

## MORTGAGE

**MORTGAGE**, dated March 1, 2018 made by **LEWIS COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a New York industrial development agency, with an address of 7642 N. State Street, #100, Lowville, New York 13367 ("LCIDA") and **JOHNSON LUMBER COMPANY, LLC**, a New York limited liability company, with an address of 10972 State Route 26, Carthage, New York 13619 ("Borrower") [both collectively referred to herein as "Mortgagor"], and **DEVELOPMENT AUTHORITY OF THE NORTH COUNTRY**, a New York authority and public benefit corporation, with an address of 317 Washington Street, Watertown, New York 13601 (referred to herein as "Mortgagee").

### Recital

Borrower is justly indebted to Mortgagee in the sum of SEVEN HUNDRED TWENTY FIVE THOUSAND AND 00/100ths Dollars (\$725,000.00) lawful money of the United States of America, together with interest thereon which is evidenced by that certain Note of Borrower of even date herewith (the "Note"). Mortgagor, in order to secure the payment of the Note, has duly executed and delivered this Mortgage.

### Definitions

Mortgagor and Mortgagee agree that, unless the context hereof otherwise specifies or requires, the following terms shall have the meanings herein specified. Said definitions shall be applicable equally to the singular and the plural forms of such terms.

"Chattels" shall mean all fixtures, fittings, appliances, apparatus, equipment, machinery and articles of personal property and replacements thereof, other than those owned by lessees, now or at any time hereafter affixed to, attached to, placed upon, or used in any way in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Improvements on the Premises.

"Event of Default" shall mean any event and circumstance described as an Event of Default in § 2.01 hereof.

"Improvements" shall mean all infrastructure, structures or buildings now or hereafter located upon the Premises or any part thereof, including all equipment, apparatus, machinery and fixtures of every kind and nature whatsoever forming part of said infrastructure, structures or buildings.

"Involuntary Rate" shall mean the greater of Mortgagee's Prime rate plus four (4%) percent per annum or the rate of interest set forth in the Note, but not more than the maximum rate permitted by law.

"Note" shall mean that certain promissory note of Borrower of even date herewith.

"Premises" shall mean: **ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Denmark, County of Lewis and the State of New York being more particularly described in SCHEDULE A attached hereto and made a part hereof, **TOGETHER** with all right, title and interest, if any, of Mortgagor in and to any streets and roads abutting the above described premises to the center lines thereof, **TOGETHER** with the appurtenances and all the estate and rights of Mortgagor in and to said premises.

"Property" shall mean the Premises, the Improvements, the Chattels and all other property, rights and interests described in the Granting Clause of this Mortgage.

"Superior Mortgage" shall mean collectively those certain mortgages made by Mortgagor to M&T Bank, formerly M&T Real Estate Trust and Manufacturers and Traders Trust Company, as follows: (1) Consolidation, Extension and Mortgage Agreement made by Johnson Lumber Company, LLC dated October 26, 2004 and recorded in the Lewis County Clerk's office on October 26, 2004 as Instrument No. 2004-03582 in the principal sum of \$550,000.00; (2) Mortgage made by Johnson Lumber Company, LLC dated October 19, 2004 and recorded in the Lewis County Clerk's office on January 11, 2005 as Instrument No. 2005-96 in the principal sum of \$225,000.00; and (3) Mortgage made by Johnson Lumber Company, LLC dated October 17, 2017 and recorded in the Lewis Clerk's office on on October 17, 2017 as Instrument No. 2017-5865 in the principal sum of \$1,142,000.00.

All terms in this Mortgage which are not defined above shall have the meanings set forth in this Mortgage.

### **Granting Clause**

**NOW, THEREFORE**, in consideration of the premises, and in order to secure the payment of the principal, interest and any other sums payable under the Note and this Mortgage, and the observance and performance of the provisions hereof and of the Note, Mortgagor hereby mortgages to the Mortgagee all estate, right, title and interest of Mortgagor in, to and under any and all of the following described property (the "Property"), whether now owned or hereafter acquired: (a) the Premises; (b) the Improvements; (c) the Chattels; (d) all leases of the Premises, now or hereafter entered into and all right, title and interest of Mortgagor thereunder, including without limitation cash or securities deposited thereunder to secure the payment or performance by the lessees of their obligations thereunder, whether such cash or securities are to be held until the expiration of the terms of such leases or applied to one or more of the installments of rent coming due immediately prior to the expiration of such terms, and including the right, upon the happening of an Event of Default, to receive and collect the rents thereunder; and (e) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including without limitation insurance proceeds and condemnation awards.

### **ARTICLE I**

## Covenants of Mortgagor

### **Mortgagor covenants and agrees as follows:**

1.01. Borrower shall punctually pay the principal, interest and all other sums to become due under the Note, at the time and place and in the manner specified in the Note, in the currency of the United States of America which at the time of such payment shall be legal tender for the payment of public and private debts.

1.02. Mortgagor represents and warrants that it has good and marketable title to the Premises; that the Premises are subject to no lien, claim or encumbrance except as set forth herein; that Mortgagor now and hereafter will own the Chattels free and clear of all liens, claims and encumbrances, other than the Superior Mortgages; and that this Mortgage is and will remain a valid and enforceable lien on the Property subject only to the exceptions referred to herein; and that Mortgagor has full power and lawful authority to mortgage the Property as herein provided. Mortgagor forever shall preserve, warrant and defend such title to Mortgagee, and forever shall preserve, warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever.

