equipment removed pursuant to this Section 9.2.

(c) The removal of any item of Equipment pursuant to this Section shall not entitle the Company to any abatement or diminution of the rents payable by it under this Lease Agreement or any abatement or diminution of the amounts payable by it under the PILOT Agreement.

Section 9.3 Assignment and Subleasing.

(a) Except to an entity that is a parent, subsidiary or other affiliated entity that is wholly owned by a parent entity of the Company, this Lease Agreement may not be assigned, in whole or in part, and the Facility may not be subleased, in whole or in part, without the prior written consent of the Agency in each instance. Any assignment or sublease shall be on the following conditions, as of the time of such assignment or sublease:

(i) no assignment or sublease shall relieve the Company from primary liability for any of its obligations hereunder;

(ii) the assignee or sublessee (except in the case of a true sublessee in the ordinary course of business) shall assume the obligations of the Company hereunder to the extent of the interest assigned or subleased;

(iii) the Company shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Agency a true and complete copy of such assignment or sublease and the instrument of assumption;

(iv) neither the validity nor the enforceability of the Lease Agreement shall be adversely affected thereby;

(v) the Facility shall continue to constitute a "project" as such quoted term is defined in the Act, and, without limiting the generality of the foregoing, no

assignment or sublease shall cause the Facility to be used in violation of previous Section 862(2)(a) of the Act and no assignment or sublease shall cause the Facility to be occupied by a sublessee in violation of Section 862(1) of the Act;

(vi) the sublessee will execute and deliver an agency compliance agreement, in form and substance reasonably satisfactory to the Agency;

(b) If the Agency shall so request, as of the purported effective date of any assignment or sublease pursuant to subsection (a) of this Section 9.3, the Company at its cost shall furnish the Agency with opinions, in form and substance reasonably satisfactory to the Agency, (i) of Transaction Counsel as to item (v) above, and (ii) of Independent Counsel as to items (i), (ii), and (iv) above.

(c) In accordance with Section 862(1) of the Act, the Facility shall not be occupied by a sublessee whose tenancy would result in the removal of a facility or plant of the proposed sublessee from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of such sublessee located within the State; provided, however, that neither restriction shall apply if the Agency shall determine:

(i) that such occupation of the Facility is reasonably necessary to discourage the proposed sublessee from removing such other plant or facility to a location outside the State, or

(ii) that such occupation of the Facility is reasonably necessary to preserve the competitive position of the proposed sublessee in its respective industry.

Section 9.4 Reserved.

Section 9.5 Reserved.

Section 9.6 Merger of Agency.

(a) Nothing contained in this Lease Agreement shall prevent the consolidation of the Agency with, or merger of the Agency into, or transfer of title to or leasehold interest in the entire Facility to, any other public benefit corporation or political subdivision which has the legal authority to own and lease the Facility, provided that upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Lease Agreement to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Facility shall be transferred.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of title or leasehold interest, the Agency shall give notice thereof in reasonable detail to the Company and shall, upon request, furnish to the Company, at the sole cost and expense of the Company, a favorable opinion of Independent Counsel as to compliance with the provisions of Section 9.6(a) hereof. The Agency promptly shall furnish

such additional information with respect to any such transaction as the Company may reasonably request.

## ARTICLE X
## EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined.

(a) The following shall be "Events of Default" under this Lease Agreement:

(i) the failure by the Company to pay or cause to be paid, on the date due, the amount specified to be paid pursuant to Section 5.3(a) hereof, and such default shall continue for a period of ten (10) days after receipt by the Company of notice that the same is past due;

(ii) the failure by the Company to observe and perform any covenant contained in Sections 2.2(g), (h) or (i), 6.4, 6.5, 8.2, 8.4, 8.6, 8.8, 9.3 and 10.6 hereof;

(iii) the failure by the Company to pay or cause to be paid, on the dates due, the amounts specified to be paid pursuant to the PILOT Agreement or the Recapture Agreement;

(iv) the invalidity, illegality or unenforceability of the PILOT Agreement, or the failure of the Company to observe and perform any covenant contained in the PILOT Agreement or the Recapture Agreement;

(v) the occurrence and continuation of a Recapture Event under the Recapture Agreement which has not been cured by the Company or waived by the Agency;

(vi) any representation or warranty of the Company herein or in any of the Company Documents shall prove to have been false or misleading in any material respect;

(vii) the failure by the Company to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in 10.1(a)(i) and (ii)) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, has been given to the Company by the Agency;

(viii) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in Bankruptcy or any proceeding under any other

insolvency law; or the commencement of a case in Bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors;

(ix) the failure of the Company to create, maintain or retain forty (40) full-time equivalent ("FTE") employees based on a 37.5 hour work week at the end of the first calendar year following the Completion Date and at least seventy (70) FTE employees in each calendar year thereafter (including the full and part-time employees of all tenants located at the Facility);

(x) the breach of any covenant or representation contained in Section 8.8 hereof with respect to environmental matters which has not been cured by the Company or waived by the Agency; or

(xi) an Event of Default under the Environmental Compliance and Indemnification Agreement or any tenant agency compliance agreement relating to the Facility, if, any, shall have occurred and be continuing which has not been cured by the Company or waived by the Agency.

(b) Notwithstanding the provisions of Section 10.1(a), if by reason of force majeure any party hereto shall be unable in whole or in part to carry out its obligations under Sections 4.1 and 6.1 of this Lease Agreement, and if such party shall give notice and full particulars of such force majeure in writing to the other party, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under this Lease Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuation of the inability, which shall include a reasonable time for the removal of the effect thereof. The term "force majeure" as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions or officials or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having

difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

Section 10.2 Remedies on Default.