1.03. Mortgagor shall do, execute, acknowledge and deliver all and every such further acts, deeds, mortgages, assignments, transfers and assurances as Mortgagee from time to time shall require, for the better assuring, mortgaging, assigning, transferring and confirming unto Mortgagee the property and rights hereby mortgaged, assigned, transferred or intended now or hereafter to be mortgaged, assigned or transferred, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage. All right, title and interest of Mortgagor in and to all extensions, improvements, betterments, renewals, substitutions and replacements of, and all additions and appurtenances to, the Premises, now owned by, hereafter acquired by, or released to Mortgagor, or constructed, assembled or placed by Mortgagor on the Premises, and all conversions of the security of this Mortgage, immediately upon such acquisition, release, construction, assembling, placement or conversion, without any further mortgage, conveyance, assignment or other act by Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described in the granting clause hereof. Mortgagor, on demand, shall execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as Mortgagee may require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage. Mortgagor, upon the execution and delivery of this Mortgage, and thereafter on demand shall cause this Mortgage and any security instrument creating or evidencing a lien upon the Chattels or any other property to be secured hereby, and any other instrument of further assurance or instrument supplemental hereto or given in connection herewith, to be filed, registered or recorded in such manner and in such place or places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of Mortgagee in, the Property. On demand Mortgagor shall execute and deliver, and Mortgagor

hereby authorizes Mortgagee, and irrevocably appoints Mortgagee as its attorney-in-fact coupled with an interest, to execute and deliver in the name of and on behalf of Mortgagor, to the extent permitted by applicable law, one or more financing statements, chattel mortgages or comparable security instruments to evidence more effectively the lien hereof upon the Chattels.

1.04. Borrower shall keep the Property free from statutory liens of every kind or nature, and shall pay and discharge when due all taxes of every kind or nature, general and special assessments, levies, permits, inspection and license fees, water and sewer rents and charges, and other governmental or public charges, fines and impositions, whether of a like or different nature, which are or may be levied or imposed upon, or assessed against, the Property or any part thereof, or upon the revenues, income, rents, issues and profits of the Property or arising in respect of the occupancy, use or possession thereof. Borrower, upon the request of Mortgagee, shall deliver to Mortgagee receipts evidencing the payment of all such taxes, assessments, levies, fees, rents, charges, fines and impositions. For purposes of this Mortgage, assessments which have been made payable in installments at the application of Borrower nevertheless shall be deemed due and payable in their entirety on the earlier of the day the first installment becomes due or payable or a lien.

1.05. LCIDA shall pay all filing, registration or recording fees; all Federal, State, county and municipal taxes, duties, imposts, assessments and charges; and all expenses incident to the execution, acknowledgment, delivery and recording of this Mortgage, the Note, any security instrument with respect to the Chattels, any instrument of further assurance and any other instrument supplemental hereto or to be given in connection herewith. Mortgagor shall pay any and all taxes, charges, excises and levies imposed on Mortgagee by reason of the ownership or holding of this Mortgage or the Note, and shall pay all taxes required to be paid on this Mortgage or the Note. If Mortgagor fails to make any such payment within five days after demand, Mortgagee in addition to its other rights and remedies, may pay the amount due, and Mortgagor on demand shall reimburse Mortgagee for said amount, together with interest thereon at the Involuntary Rate from the date of such advance to the date of reimbursement. The amount so advanced by Mortgagee and such interest shall be a part of the indebtedness secured by this Mortgage. In the event of the passage of any law deducting from the value of the Premises, for purposes of taxation, the amount of any lien thereon or changing in any way the laws for the taxation of Mortgages or debts secured by Mortgages or the manner of the collection of any such taxes, so as to effect this Mortgage; then the indebtedness secured hereby, at the option of Mortgagee and upon thirty days notice to Mortgagor, immediately shall become due and payable, provided, however, that said option shall be unavailing and the Note and this Mortgage shall remain in effect if, without violating such law or any applicable usury or other law, Mortgagor lawfully pays when due such taxes, including any interest or penalties thereon, to or for Mortgagee.

1.06. Borrower shall pay, from time to time when due, all lawful claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in, or permit the creation of, a lien on the Property or any part thereof, or on the revenues, income, rents, issues and



profits arising therefrom. Borrower shall do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of Borrower, without expense to Mortgagee.

1.07. Borrower shall not be required to pay the obligations imposed upon Mortgagor by §§ 1.04, 1.05 or 1.06 hereof so long as Borrower, in good faith and at its own expense, shall contest the validity or amount of such obligation by appropriate legal proceedings, provided such proceedings shall prevent the collection thereof or other realization thereon and shall not result in the sale or forfeiture of the Property or any part thereof to satisfy the same. During any such contest Borrower, at the option of Mortgagee, shall provide security satisfactory to Mortgagee assuring the discharge of Borrower's obligations hereunder and of any additional charge, penalty or expense arising from or incurred as a result of such contest. If at any time the payment of any obligation imposed upon Borrower under § 1.04 shall become necessary to prevent the delivery of a tax deed conveying the Premises or any portion thereof because of nonpayment, then Borrower shall pay such obligation in sufficient time to prevent the delivery of such tax deed.

1.08. Borrower shall keep the Improvements and Chattels insured for the benefit of Mortgagee against loss by fire, casualty and such other hazards as may be specified by Mortgagee. All insurance to be maintained by Borrower hereunder shall be written in forms, amounts and by companies satisfactory to Mortgagee, naming Mortgagee as loss payee. Borrower shall pay when due all premiums for such insurance. The policy or policies of such insurance, and renewals thereof, shall be delivered to Mortgagee, and shall have attached thereto a standard noncontributing mortgagee endorsement in favor of and entitling Mortgagee to collect any and all proceeds payable under all such insurance, as well as a standard waiver of subrogation endorsement, and shall contain provisions for ten days notice to Mortgagee prior to any cancellation thereof, all in form and substance satisfactory to Mortgagee. Borrower shall reimburse Mortgagee on demand for any premiums for insurance paid by Mortgagee, together with interest at the Involuntary Rate, on Borrower's default in maintaining any insurance required hereunder or in delivering the insurance policies to Mortgagee as provided herein. Borrower shall give Mortgagee prompt notice of any loss covered by such insurance. Mortgagee is hereby authorized to collect, adjust and compromise all losses covered by such insurance. Borrower shall have the right to join Mortgagee in adjusting any loss not in excess of \$10,000. Any moneys received as payment for any loss under any such insurance shall be paid over to Mortgagee to be applied, at the option of Mortgagee, either to the prepayment of the Note, without premium, or to the reimbursement of Borrower for expenses incurred by it in the restoration of the Improvements. Borrower shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder, unless such insurance names Mortgagee as insured, with any and all proceeds payable to Mortgagee under a standard mortgage endorsement of the character above described. Borrower promptly shall deliver to Mortgagee the policy or policies of such insurance.

1.09 Borrower shall keep adequate records and books of account in accordance with generally accepted accounting principles and shall permit Mortgagee, and the agents, accountants and attorneys of Mortgagee, to visit and inspect the Premises and examine the records, books of

account and papers of Borrower which reflect upon its financial condition, the income and expenses of the Property or the business conducted thereat, and to discuss the affairs, finances and accounts of Mortgagor with the officers, agents, accountants and attorneys of Borrower, at such reasonable times as Mortgagee may request. Borrower promptly shall deliver to Mortgagee such other information with respect to Borrower and the Property as Mortgagee from time to time reasonably may request.

1.10. Borrower shall not commit, suffer or permit any waste on or to the Property. Borrower at all times shall maintain the Improvements in good operating order and condition, and promptly shall make all repairs, renewals, replacements, additions and improvements in connection therewith which are necessary or desirable to such end. The Improvements shall not be removed, demolished or altered without the prior written consent of Mortgagee in each instance. None of the Chattels shall be removed without the prior written consent of Mortgagee in each instance, except where appropriate replacements free of superior title, liens, claims and encumbrances are immediately made having a value at least equal to the value of the Chattels removed. Borrower shall not make any change in the use of the Property which will in any way increase the risk of damage to the Property by fire or other hazard.

1.11. Mortgagor shall not sell, transfer, assign or convey the Property or any part thereof or any interest therein, or enter into a lease of all or substantially all of the Property, without the prior written consent of Mortgagee in each instance. Mortgagor shall not further mortgage, pledge or otherwise encumber the Property or any part thereof or any interest therein without the prior written consent of Mortgagee in each instance.

1.12. All awards and compensation payable to Mortgagor as a result of any condemnation or other taking, or of any purchase in lieu thereof, of all or any portion of the Premises, are hereby assigned to and shall be paid to Mortgagee. Mortgagor hereby authorizes Mortgagee to collect and receive such awards and compensation, to give proper receipts and acquittances therefor, and to apply the same to the indebtedness evidenced by the Note, notwithstanding that such indebtedness may not then be due and payable. If any portion of such awards or compensation shall be applied to reduce the indebtedness evidenced by the Note, the same shall be applied to the then unpaid installments of principal under the Note in the inverse order of their maturity, so that the regular payments under the Note shall not be reduced or altered in any manner. Mortgagee shall be under no obligation to question the amount of any such award or compensation, and may accept the same in the amount in which the same shall be paid. Mortgagor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or taking of the Premises or any portion thereof, shall notify Mortgagee of the pendency of such proceedings. Mortgagee may participate in any such proceedings and Mortgagor from time to time shall deliver to Mortgagee all instruments requested by Mortgagee to permit such participation. Mortgagor, upon request by Mortgagee, shall execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid awards and compensation to Mortgagee free and clear of all liens, claims or encumbrances. Mortgagee shall not be limited to the interest paid on any award or

compensation, but shall be entitled to the payment of interest by Mortgagor at the applicable rate provided in the Note and herein.

1.13. Mortgagor, without the prior written consent of Mortgagee in each instance, shall not (a) execute an assignment of the rents or any part thereof from the Premises unless such assignment shall provide that it is subordinate to the assignment contained in this Mortgage, and all modifications, extensions and other amendments hereof, and any assignment of rents executed pursuant thereto, or (b) terminate or consent to the cancellation or surrender of any lease of the Premises or any part thereof, now existing or hereafter to be made, except where the lessee is in default thereunder, or (c) modify any such lease so as to shorten the unexpired term thereof or decrease the amount of the rents payable thereunder, or (d) accept prepayments of any installments of rents to become due under such leases, except prepayments in the nature of security for the performance of the lessees thereunder, or (e) commingle any lease security deposits of lessees with any other funds of Mortgagor, or (f) in any other manner impair the value of the Property or the security of this Mortgage. Mortgagor shall at all times promptly and faithfully pay and perform, or cause to be paid and performed, all of the terms, covenants and conditions contained in all leases of the Premises now or hereafter existing, on the part of the lessor thereunder to be paid or performed, and shall at all times do all things necessary to compel the payment and performance by the lessee under each lease of all of the terms, covenants and conditions by such lessee to be paid or performed thereunder. If any of such leases provide for the giving by the lessee of certificates with respect to the status of such leases, Mortgagor shall exercise its right to request such certificates within ten days after any request therefor by Mortgagee. Mortgagor shall furnish to Mortgagee, within ten days after any request therefor by Mortgagee, a statement certified by Mortgagor containing the names of all lessees of the Premises, the terms of their respective leases, the space occupied and the rentals payable thereunder, and shall deliver to Mortgagee copies of all leases not theretofore delivered to Mortgagee. To the extent not so provided by applicable law, each lease of the Premises, or any part thereof, shall provide that, in the event of the enforcement by Mortgagee of the remedies provided by law or by this Mortgage, the lessee thereunder, upon request of Mortgagee or any person succeeding to the interest of Mortgagee, automatically will become the lessee of the Mortgagee or said successor in interest, without change in the provisions of such lease; provided, however, that Mortgagee and said successor in interest shall not be bound by (a) any payment of rent or additional rent for more than one month in advance, except prepayments in the nature of security for the performance by said lessee of its obligations under said lease, or (b) any amendment or modification of the lease made without the prior written consent of Mortgagee or such successor in interest. Each lease also shall provide that, upon request by Mortgagee or said successor in interest, such lessee shall execute and deliver an instrument or instruments confirming such attornment. Mortgagee shall be entitled to the benefits of §291-f of the Real Property Law of the State of New York in connection with this Mortgage.