(a) Whenever any Event of Default shall have occurred, the Agency may take, to the extent permitted by law, any one or more of the following remedial steps as the Agency's sole exclusive remedies:

(i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid installments of rent payable pursuant to Section 5.3(a) and (b) hereof that are due through the date Company receives such notice, (B) all unpaid and past due payments in lieu of taxes pursuant to the PILOT Agreement, and (C) all other payments due under this Lease Agreement through the date Company receives such notice; provided, however, that if an Event of Default specified in Section 10.1(a)(viii) hereof shall have occurred, such installments of rent and other payments due under this Lease Agreement shall become immediately due and payable without notice to the Company or the taking of any other action by the Agency;

(ii) Reserved;

(iii) terminate this Lease Agreement, reconvey the Facility to the Company and terminate the PILOT Agreement. The Agency shall have the right to execute an appropriate lease termination with respect to the Facility and to place the same on record in the Nassau County Clerk's Office, at the sole cost and expense of the Company and in such event the Company waives delivery and acceptance of such lease termination and the Company hereby appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest), with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such lease termination;

(iv) take any other action at law or in equity specifically for the purpose of, and limited to, collecting the payments then due under this Lease Agreement, the PILOT Agreement and the Recapture Agreement, and to enforce the obligations, agreements and covenants of the Company under this Lease Agreement and under the PILOT Agreement and the Recapture Agreement.

(b) Upon the exercise of the remedy provided in Section 10.2(a) (iii) hereof and in connection with the termination of this Lease Agreement, the Agency shall execute and cause to be recorded in the Office of the County Clerk of Nassau County (the "Clerk's Office") the following documents attached hereto as Exhibit D: (1) the Termination of Lease Agreement, together with a corresponding NYS Form TP-584 (a "TP-584"); (2) the Termination of Company Lease, together with a corresponding TP-584; (3) the Quitclaim Deed conveying title to the Improvements, together with a TP-584 and a State of New York State Board of

Real Property Services Form RP-5217; and a Bill of Sale with respect to the Equipment, which Bill of sale will not be recorded in the Clerk's Office.

(c) Reserved.

(d) No action taken pursuant to this Section 10.2 shall relieve the Company from its obligation to make all payments required by Section 5.3 hereof due through the date of termination of this Lease Agreement or under the PILOT Agreement or the Recapture Agreement.

(e) After an Event of Default shall have occurred, the Company shall have the right upon notice to the Agency to enter the Facility with agents or representatives of the Agency to remove any equipment or other personalty owned by the Company if such equipment or personalty is not part of the Facility.

Section 10.3 Remedies Cumulative

. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Lease Agreement. No delay or omission to exercise any right or power accruing upon any default shall impair any such right and 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. In order to entitle the Agency to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Lease Agreement.

Section 10.4 Agreement to Pay Attorneys' Fees and Expenses.

In the event the Company should default under any of the provisions of this Lease Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the reasonable fees of such attorneys and such other expenses so incurred.

Section 10.5 No Additional Waiver Implied by One Waiver

. In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.6 Certificate of No Default

. The Company shall deliver to the Agency each year no later than January 15, a certificate signed by an Authorized Representative of the Company stating that to the Company's knowledge, the Company is not in default under this Lease Agreement and No Event of Default exists under this Lease Agreement, the PILOT Agreement, or any other Company Document. Such certificate shall also contain all information required under

Section 8.6 hereof.

## ARTICLE XI
## EARLY TERMINATION OF LEASE AGREEMENT; OPTION IN FAVOR OF COMPANY

Section 11.1 Early Termination of Lease Agreement

(a) The Company shall have the option to terminate this Lease Agreement at any time upon filing with the Agency a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section and stating the date upon which such payments required by Section 11.2 hereof shall be made (which date shall not be less than 45 nor more than 90 days from the date such certificate is filed), and upon compliance with the requirements set forth in Section 11.2 hereof.

(b) Notwithstanding anything in this Lease Agreement to the contrary, at such time as (i) the Company is required to make payments in lieu of taxes pursuant to the PILOT Agreement in an amount equal to one hundred percent (100%) of the taxes and assessments which would be levied upon the Facility were the Facility owned by the Company and not by the Agency, or (ii) the Agency receives a certificate signed by an Authorized Representative of the Company stating that the provisions of this subsection are then effective, this Lease Agreement shall be deemed to have expired pursuant to Section 5.2(b) hereof.

Section 11.2 Conditions to Early Termination of Lease Agreement

. In the event the Company exercises its option to terminate this Lease Agreement in accordance with the provisions of Section 11.1 hereof, the Company shall make the following payments:

(a) To the Agency or the Taxing Authorities (as such term is defined in the PILOT Agreement), as appropriate pursuant to the PILOT Agreement: all amounts due and payable under the PILOT Agreement as of the date of the conveyance described in Section 11.3 hereof.

(b) To the Agency: an amount certified by the Agency to be sufficient to pay all unpaid fees and expenses of the Agency incurred under the Agency Documents.

(c) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable under the Transaction Documents through the date of conveyance pursuant to Section 11.3 hereof.

Section 11.3 Obligation to Purchase Facility

. Upon expiration or termination of the Lease Term, in accordance with Section 5.2 or 11.1(a) hereof or otherwise, the Company shall purchase the Improvements and Equipment from the Agency, for the purchase price of One Dollar ($1.00) plus all unpaid payments in lieu of taxes pursuant to the PILOT Agreement through the date upon which this Lease Agreement terminates or expires. The Company shall purchase the Improvements and Equipment by giving written notice to the Agency (which may be contained in the certificate

referred to in Section 11.1(a) hereof) (i) declaring the Company's election to purchase, and (ii) fixing the date of closing such purchase, which shall be the date on which this Lease Agreement is to be terminated.