1.14. Borrower shall pay all costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in connection with the enforcement of this Mortgage or the Note, the curing of any default by Borrower thereunder, or the defense or asserting of any rights, remedies or claims of

Mortgagee in respect thereof, by litigation or otherwise. If any action or proceeding is commenced to which Mortgagee is made a party or in which, in the judgment of Mortgagee, it is necessary to defend the lien of this Mortgage or to protect the Property, Mortgagee may appear in such action or proceeding, in the name of Mortgagor or otherwise. Borrower shall pay to Mortgagee on demand all costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in connection with any such action or proceeding, and such costs and expenses shall be a part of the indebtedness secured by this Mortgage.

1.15. If Borrower shall fail to pay or perform any term, covenant or condition of this Mortgage, including without limitation the provisions of §§ 1.04, 1.05 and 1.06 hereof, Mortgagee may make advances to pay or perform the same on behalf of Borrower or Mortgagor. All sums so advanced shall be paid by Borrower to Mortgagee on demand with interest from the date of such advance at the Involuntary Rate, and shall be a lien upon the Property secured by this Mortgage. If any payment due hereunder or under the Note is not paid when due, then Borrower shall pay on demand interest thereon at the Involuntary Rate from the date the payment was due until paid, whether or not any action has been taken or proceeding commenced to recover the amount due or to foreclose this Mortgage. All unpaid and accrued interest and said late payment premium shall be a part of the indebtedness secured hereby. The provisions of this § 1.15 shall not prevent any default in the payment, observance or performance of any term, covenant or condition of this Mortgage from constituting an Event of Default, and shall not be deemed to extend or otherwise modify or amend the date when any payments are due hereunder.

1.16. Borrower within five days after request therefor by Mortgagee, shall furnish a written statement, certified and duly acknowledged by Borrower, setting forth the amount secured by this Mortgage, the terms of payment and the maturity date of the Note, the date to which interest has been paid, and whether any offsets or defenses exist against any of the indebtedness secured hereby. If any offset or defense is alleged to exist, the nature thereof shall be set forth in detail in said statement.

1.17. Borrower and Mortgagor, in compliance with §13 of the Lien Law, will receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the payment of the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part thereof for any other purpose.

## ARTICLE II

### Events of Default and Remedies

2.01. The whole of the principal indebtedness evidenced by the Note and all accrued interest immediately shall become due and payable, at the option of Mortgagee or the legal representatives, successors or assigns of Mortgagee, upon the happening of any one or more of the following Events of Default: (a) If default shall be made, and shall have continued for a period of thirty (30) days, in the payment of any principal or interest to be paid under the Note,



when and as the same shall become due and payable, or if default shall be made, and shall have continued for a period of thirty (30) days, in the payment of any other amount due under the Note or this Mortgage, when and as the same shall become due and payable as in the Note or this Mortgage provided; or (b) If default shall be made in the due observance or performance of any term, covenant or condition on the part of Mortgagor contained in this Mortgage, and such default shall have continued for a period of ten (10) days after written notice thereof shall have been given by Mortgagee to Mortgagor; or (c) If Mortgagor sells, transfers, assigns or conveys the Premises or any part thereof or any interest therein, or enters into a lease of all or substantially all of the Premises, without the prior written consent of Mortgagee; or Mortgagor further mortgages, pledges or otherwise encumbers the Premises or any part thereof or any interest therein, without the prior written consent of Mortgagee; or (d) If any representation made by Mortgagor in this Mortgage shall be materially incorrect; or (e) If final judgment for the payment of money shall be rendered against Mortgagor and Mortgagor shall not cause the same to be discharged within sixty (60) days from the entry thereof, or shall not appeal therefrom or from the order, decree or process upon which or pursuant to which said judgment was granted and secure a stay of execution thereof pending such appeal; or (f) If Borrower or Mortgagor shall file or consents to the filing of a petition in bankruptcy, or commences or consents to the commencement of any proceeding pursuant to the Federal Bankruptcy Act or any similar Federal or State law, now or hereafter in effect, relating to the reorganization of Borrower or Mortgagor or the arrangement or readjustment of the debts of Borrower or Mortgagor; or if a petition in bankruptcy, insolvency proceeding or petition for reorganization shall be filed against Borrower or Mortgagor and is not withdrawn or dismissed within sixty days; or if, by decree of a court of competent jurisdiction, Borrower or Mortgagor shall be adjudicated a bankrupt or be declared insolvent, or a petition for the reorganization of Borrower or Mortgagor is granted; or if Borrower or Mortgagor shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or if Mortgagor shall consent to the appointment of a receiver, liquidator or trustee of Mortgagor or of all or any part of Mortgagor's property; or if, by the order of a court of competent jurisdiction, a receiver, liquidator or trustee of the Property or any part thereof, or of Mortgagor or any of Mortgagor's property, shall be appointed and such order shall not be discharged or dismissed within sixty(60)days after such appointment; or if there is an attachment or sequestration of any of the property of Mortgagor and the same is not discharged or bonded in full within ten days; or (g) If the existence or life of Borrower, Mortgagor or any Guarantor shall terminate; or (h) If default shall be made under the Superior Mortgages.

2.02. Upon the occurrence of any such Event of Default, subject to the Superior Mortgages, Mortgagee, by its agents, employees, nominees or attorneys, at the expense of Mortgagor may: (a) enter into and upon the Property, and each and every part thereof, and may dispossess and exclude Mortgagor and its agents and servants therefrom; (b) use, operate, manage, control, insure, maintain, restore and otherwise deal with the Property and conduct the business thereat; (c) make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as Mortgagee may deem advisable; and (d) exercise all rights and powers of Mortgagor with respect to the Property, including



without limitation the right to enter into, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all earnings, revenues, rents, issues, profits and other income of the Premises, in the name of Mortgagor or otherwise.

2.03. Upon the occurrence of any such Event of Default, subject to the Superior Mortgages, Mortgagee shall be entitled to collect and receive all earnings, revenues, income, rents, issues and profits of the Property and every part thereof. After deducting the costs and expenses of conducting the operations and business at the Property, and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements, and amounts necessary to pay for taxes, assessments, insurance and any other proper charges upon the Property or any part thereof, and just and reasonable compensation for the services of Mortgagee and for all agents, nominees, attorneys and other employees by it properly engaged and employed; then Mortgagee shall apply the moneys arising as aforesaid, first, to the payment of the principal of the Note and the interest thereon, when and as the same shall become payable and, second, to the payment of any other sums required to be paid by Mortgagor or Borrower under this Mortgage or the Note.

2.04. Upon the occurrence of any such Event of Default, Mortgagee, with or without entry, by the agents, employees, nominees or attorneys of Mortgagee, may: (a) sell the Property, and all estate, right, title, interest, claim and demand therein, and right of redemption thereof, as one parcel or in parcels, pursuant to the procedures provided by law, at one or more sale or sales, at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or (b) institute proceedings for the complete or partial foreclosure of this Mortgage; or (c) take such steps to protect and enforce its rights whether by suit, action or proceeding in equity or at law for the specific performance of any term, covenant or condition in the Note or in this Mortgage, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect.

2.05. Mortgagor, for itself and all who may claim under it, hereby waives, to the extent that it lawfully may, all right to have the Property marshalled upon any foreclosure hereof, and waives trial by jury. After the happening of any Event of Default, and immediately upon the commencement of any suit, action or proceeding by Mortgagee to obtain judgment for the principal of, or interest on, the Note and other sums required to be paid by Borrower or Mortgagor pursuant to any provisions of the Note or this Mortgage, or of any other nature in aid of the enforcement of the Note or this Mortgage, Mortgagor shall consent to the appointment of a receiver or receivers of the Property and of all the earnings, revenues, income, rents, issues and profits thereof. After the happening of any Event of Default, or upon the commencement of any proceedings to foreclose this Mortgage or to enforce the specific performance hereof or in aid thereof, or upon the commencement of any other judicial proceeding to enforce any right of Mortgagee; Mortgagee shall be entitled, as matter of right, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the Mortgage indebtedness, forthwith either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of a receiver or receivers of the Property and of all the earnings,

revenues, income rents, issues and profits thereof. Notwithstanding the appointment of any receiver, liquidator or trustee of Mortgagor, or of any of its property, or of the Property or any part thereof, Mortgagee shall be entitled to retain possession and control of all property now or hereafter held under this Mortgage. During the continuance of any Event of Default and pending the exercise by Mortgagee of the right to exclude Mortgagor from any and all part of the Property, Mortgagor agrees to pay the fair and reasonable rental value for the use and occupancy of the Property or any portion thereof which are in its possession for such period and, upon default of any such payment, shall vacate and surrender possession of the Property to Mortgagee or to a receiver, if any, and in default thereof may be evicted by any summary action or proceeding for the recovery or possession of premises for nonpayment of rent, however designated.

2.06. The Mortgagee may foreclose this Mortgage pursuant to Article 13 of the Real Property Actions and Proceedings Law. Upon the completion of any sale or sales made by Mortgagee under or by virtue of this Article II, Mortgagee, its designee or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Mortgagor, if so requested by Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Mortgagee, for the purpose as may be designated in such request. Any such sale or sales made under or by virtue of this Article II shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons claiming through or under Mortgagor. Mortgagee may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement, at the time and place appointed for such sale, of the new time and place of the adjourned sale or sales. Except as otherwise provided by any applicable provision of law, Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

2.07. The purchase money, proceeds or avails of any sale made under or by virtue of this Article II, together with any other sums which then may be held by Mortgagee under this Mortgage, whether under the provisions of this Article II or otherwise, shall be applied as follows: First, to the payment of the costs and expenses of such sale, including reasonable compensation to Mortgagee, and the agents and counsel of Mortgagee, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by Mortgagee under this Mortgage, together with interest thereon at the Involuntary Rate, and all taxes or assessments, other than those subject to which the Property shall have been sold. Second, to the payment of the whole amount then due, owing or unpaid upon the Note for principal or interest, with interest on the unpaid principal at the Involuntary Rate from and after the happening of any Event of Default. Third, to the payment of any other sums required to be paid by Mortgagor pursuant to any provisions of this Mortgage or of the Note, including all

expenses, liabilities and advances made or incurred by Mortgagee under this Mortgage or in connection with the enforcement thereof, together with interest thereon at the Involuntary Rate. Fourth, to the payment of the surplus, if any, to whosoever may be lawfully entitled to receive the same.

2.08. Upon any sale made under or by virtue of this Article II, made under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Property or any part thereof. In lieu of paying cash for the Property may make settlement for the purchase price for the Property by crediting the indebtedness secured by this Mortgage against the net purchase price, after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage. In the event of any such sale, the entire principal of, and interest on, the Note, if not previously due and payable, and all other sums required to be paid by Mortgagor pursuant to this Mortgage, immediately shall become due and payable. Upon the occurrence of any Event of Default, Mortgagor shall pay to Mortgagee interest at the Involuntary Rate on the then unpaid principal of the Note, and all other sums required to be paid by Mortgagor pursuant to any provisions of this Mortgage, and such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to Mortgagee, and the agents and counsel of Mortgagee, and any other costs or expenses incurred by Mortgagee hereunder. In the event Mortgagor shall fail forthwith to pay such amounts on demand, Mortgagee shall be entitled and empowered to institute such action or proceeding at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against Mortgagor and collect out of the property of Mortgagor wherever situated, as well as out of the Property, in any manner provided by law, moneys adjudged or decreed to be payable.

2.09. No right or remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other rights or remedies. All rights and remedies of Mortgagee shall be cumulative, may be exercised singly or concurrently, and shall be in addition to every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee to exercise any right or remedy under this Mortgage shall impair any such right or remedy or shall be construed to be a waiver of any Event of Default or any acquiescence therein. Every right, remedy and power given by this Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. No waiver by Mortgagee shall be effective unless in writing and then only to the extent specifically stated. Without limiting the generality of the foregoing, any payment by Mortgagee for insurance premiums, real estate taxes, assessments, water charges or sewer rents or other charges affecting the Premises, or payments made under or in connection with the Superior Mortgages, or payments made in connection with any lien superior to the lien of this Mortgage, shall not constitute a waiver of any default by Mortgagor in making such payments and shall not obligate Mortgagee to make any such payments thereafter. No waiver of any right or remedy hereunder shall be deemed to be a waiver of such right or remedy as to any subsequent default hereunder.