Section 11.4 Conveyance on Purchase

. At the closing of any purchase of the Facility pursuant to Section 11.3 hereof, the Agency shall, upon receipt of the purchase price, deliver to the Company all necessary documents in form and substance as attached hereto as Exhibit D (i) to terminate the Company Lease and the Lease Agreement and to convey to the Company title to the Improvements and the Equipment in which the Agency has an interest, as such Improvements and Equipment exists, subject only to the following: (A) any Liens to which leasehold estate or title to such Property was subject when conveyed to the Agency, (B) any Liens created at the request of the Company, to the creation of which the Company consented or in the creation of which the Company acquiesced, (C) any Permitted Encumbrances, and (D) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease Agreement or arising out of an Event of Default hereunder, and (ii) to release and convey to the Company all of the Agency's rights and interest in and to any rights of action or any Net Proceeds of insurance or Condemnation awards with respect to the Facility (but not including any Unassigned Rights). Upon the conveyance of the Facility by the Agency to the Company pursuant to this Article XI, the PILOT Agreement shall terminate. In addition, the parties shall enter into agreements (i) terminating this Lease Agreement, (ii) terminating the Company Lease Agreement, and (iii) terminating, of record, all Memoranda of Lease recorded with respect to this Lease Agreement and the Company Lease Agreement.

## ARTICLE XII
## MISCELLANEOUS

Section 12.1 Notices

. All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, postage prepaid, return receipt requested, or sent by a nationally recognized overnight courier, postage prepaid, addressed as follows or to such other address as any party may specify in writing to the other:

To the Agency:

Town of Hempstead Industrial Development Agency
350 Front Street, 2nd Floor
Hempstead, New York 11550
Attention: Executive Director and Chief Executive Officer

With a copy to:

Ryan, Brennan & Donnelly LLP
131 Tulip Avenue
Floral Park, New York 11001
Attention: John E. Ryan, Esq.

To the Company:

N and D Restaurants, Inc.
c/o Darden Restaurants, Inc.
1000 Darden Center Drive
Orlando, Florida 32837
Attention: Property Law Administration

With a copy to:

N and D Restaurants, Inc.
c/o Darden Restaurants, Inc.
1000 Darden Center Drive
Orlando, Florida 32837.
Attention: General Counsel

Section 12.2 Binding Effect

. This Lease Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 12.3 Severability

. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.4 Amendments, Changes and Modifications

. This Lease Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by the parties hereto.

Section 12.5 Execution of Counterparts

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

Section 12.6 Applicable Law

. This Lease Agreement shall be governed exclusively by the applicable laws of the State without regard or reference to its conflict of laws principles.

Section 12.7 List of Additional Equipment; Further Assurances.

(a) Upon the Completion Date with respect to the Facility and the installation of all of the Equipment therein, the Company shall prepare and deliver to the Agency, a schedule listing all of the Equipment not previously described in this Lease Agreement. If requested by the Agency, the Company shall thereafter furnish to the Agency, within sixty (60) days after the end of each calendar year, a schedule listing all of the Equipment not theretofore previously described herein or in the aforesaid schedule.

(b) The Agency and the Company shall execute and deliver all instruments and shall furnish all information necessary or appropriate to perfect or protect any security interest created or contemplated by this Lease Agreement.

Section 12.8 Survival of Obligations

. The obligations of the Company under Sections 5.3(b), 8.2 and 8.8(e) hereof with respect to the Company defending, indemnifying and holding the Agency harmless shall survive the termination or expiration of this Lease Agreement until any applicable statute of limitations with respect to such defense, indemnification or hold harmless shall have expired.

Section 12.9 Table of Contents and Section Headings Not Controlling

. The Table of Contents and the headings of the several Sections in this Lease Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Lease Agreement.

IN WITNESS WHEREOF, the Agency and the Company have caused this Lease Agreement to be executed in their respective names by their duly authorized representatives, all as of April 1, 2012.

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

By: _____

Name: Frederick E. Parola
Title: Executive Director
and Chief Executive Officer

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

On the 12th day of April in the year 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Frederick E. Parola, 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

_____
Notary Public

KIMBERLY A. SAMUELS
Notary Public, State of New York
Registration #: 01SA5067436
Qualified in Ontario County
Certificate Filed in Ontario County
Commission Expires: 10/15/2014

WITNESSES:

Name: Sonia Saddler

Name: Eleanne K Cain

N AND D RESTAURANTS, INC.

By:

Name: Suk Singh

Title: Senior Vice President

STATE OF FLORIDA )
: SS.:
COUNTY OF ORANGE )

On the 11th day of April in the year 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Suk Singh, 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC-STATE OF FLORIDA
Sonia A. Saddler
Commission #DD900879
Expires: AUG. 09, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

Notary Public

EXHIBIT A

Legal Description of Real Property

BEGINNING AT THE SOUTHWESTERLY MOST CORNER OF THE HEREIN DESCRIBED PARCEL SAID POINT BEING DISTANT THE FOLLOWING (4) FOUR COURSES FROM A POINT FORMED BY THE INTERSECTION OF THE FORMER SOUTHERLY LINE OF OLD COUNTRY ROAD WITH THE SOUTHEASTERLY LINE OF CLINTON ROAD PER LIBER 9696, PAGE 828. THENCE, ALONG SAID SOUTHEASTERLY LINE OF CLINTON ROAD THE FOLLOWING TWO (2) COURSES:

A. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 37 DEGREES – 44 MINUTES – 47 SECONDS, AN ARC LENGTH OF 32.94 FEET, BEARING A CHORD OF, SOUTH 46 DEGREES – 04 MINUTES – 20 SECONDS WEST, A CHORD DISTANCE OF 32.35 FEET TO A POINT OF TANGENCY, THENCE;

B. SOUTH 27 DEGREES – 11 MINUTES – 56 SECONDS WEST A DISTANCE OF 79.30 FEET TO A POINT, THENCE;

C. ALONG THE DIVIDING LINE BETWEEN LOTS 57 AND 58, BLOCK 77 WITH LOT 16B, BLOCK 77 ALSO KNOWN AS THE MUNICIPAL LINE OF THE INCORPORATED VILLAGE OF GARDEN CITY WITH THE TOWN OF HEMPSTEAD PER LIBER 10963 PAGE 469, SOUTH 03 DEGREES – 44 MINUTES – 54 SECONDS EAST A DISTANCE OF 991.86 FEET TO A POINT, THENCE;

D. PROCEEDING THROUGH THE INTERIOR OF LOT 58, BLOCK 77, NORTH 86 DEGREES – 15 MINUTES – 06 SECONDS EAST, A DISTANCE OF 192.18 FEET TO THE POINT OF BEGINNING, RUNNING THENCE CONTINUING THROUGH THE INTERIOR OF LOT 58, BLOCK 77 THE FOLLOWING (15) FIFTEEN COURSES;

1. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89 DEGREES – 48 MINUTES – 33 SECONDS, AN ARC LENGTH OF 23.51 FEET, BEARING A CHORD OF, NORTH 48 DEGREES – 50 MINUTES – 37 SECONDS WEST, A CHORD DISTANCE OF 21.18 FEET TO A POINT OF TANGENCY, THENCE;

2. NORTH 03 DEGREES – 56 MINUTES – 21 SECONDS WEST, A DISTANCE OF 2.41 FEET TO A POINT OF CURVATURE, THENCE;

3. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 36 DEGREES – 32 MINUTES – 16 SECONDS, AN ARC LENGTH OF 9.57 FEET, BEARING A CHORD OF, NORTH 14 DEGREES – 19 MINUTES – 47 SECONDS EAST, A CHORD DISTANCE OF 9.40 FEET TO A POINT OF TANGENCY, THENCE;

4. NORTH 32 DEGREES – 35 MINUTES – 55 SECONDS EAST, A DISTANCE OF 28.24 FEET TO A POINT OF CURVATURE, THENCE;

5. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 36 DEGREES – 20 MINUTES – 49 SECONDS, AN ARC LENGTH OF 9.52 FEET, BEARING A CHORD OF, NORTH 14 DEGREES – 25 MINUTES – 31 SECONDS EAST, A CHORD DISTANCE OF 9.36 FEET TO A POINT OF TANGENCY, THENCE;

6. NORTH 03 DEGREES – 44 MINUTES – 54 SECONDS WEST, A DISTANCE OF 82.94 FEET TO A POINT, THENCE;

7. NORTH 86 DEGREES – 15 MINUTES – 06 SECONDS EAST, A DISTANCE OF 135.54 FEET TO A POINT, THENCE;

8. SOUTH 03 DEGREES – 44 MINUTES – 54 SECONDS EAST, A DISTANCE OF 20.76 FEET TO A POINT, THENCE;

9. SOUTH 86 DEGREES – 15 MINUTES – 06 SECONDS WEST, A DISTANCE OF 6.21 FEET TO A POINT, THENCE;

10. SOUTH 03 DEGREES – 44 MINUTES – 54 SECONDS EAST, A DISTANCE OF 19.92 FEET TO A POINT, THENCE;

11. NORTH 86 DEGREES - 15 MINUTES – 06 SECONDS EAST, A DISTANCE OF 0.56 FEET TO A POINT OF CURVATURE, THENCE;

12. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 5.00 FEET, A CENTRAL ANGLE OF 90 DEGREES – 00 MINUTES – 00 SECONDS, AN ARC LENGTH OF 7.85 FEET, BEARING A CHORD OF, SOUTH 48 DEGREES - 44 MINUTES – 54 SECONDS EAST, A CHORD DISTANCE OF 7.07 FEET TO A POINT OF TANGENCY, THENCE;

13. SOUTH 03 DEGREES – 44 MINUTES - 54 SECONDS EAST, A DISTANCE OF 75.20 FEET TO A POINT OF CURVATURE, THENCE;

14. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 90 DEGREES - 00 MINUTES – 00 SECONDS, AN ARC LENGTH OF 31.42 FEET; BEARING A CHORD OF, SOUTH 41 DEGREES – 15 MINUTES – 06 SECONDS WEST, A CHORD DISTANCE OF 28.28 FEET TO A POINT OF TANGENCY, THENCE;

15. SOUTH 86 DEGREES – 15 MINUTES – 06 SECONDS WEST, A DISTANCE OF 122.47 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 19,618 SQUARE FEET OR 0.450 ACRES

EXHIBIT B

Equipment

All equipment, fixtures, machinery, building materials and items of personal property acquired, constructed and installed or to be acquired, constructed and installed in connection with the completion of the Town of Hempstead Industrial Development Agency's N and D Restaurants, Inc. 2012 Facility located 630 Old Country Road, Garden City, Town of Hempstead, Nassau County, New York.

# EXHIBIT C

Compliance with Labor Law, Executive Law and Civil Rights Law

The purpose of the Town of Hempstead Industrial Development Agency (the "**Agency**") is to provide benefits that reduce costs and financial barriers to the creation and to the expansion of business and enhance the number of jobs in the Town of Hempstead.

The Agency has consistently sought to ensure that skilled and fair paying construction jobs be encouraged in straight-lease transactions with the Agency.

Now therefor, the parties to the attached Lease Agreement (the "**Agreement**") further agree to be bound by the following, which are hereby made a part of the Agreement.

I. The Company agrees that:

(a) no laborer, workman or mechanic, in the employ of the Company or any contractor, subcontractor or other person doing or contracting to construct and equip the Facility shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, unless paid prevailing wage for such additional hours;

(b) to the extent applicable and required by law, the Company shall comply with the provisions of the Labor Law of the State of New York (the "**Labor Law**"), including Section 220 thereof. While such Labor Law does not presently require or obligate the Company to pay the prevailing rate of wages as such term is defined in Section 220-d thereof, the Company acknowledges that it has been advised that it is the policy of the Agency to strongly encourage and that the Agency expects the Company to voluntarily comply with such provisions.