2.10. Mortgagor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, or any exemption from execution or sale of the Property or any part thereof, any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof, wherever enacted and whether now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage. Mortgagor, after any such sale or sales, shall not claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof. Mortgagor hereby expressly waives, to the extent permitted by law, all benefit or advantage of any and all such law or laws. Mortgagor covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee, and agrees to suffer and permit the execution of every power and right herein or by law provided to Mortgagee as though no such law or laws had been made or enacted.

### **ARTICLE III**

#### **Miscellaneous**

3.01. This Mortgage shall be construed in accordance with the laws of the State of New York. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law. This Mortgage shall be construed so as to afford to Mortgagee rights in addition to and not exclusive of the rights conferred by §§254, 271 and 272 of the Real Property Law of the State of New York or any other applicable law. In the event any one or more of the provisions of this Mortgage or in the Note shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability, at the option of Mortgagee, shall not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein to the extent of such invalidity, illegality or unenforceability. No provision of this Mortgage or the Note shall require or be construed as requiring the payment of, or permit the collection of, interest in excess of the maximum amount permitted by applicable law. Mortgagor shall not be obligated to pay any interest in excess of such maximum amount. Mortgagor acknowledges that it has received a true copy of the Note and this Mortgage.

3.02. All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by registered or certified mail to Mortgagor or Mortgagee as the case may be at the address above stated. The address to which notices are to be mailed may be changed by notice given in accordance with this §3.02.

3.03. This Mortgage cannot be modified or discharged orally and no agreement shall be effective to modify or discharge this Mortgage in whole or in part unless it is in writing and signed by the party against which enforcement of the modification or discharge is sought.

3.04. All of the terms, covenants and conditions of this Mortgage shall run with the land and shall apply to, bind and inure to the benefit of the Mortgagor and the Mortgagee and their

respective distributees, executors, administrators, legal representatives, successors and permitted assigns.

3.05. All necessary and proper authorizations of the Board of Directors or corresponding body of Mortgagor and Borrower have been obtained prior to the execution and delivery of this Mortgage. The person signing this Mortgage hereby warrants that he has the authority, pursuant to said authorization referred to in this section, to execute and deliver this Mortgage and thereby bind the Mortgagor and Borrower.

3.06. All necessary and proper judicial and governmental authorizations have been obtained prior to the execution and delivery of this Mortgage. The person signing this Mortgage hereby warrants that he has the authority, pursuant to said authorization referred to in this section, to execute and deliver this Mortgage and thereby bind the Mortgagor and Borrower.

3.07. The lien of this Mortgage is subject and subordinate to the lien of the Superior Mortgages defined herein.

3.08. The gender and number used in this Mortgage are used for reference only and shall apply with the same effect whether the parties are masculine, feminine, neuter, singular or plural.

3.09. No Recourse: Special Obligation

(a) The obligations and agreements of the LCIDA contained herein and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the LCIDA, and not of any member, officer, agent (other than the Borrower) or employee of the LCIDA in his individual capacity, and the members, officers, agents (other than the Borrower) and employees of the LCIDA shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the LCIDA contained herein or therein shall not constitute or give rise to an obligation of the State of New York or of the County of Lewis, nor of the Town of Denmark, and neither the State of New York nor the County of Lewis, nor the Town of Denmark shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the LCIDA, but rather shall constitute limited obligations of the LCIDA, payable solely from the revenues of the LCIDA derived and to be derived from the Lease, sale or other disposition of the Facility (except for revenues derived by the LCIDA with respect to the Unassigned Rights). The limitations on the obligations of the LCIDA contained in this paragraph (a) by virtue of any lack of assurance required by paragraph (b) hereof shall not be deemed to prevent the occurrence and full force and effect of any Event of Default.

(b) No order or decree of specific performance with respect to any of the obligations of the LCIDA hereunder or thereunder shall be sought or enforced against the LCIDA unless (i) the



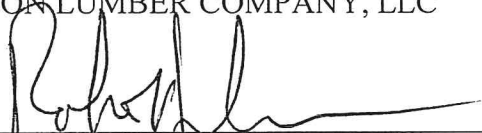
party seeking such order or decree shall first have requested the LCIDA in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the LCIDA shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, and (ii) if the LCIDA refuses to comply with such request and the LCIDA's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the LCIDA an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iii) if the LCIDA refuses to comply with such request and LCIDA's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Borrower) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify and hold harmless the LCIDA and its members, officers, agents (other than the Borrower) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the LCIDA, furnish to the LCIDA satisfactory security to protect the LCIDA and its members, officers, agents (other than the Borrower) and employees against all liability expected to be incurred as a result of compliance with such request.

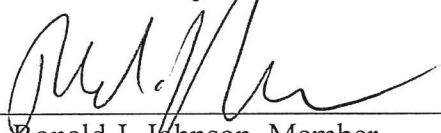
This Mortgage may be executed in multiple counterparts which shall be read together as one and execution by facsimile signature is expressly authorized.

**IN WITNESS WHEREOF**, this Mortgage has been duly executed by Mortgagor on the date first above written.

BORROWER AND MORTGAGOR:

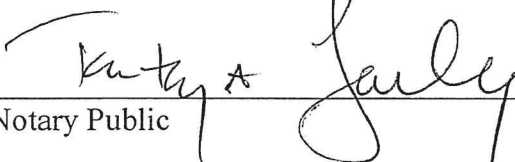
JOHNSON LUMBER COMPANY, LLC

  
By: Robert P. Johnson, Member

  
By: Ronald J. Johnson, Member

STATE OF NEW YORK     )  
COUNTY OF JEFFERSON    )     ss:

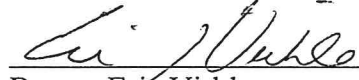
On the 1<sup>st</sup> day of March in the year 2018, before me, the undersigned, a notary public in and for said state, personally appeared ROBERT P. JOHNSON and RONALD J. JOHNSON, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