II. To the extent required by law, the Company agrees that:

(a) in the hiring of employees for the performance of work in acquiring, constructing and equipping the Facility, or for the manufacture, sale or distribution of materials, equipment or supplies in connection with the acquisition, construction and equipping of the Facility, neither the Company nor any contractor, subcontractor nor any person acting on behalf of the Company shall by reason of race, creed, color, disability, sex, or national origin, marital status or Vietnam veteran era status discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

(b) neither the Company nor any contractor, subcontractor, nor any person on their behalf shall, in connection with the acquisition, construction and equipping of the Facility, discriminate against or intimidate any employee hired for the performance of work involved in acquiring, constructing and

equipping the Facility on account of race, creed, color, disability, sex, national origin, marital status or Vietnam era veteran status; and

(c) the aforesaid provisions of this section covering every contract for the manufacture, sale or distribution of materials, equipment or supplies in connection with the acquisition, construction and equipping of the Facility shall be limited to operations performed within the territorial limits of the State of New York.

III. To the extent required by law, the Company will comply with the applicable provisions of Sections 291-299 of the Executive Law, and with the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights, and will permit access to its books, records and accounts by the State Division of Human Rights, the Attorney General and the Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and the Civil Rights Law.

EXHIBIT D

FORM OF TERMINATION DOCUMENTS

TERMINATION OF LEASE AGREEMENT

This TERMINATION OF LEASE AGREEMENT, dated as of _____ ____, 20___ (the "**Termination of Lease Agreement**"), is made by and between the TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation existing under the laws of the State of New York, having its principal office at 350 Front Street, 2nd Floor, Hempstead, New York 11550 (the "**Agency**") and N AND D RESTAURANTS, INC., a Florida business corporation authorized to transact business in the State of New York, having its office at 1000 Darden Center Drive, Orlando, Florida 32837_____ (the "**Company**").

**RECITALS**

WHEREAS, the Agency acquired a leasehold interest in the Facility pursuant to the terms of a certain Lease Agreement, dated as of April 1, 2012 (the "**Lease Agreement**"), by and between the Agency, as lessor, and the Company, as lessee, a Memorandum of which Lease Agreement was recorded in the Nassau County Clerk's Office on _____ in Liber _____ Page _____; and

WHEREAS, pursuant to the terms of the Lease Agreement, the Agency has notified the Company, among others, that, it has elected to terminate the Lease Agreement.

**NOW THEREFORE, THE PARTIES HERETO DECLARE:**

1. Termination of Lease Agreement. In consideration of One Dollar ($1.00) and other good and valuable consideration, each to the other paid, receipt whereof and sufficiency of which are acknowledged, the Agency and the Company mutually agree that effective as of _____, the Lease Agreement is terminated, cancelled and discharged of record and shall be without further force or effect.

2. Binding Effect. This Termination of Lease Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns and/or successors in interest.

3. Execution of Counterparts. This Termination of Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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Section: 44
Block: 77
Lot: 67

Record and Return to:
William F. Weir, Esq.
Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604

4. Applicable Law. This Termination of Lease Agreement shall be governed exclusively by the applicable laws of the State of New York without giving effect to conflicts of law principles.

[Remainder of Page Intentionally Left Blank]

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

TOWN OF HEMPSTEAD INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name:
Title: Executive Director and
Chief Executive Officer

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

On the ___ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared , 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 with instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

_____
Notary Public

N AND D RESTAURANTS, INC.

By:_____
Name:
Title:

STATE OF _____ )
) ss.:
COUNTY OF _____ )

On the ___ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

_____
Notary Public

# EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

TERMINATION OF COMPANY LEASE AGREEMENT

This TERMINATION OF LEASE AGREEMENT, dated as of _____ ____, 20___ (the "**Termination of Lease Agreement**"), is made by and between the TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation existing under the laws of the State of New York, having its principal office at 350 Front Street, 2nd Floor, Hempstead, New York 11550 (the "**Agency**") and N AND D RESTAURANTS, INC., a Florida business corporation authorized to transact business in the State of New York, having its office at 1000 Darden Center Drive, Orlando, Florida 32837_____ (the "**Company**").

**RECITALS**

WHEREAS, the Agency acquired a leasehold interest in a certain industrial development facility (the "**Facility**") pursuant to the terms of a certain Lease Agreement, dated as of April 1, 2012 (the "**Lease Agreement**"), whereby the Agency leased the Facility to the Company, a memorandum of such Lease Agreement was recorded in the Nassau County Clerk's Office on _____ in Liber _____, Page _____; and

WHEREAS, pursuant to the terms of the Lease Agreement, the Company has notified the Agency, among others, that, it has elected to terminate the Lease Agreement.

**NOW THEREFORE, THE PARTIES HERETO DECLARE:**

1. Termination of Lease Agreement. In consideration of One Dollar ($1.00) and other good and valuable consideration, each to the other paid, receipt whereof and sufficiency of which are acknowledged, the Agency and the Company mutually agree that effective as of _____, _____, the Lease Agreement is terminated, cancelled and discharged of record and shall be without further force or effect.

2. Binding Effect. This Termination of Lease Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns and/or successors in interest.

3. Execution of Counterparts. This Termination of Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

4. Applicable Law. This Termination of Lease Agreement shall be governed exclusively by the applicable laws of the State of New York without giving effect to conflicts of law principles.

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Record and Return to:
William F. Weir, Esq.
Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604

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

TOWN OF HEMPSTEAD INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name:
Title: Executive Director and
Chief Executive Officer

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

On the ___ day of _____ in the year ____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, 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 with instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

_____
Notary Public

N AND D RESTAURANTS, INC.

By:_____
Name:
Title:

STATE OF _____ )
) ss.:
COUNTY OF _____ )

On the ___ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, 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/she executed the same in his/her capacity, and that by his/her signature on the within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

_____
Notary Public

# EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

QUITCLAIM DEED

THIS INDENTURE, made _____, between TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly organized and validly existing under and by virtue of the laws of the State of New York, having its principal office at 350 Front Street, 2nd Floor, Hempstead, New York 11550-4037, party of the first part and N AND D RESTAURANTS, INC., a Florida business corporation authorized to transact business in the State of New York, having its principal place of business at 1000 Darden Center Drive, Orlando, Florida 32837, party of the second part,
WITNESSETH that the party of the first part, in consideration of One Dollar ($1.00) lawful money of the United States and other good and valuable consideration paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second part forever, the buildings, structures and improvements (the "Improvements") located on the land described below.

(See Schedule A attached hereto)

Property Address:

Tax Mailing Address:

Tax Account Number: Section ___, Block ___, Lot ____

Subject to easements, restrictions, covenants, declarations and agreements of record.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,
TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.
AND said party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever except for the lien of the instruments and agreements, if any, listed on said Exhibit A attached hereto and made a part hereof.
BEING AND INTENDED TO BE the same premises as granted to the party of the first part by that certain Bargain and Sale Deed, dated _____ (the "**Deed**"), from _____ to the Agency, which Deed was recorded in the Nassau County Clerk's Office on _____ in Liber _____, Page _____.
AND, the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

(Remainder of Page Intentionally Left Blank – Signature Page Follows)

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

TOWN OF HEMPSTEAD INDUSTRIAL
DEVELOPMENT AGENCY

By:_____
Name:
Title: Executive Director and
Chief Executive Officer

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

On the ___ day of _____ in the year ____, before me, the undersigned, a Notary Public in and for said State, personally appeared , 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

_____
Notary Public

SCHEDULE A

Legal Description of Real Property

LOT 67, BLOCK 77, SECTION 44
GARDEN CITY, TOWN OF HEMPSTEAD
NASSAU COUNTY
STATE OF NEW YORK

BEGINNING AT THE SOUTHWESTERLY MOST CORNER OF THE HEREIN DESCRIBED PARCEL SAID POINT BEING DISTANT THE FOLLOWING (4) FOUR COURSES FROM A POINT FORMED BY THE INTERSECTION OF THE FORMER SOUTHERLY LINE OF OLD COUNTRY ROAD WITH THE SOUTHEASTERLY LINE OF CLINTON ROAD PER LIBER 9696, PAGE 828. THENCE, ALONG SAID SOUTHEASTERLY LINE OF CLINTON ROAD THE FOLLOWING TWO (2) COURSES:

A. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 37 DEGREES – 44 MINUTES – 47 SECONDS, AN ARC LENGTH OF 32.94 FEET, BEARING A CHORD OF, SOUTH 46 DEGREES – 04 MINUTES – 20 SECONDS WEST, A CHORD DISTANCE OF 32.35 FEET TO A POINT OF TANGENCY, THENCE;

B. SOUTH 27 DEGREES – 11 MINUTES – 56 SECONDS WEST A DISTANCE OF 79.30 FEET TO A POINT, THENCE;

C. ALONG THE DIVIDING LINE BETWEEN LOTS 57 AND 58, BLOCK 77 WITH LOT 16B, BLOCK 77 ALSO KNOWN AS THE MUNICIPAL LINE OF THE INCORPORATED VILLAGE OF GARDEN CITY WITH THE TOWN OF HEMPSTEAD PER LIBER 10963 PAGE 469, SOUTH 03 DEGREES – 44 MINUTES – 54 SECONDS EAST A DISTANCE OF 991.86 FEET TO A POINT, THENCE;

D. PROCEEDING THROUGH THE INTERIOR OF LOT 58, BLOCK 77, NORTH 86 DEGREES – 15 MINUTES – 06 SECONDS EAST, A DISTANCE OF 192.18 FEET TO THE POINT OF BEGINNING, RUNNING THENCE CONTINUING THROUGH THE INTERIOR OF LOT 58, BLOCK 77 THE FOLLOWING (15) FIFTEEN COURSES;

1. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89 DEGREES – 48 MINUTES – 33 SECONDS, AN ARC LENGTH OF 23.51 FEET, BEARING A CHORD OF, NORTH 48 DEGREES – 50 MINUTES – 37 SECONDS WEST, A CHORD DISTANCE OF 21.18 FEET TO A POINT OF TANGENCY, THENCE;

2. NORTH 03 DEGREES – 56 MINUTES – 21 SECONDS WEST, A DISTANCE OF 2.41 FEET TO A POINT OF CURVATURE, THENCE;

EXHIBIT A

3. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 36 DEGREES – 32 MINUTES – 16 SECONDS, AN ARC LENGTH OF 9.57 FEET, BEARING A CHORD OF, NORTH 14 DEGREES – 19 MINUTES – 47 SECONDS EAST, A CHORD DISTANCE OF 9.40 FEET TO A POINT OF TANGENCY, THENCE;

4. NORTH 32 DEGREES – 35 MINUTES – 55 SECONDS EAST, A DISTANCE OF 28.24 FEET TO A POINT OF CURVATURE, THENCE;

5. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 36 DEGREES – 20 MINUTES – 49 SECONDS, AN ARC LENGTH OF 9.52 FEET, BEARING A CHORD OF, NORTH 14 DEGREES – 25 MINUTES – 31 SECONDS EAST, A CHORD DISTANCE OF 9.36 FEET TO A POINT OF TANGENCY, THENCE;