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

TIMOTHY A. FARLEY  
Notary Public, State of New York  
Qualified in Jefferson County  
Commission Expires Feb. 22, 2022

MORTGAGOR:

LEWIS COUNTRY INDUSTRIAL  
DEVELOPMENT AGENCY

  
\_\_\_\_\_  
By: Eric Virkler  
Its: Executive Director

STATE OF NEW YORK )  
COUNTY OF JEFFERSON ) ss:

On the 28<sup>th</sup> day of February in the year 2018, before me, the undersigned, a notary public in and for said state, personally appeared ERIC VIRKLER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

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

**RECORD AND RETURN TO:**

Steven C. Haas, Esq.  
Schwerzmann & Wise, PC  
220 Sterling Street  
Watertown, NY 13601

KEVIN M. McARDLE  
Notary Public, State of New York  
No. 4817358  
Qualified in Lewis County  
My Commission Expires April 30, 2018

*Natural Abstract*

SCHEDULE A

(Page 1 of 6)

Parcel 1

ALL THAT TRACT OR PARCEL OF LAND situate on the East side of New York State Route No. 26, in the Town of Denmark, County of Lewis, State of New York and being further described as follows:

BEGINNING at a point in the pavement centerline of New York State Route 26 at the intersection of the northwest corner of a 50 acre parcel of land that is described with other land in a Deed to Russell and Kathryn Maurer dated June 14, 1979 in Book 402 of Deeds at page 207, and the southwest corner of a 0.60 acre parcel of land (No. 2) that was conveyed with other land to Robert P. and Ronald J. Johnson by Deed dated July 16, 1985 in Book 458 of Deeds at page 254;

THENCE from said point of beginning, North 66 degrees 59 minutes 13 seconds East along the apparent former occupation line as attested to by Russell Maurer which divides the above referenced 50 acre parcel of land to the South from the above referenced 0.60 acre and also a 2.5 acre parcel of land owned by Johnson to the North a total distance of 609.00 feet to a point at the southeasterly corner of Johnson and passing on line at 49.9 feet a 5/8 inch iron rod found and at 490.41 feet a 1 1/2 inch iron pipe found (bent);

THENCE South 13 degrees 41 minutes 43 seconds East a distance of 458.51 feet to a 24 inch tree;

THENCE South 75 degrees 48 minutes West a total distance of 587.00 feet to a point in the aforementioned pavement centerline of New York State Route 26 and passing on line at 544.48 feet a 5/8 inch iron rod found;

THENCE North 15 degrees 53 minutes 22 second West along the pavement centerline thereof, a distance of 365.35 feet to the point of beginning.

**Parcel 2**

**ALL THAT CERTAIN PIECE OR PARCEL OF LAND** situate in the Town of Denmark, County of Lewis and State of New York, being a part of Great Lot Number 54 in Township Number 5, and being a portion of the 50 acre parcel of land conveyed to Duwayne R. Maurer and Darlene Davoy by Russell H. Maurer and Kathryn Maurer by Deed dated April 21, 2003 and recorded in the Lewis County Clerk's Office on March 29, 2004 as Instrument No. 2004-00948, and said parcel being bounded and described as follows:

**BEGINNING** at a 1/2" rebar set in a 30" maple stump to mark the southeast corner of the 5.626 acre parcel of land conveyed to Reginald Famey by Russell H. Maurer and Kathryn P. Maurer by Deed dated December 4, 1996 and recorded in the Lewis County Clerk's Office on December 17, 1996 in Book 602 of Deeds at page 349;

**THENCE** from said point of beginning S. 16 deg. 41 min. 05 sec. E. along the southerly extension of the easterly boundary of the 5.626 acre parcel, a distance of 141.49' to a set 1/2" rebar;

**THENCE** S. 63 deg. 41 min. 07 sec. W. 553.63' to a set 1/2" rebar;

**THENCE** continuing S. 63 deg. 41 min. 07 sec. W. a distance of 33.29' to a point in the centerline of the present surface of New York State Route 26;

**THENCE** N. 18 deg. 43 min. 06 sec. W. along the centerline of the present surface of New York State Route 26, a distance of 234.65' to the southwest corner of the said 5.626 acre parcel;

**THENCE** N. 72 deg. 48 min. 38 sec. E. along the South boundary of the 5.626 acre parcel, a distance of 42.52' to a found 2 foot tall 5/8" iron pin set in concrete;

**THENCE** continuing N. 72 deg. 48 min. 38 sec. E. along the south boundary of the 5.626 acre parcel, a distance of 544.48' to the point of beginning.



Parcel 3

ALSO ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate in the Town of Denmark, County of Lewis and State of New York, being a part of Great Lot Number 54 of Township Number 5, and being a portion of the 50 acre parcel of land conveyed to Duwayne R. Maurer and Darlene Davoy by Russell H. Maurer and Kathryn Maurer by Deed dated April 21, 2003 and recorded in the Lewis County Clerk's Office on March 29, 2004 as Instrument No. 2004-00948 and said parcel being bounded and described as follows:

BEGINNING at a 1/2" rebar set in a 30" maple stump to mark the southeast corner of the 5.626 acre parcel of land conveyed to Reginald Farney by Russell H. Maurer and Kathryn P. Maurer by Deed dated December 4, 1996 and recorded in the Lewis County Clerk's Office on December 17, 1996 in Book 602 of Deeds at page 349;

THENCE from said point of beginning N. 16 deg. 41 min. 05 sec. W. along the easterly boundary of the 5.626 acre parcel, a distance of 458.51' to the northeast corner of the 5.626 acre parcel, said corner also being the southwest corner of the 23.509 acre parcel of land conveyed to Robert P. Johnson and Ronald J. Johnson by Gregory M. Maurer and Katherine A. Essenlohr by Deed dated October 28, 1998 and recorded in the Lewis County Clerk's Office on November 12, 1998 in Book 631 of Deeds at page 347;

THENCE N. 63 deg. 04 min. 28 sec. E. along the South boundary of the 23.509 acre parcel, a distance of 1142.02' to a 3/8" drill hole set in a 2 foot boulder at the East end of a stone row to mark the southeast corner of the 23.509 acre parcel, said corner being on the westerly boundary of lands of County Of Lewis IDA, Con Rail Railroad;

THENCE S. 32 deg. 45 min. 00 sec. E. along the westerly boundary of the Con Rail Railroad, a distance of 453.55' to a set 1/2" rebar;

THENCE S. 63 deg. 04 min. 28 sec. W. 1269.56' to the point of beginning.