6. NORTH 03 DEGREES – 44 MINUTES – 54 SECONDS WEST, A DISTANCE OF 82.94 FEET TO A POINT, THENCE;

7. NORTH 86 DEGREES – 15 MINUTES – 06 SECONDS EAST, A DISTANCE OF 135.54 FEET TO A POINT, THENCE;

8. SOUTH 03 DEGREES – 44 MINUTES – 54 SECONDS EAST, A DISTANCE OF 20.76 FEET TO A POINT, THENCE;

9. SOUTH 86 DEGREES – 15 MINUTES – 06 SECONDS WEST, A DISTANCE OF 6.21 FEET TO A POINT, THENCE;

10. SOUTH 03 DEGREES – 44 MINUTES – 54 SECONDS EAST, A DISTANCE OF 19.92 FEET TO A POINT, THENCE;

11. NORTH 86 DEGREES - 15 MINUTES – 06 SECONDS EAST, A DISTANCE OF 0.56 FEET TO A POINT OF CURVATURE, THENCE;

12. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 5.00 FEET, A CENTRAL ANGLE OF 90 DEGREES – 00 MINUTES – 00 SECONDS, AN ARC LENGTH OF 7.85 FEET, BEARING A CHORD OF, SOUTH 48 DEGREES - 44 MINUTES – 54 SECONDS EAST, A CHORD DISTANCE OF 7.07 FEET TO A POINT OF TANGENCY, THENCE;

13. SOUTH 03 DEGREES – 44 MINUTES - 54 SECONDS EAST, A DISTANCE OF 75.20 FEET TO A POINT OF CURVATURE, THENCE;

14. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 90 DEGREES - 00 MINUTES – 00 SECONDS, AN ARC LENGTH OF 31.42 FEET; BEARING A CHORD OF, SOUTH 41 DEGREES – 15

MINUTES – 06 SECONDS WEST, A CHORD DISTANCE OF 28.28 FEET TO A POINT OF TANGENCY, THENCE;

15. SOUTH 86 DEGREES – 15 MINUTES – 06 SECONDS WEST, A DISTANCE OF 122.47 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 19,618 SQUARE FEET OR 0.450 ACRES

BILL OF SALE

The TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly organized and existing under the laws of the State of New York, having its principal office at 350 Front Street, 2nd Floor, Hempstead, New York 11550-4037 (the "**Agency**"), and its successors and assigns, for and in consideration of the sum of One Dollar ($1.00), the receipt whereof and sufficiency of which are hereby acknowledged, for itself as of _____, conveys, transfers, sets over and assigns lien-free, except for Permitted Encumbrances, to N AND D RESTAURANTS, INC., a Florida business corporation authorized to transact business in the State of New York, having its office at 1000 Darden Center Drive, Orlando, Florida 32837 (the "**Company**"), all the Agency's right, title and interest, of whatever kind, in and to the Improvements and Equipment (more particularly described in Exhibit A hereto) acquired for and installed in the Facility (as defined in the hereinafter defined Lease Agreement), and leased to the Company pursuant to a Lease Agreement, dated as of April 1, 2012 (the "**Lease Agreement**"), from the Agency, as lessor, and the Company, as lessee, and all building materials delivered to the Company to be used for the completion of the acquisition, construction and equipping of the Facility. This Bill of Sale covers each item of equipment, fixtures and building materials delivered to the site of the Facility or installed in the Facility.

All capitalized terms used herein, unless otherwise defined herein, shall have the meanings ascribed to such terms in Schedule A to the Lease Agreement, which Schedule A is hereby incorporated by reference in this Bill of Sale and made a part hereof.

IN WITNESS WHEREOF, the Agency has caused this Bill of Sale to be signed by its duly authorized officer as of the day and year first written above.

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY

By:_____
Name:
Title: Executive Director and Chief Executive Officer

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

On the ___ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared , 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

_____
Notary Public

KIMBERLY A. SAMUELS
Notary Public, State of New York
Registration #: 01SA5067436
Qualified in Ontario County
Certificate Filed in Ontario County
Commission Expires: 10/15/20___

EXHIBIT A

## SCHEDULE A

## SCHEDULE OF DEFINITIONS

"Act" means, collectively, Title 1 of Article 18-A of the General Municipal Law of the State, enacted into law as Chapter 1030 of the Laws of 1969 of the State, as amended, together with Chapter 529 of the Laws of 1971 of the State, as amended.

"Agency" means (i) the Town of Hempstead Industrial Development Agency, its successors and assigns, and (ii) any local governmental body resulting from or surviving any consolidation or merger to which the Agency or its successors may be a party.

"Agency Documents" means the Company Lease Agreement, the Lease Agreement, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement and the Recapture Agreement.

"Approving Resolution" or "Authorizing Resolution" means the resolution adopted by the Agency on September 21, 2011, authorizing the execution and delivery of the Agency Documents, as such resolution may be amended and supplemented from time to time.

"Authorized Representative" means, in the case of the Agency, the Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer and the Deputy Executive Director and Chief Financial Officer or any member or officer of the Agency; and in the case of the Company, the President, any Vice President, Secretary and Treasurer, in the case of all, such additional persons as, at the time, are designated to act on behalf of the Agency, or the Company, as the case may be, by written certificate furnished to the Agency and/or the Company, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Agency by the Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer and the Deputy Executive Director and Chief Financial Officer or any other member of the Agency, (ii) the Company, the President, any Vice President, any Director of Tax of the Company.

"Bill of Sale" means the Bill of Sale, dated the Closing Date, given by the Company to the Agency with respect to the Equipment, as the same may be amended from time to time.

"Business Day" means any day other than a Saturday, a Sunday, a legal holiday or a day on which banking institutions in New York, New York or any city in which the principal office of the Agency is located are authorized by law or executive order to remain closed.

"Closing Date" means the date of delivery of the Lease Agreement.

"Company" means N and D Restaurants, Inc., a Florida business corporation authorized to transact business in the State of New York, and its successors and assigns.

"Company Documents" means the Bill of Sale, the Ground Lease Agreement, the Company Lease Agreement, the Lease Agreement, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement and the Recapture Agreement.

"Company Lease Agreement" means the Company Lease Agreement, dated as of April 1, 2012, by and between the Company, as landlord, and the Agency, as tenant, with respect to the Facility, as the same may be amended from time to time.

"Completion Date" means the date of completion of the Facility as certified pursuant to Section 4.3 of the Lease Agreement.

"Condemnation" means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any governmental entity or other Person acting under governmental authority.

"Construction Period" means the period (a) beginning on the earlier of (i) the date of commencement of acquisition, construction and equipping of the Facility, which date shall not be prior to August 25, 2010 or (ii) the Closing Date, and (b) ending on the Completion Date.

"Environmental Compliance and Indemnification Agreement" means the Environmental Compliance and Indemnification Agreement, dated as of April 1, 2012, by and between the Agency and the Company.

"Environmental Laws" mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection, preservation or remediation of the Environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances and the rules, regulations, written and published policies, guidelines, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

"Environmental Permits" mean all permits, licenses, approvals, authorizations, consents or registrations required by any applicable Environmental Law in connection with the ownership, construction, equipping, use and/or operation of the Facility, for the storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances or the sale, transfer or conveyance of the Facility.

"Equipment" means all machinery, equipment and other personal property used and to be used in connection with the Facility as described in Exhibit B to the Lease Agreement.

"Event of Default" means any of the events defined as Events of Default by Section 10.1 of the Lease Agreement.

"FTE" has the meaning as set forth in Section 1(c)(5) of the Recapture Agreement.

"Facility" means collectively, the Land, the Improvements and the Equipment leased to the Company under the Lease Agreement.

"Facility Services" means all services necessary for the acquisition, construction and equipping of the Facility.

"Ground Lessor" means The Retail Property Trust, a Massachusetts business trust, as landlord of the Land.

"Ground Lease Agreement" means the Ground Lease, dated March 7, 2011, between the Ground Lessor and the Company, with respect to the Land.

"Hazardous Substance" means, without limitation, any flammable, explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum constituents, petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, pollutants, or toxic pollutants, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Sections 1251 et seq.), Articles 17 and 27 of the New York State Environmental Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder.

"Improvements" means all those buildings, improvements, structures and other related facilities (i) affixed or attached to the Land, and (ii) not part of the Equipment, all as they may exist from time to time.

"Independent Counsel" means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of any state of the United States of America or in the District of Columbia and not a full time employee of the Agency or the Company.

"Land" means the real property subleased by the Company to the Agency, and then sub-subleased by the Agency to the Company pursuant to the Lease Agreement and more particularly described in Exhibit A attached thereto.

"Lease Agreement" means the Lease Agreement, dated as of April 1, 2012, by and between the Agency, as lessor, and the Company, as lessee, with respect to the Facility, as the same may be amended from time to time.

"Lease Term" means the duration of the leasehold estate created by the Lease Agreement as specified in Section 5.2 of the Lease Agreement.

"Lien" means any interest in Property securing an obligation owed to a Person whether such interest is based on the common law, statute or contract, and including but not limited to, the security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" includes reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not limited to mechanics', materialmen's, warehousemen's, carriers' and other similar encumbrances, affecting real property. For the purposes of this definition, a Person shall be deemed to be the owner of any Property which it has acquired or

holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

"Net Proceeds" means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorneys' fees) incurred in obtaining such gross proceeds.

"Permitted Encumbrances" means (i) exceptions to title set forth in the Title Report, (ii) the Company Lease Agreement and the Lease Agreement, (iii) utility, access and other easements and rights-of-way, restrictions and exceptions that do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (iv) mechanics', materialmen's, warehousemen's, carriers' and other similar Liens which are approved in writing by the Agency or its Counsel, (v) Liens for taxes not yet delinquent, and (vi) the Lease Agreement.

"Person" or "Persons" means an individual, partnership, limited liability partnership, limited liability company, corporation, trust or unincorporated organization, or a government agency, political subdivision or branch thereof.

"PILOT Agreement" means the Payment-in-Lieu-of-Tax Agreement, dated as of April 1, 2012, between the Company and the Agency, as amended from time to time.

"Plans and Specifications" means the plans and specifications, if any, for the Improvements, prepared for the Company and approved by the Agency, as revised from time to time in accordance with the Lease Agreement.

"Prime Rate" means the rate designated by The Wall Street Journal from time to time as its "prime rate."

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"Public Purposes" shall mean the State's objective to create industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and to empower such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell 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, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living.

"Recapture Agreement" means the Recapture Agreement, dated as of April 1, 2012, between the Company and the Agency, as amended from time to time.

"Schedule of Definitions" means the words and terms set forth in this Schedule of Definitions attached to the Lease Agreement, as the same may be amended from time to time.

"SEQR Act" means the State Environmental Quality Review Act and the regulations thereunder.

"State" means the State of New York.

"Substitute Facilities" means facilities of substantially the same nature as the proposed Facility.

"Title Report" means Certificate of Title No. 10-7405-57565 issued by Fidelity National Title Insurance Company to the Agency on April 13, 2011, and redated and recertified on the Closing Date.

"Transaction Counsel" means the law firm of Nixon Peabody LLP.

"Transaction Documents" means the Agency Documents and the Company Documents.

"Unassigned Rights" means the rights of the Agency and moneys payable pursuant to and under Sections 5.3(b), 6.4(b) and (c), 6.7, 8.1, 8.2, 8.8, 8.9, 8.12, 10.2(a)(i)(A) with respect to amounts payable under Section 5.3(b) of the Lease Agreement, 10.2(a)(i)(B), 10.2(a)(ii), 10.2(a)(iii) 10.2(a)(iv) (for each case with respect to Section 10.2 upon a continuing default in payment by the Company under the PILOT Agreement), 10.4(a), 11.2(b), 11.3 and 12.8 of the Lease Agreement.