**PARCEL 4**

**ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Denmark, County of Lewis, State of New York, also being a part of Great Lot Number 54 of Township Number 5 of the Black River Tract and being further described as follows:**

**BEGINNING at an iron pin set at the northeasterly corner of that parcel of land conveyed by Robert Paul Johnson and Ronald J. Johnson to Robert P. Johnson and Pamela Lunn Staub Johnson by deed dated January 20, 1987 and recorded in the Lewis County Clerk's Office in Liber 479 of Deeds at page 88;**

**THENCE N. 58 deg. 50' 09" E. a distance of 898.35 feet to an iron pin set at the westerly railroad margin of Con Rail Railroad;**

**THENCE S. 36 deg. 56' 56" E. along the same westerly railroad margin a distance of 1009.11 feet to an iron pin set;**

**THENCE S. 58 deg. 52' 32" W. a distance of 1142.41 feet to an iron pin set;**

**THENCE N. 23 deg. 05' 16" W. a distance of 1013.23 feet to the point of beginning.**

**EXCEPTING AND RESERVING the premises conveyed by Robert P. Johnson, et al. to Johnson Lumber Company, LLC f/k/a Johnson Lumber Acquisitions by virtue of Warranty Deed with Lien Covenant dated September 13, 2017 and recorded September 15, 2017 under Instrument No. 2017-005224.**

**ALSO EXCEPTING AND RESERVING the premises conveyed by Robert P. Johnson, et al. to Robert P. Johnson & Pamela Lynn Staub Johnson by virtue of Warranty Deed with Lien Covenant dated September 13, 2017 and recorded September 15, 2017 under Instrument No. 2017-005225.**

**PARCEL 5**

ALL that tract or parcel of land situate in the Town of Denmark, County of Lewis and State of New York, and being a part of Great Lot Number 54, Township Number 5 of the Black River Tract and being further described as follows:

BEGINNING at the centerline of New York State Route 26, being the intersection of the northerly line of a parcel of land conveyed by Reginal Farney to Johnson Lumber Company, LLC, by warranty deed recorded in the Lewis County Clerk's Office as Instrument No. 2017-003497 on June 19, 2017, and the centerline of New York State Route 26;

THENCE N.34°17'09"W., a distance of 587.22 feet along the centerline of New York State Route 26;

THENCE N.55°37'36"E., passing through a 1/2" iron rod found at 32.33 and continuing a total distance of 689.83 feet to a capped iron rod set;

THENCE S.34°22'24"E., passing through capped iron rods set at 52.70 and 478.01 feet respectively, and continuing a total distance of 543.28'

THENCE S.52.15'21"W., passing through a capped iron rod set at 88.51 feet and continuing a total distance of 642.67 feet to a 5/8" iron rod found;

THENCE S.48°29'56"W., a distance of 49.55 feet to the point of beginning.

(Page 6 of 6)

SUBJECT to the easement granted to New York Telephone Company dated November 6, 1915 and recorded in the Lewis County Clerk's office on November 23, 1915 in Liber 125 of Deeds at page 310.

SUBJECT to a Drainage Easement Agreement between Elwood J. Meister and Frances Meister, Robin E. Johnson, Millard A. Mauer and Eliza M. Meister and Leslie Latham dated May 31, 1963 and recorded in the Lewis County Clerk's office on August 2, 1963 in Liber 276 of Deeds at page 3.

SUBJECT to the overhead utility easement to Niagara Mohawk Power Corporation dated October 21, 2003 and recorded in the Lewis County Clerk's office on October 4, 2005 as Instrument No. 2005-03352.

SUBJECT to the overhead utility easement to Niagara Mohawk Power Corporation dated May 20, 2004 and recorded in the Lewis County Clerk's office on October 6, 2011 as Instrument No. 2011-004760.

SUBJECT to the underground utility easement to Niagara Mohawk Power Corporation dated May 20, 2004 and recorded in the Lewis County Clerk's office on October 6, 2011 as Instrument NO. 2011-004761.

Mtg

NO FILING OR RECORDING FEE  
NO TRANSFER TAX  
NO MORTGAGE TAX  
AFFIDAVIT

STATE OF NEW YORK )  
 )ss:  
COUNTY OF JEFFERSON )

STEVEN C. HAAS, being duly sworn, deposes and says that:

1. I am a principal of the law firm of Schwerzmann & Wise, P.C., duly admitted to practice law in the State of New York, and represent the Development Authority of the North Country (the "Authority").

2. This affidavit is given in connection with the recording and filing in the Lewis County Clerk's office of a Mortgage made by Lewis County Industrial Development Agency and Johnson Lumber Company, LLC to Development Authority of the North Country in the amount of \$725,000.00 in respect to property located at 10960 and 10972 NYS Route 26, Town of Denmark, Lewis County, New York.

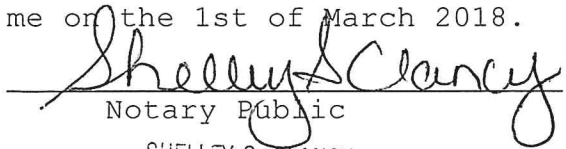
3. The Authority is an authority and public benefit corporation created by special act of the New York State Legislature under Title 29 of the Public Authorities Law.

4. The Authority is exempt, pursuant to Section 2719 of the Public Authorities Law, from mortgage taxes or transfer taxes, and from instrument recording and filing fees, to wit:

". . . nor shall the authority be required to pay any filing or recording fee or transfer tax of any kind on account of instruments filed or recorded by it or on its behalf. Mortgages made or financed (directly or indirectly) by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law."

  
\_\_\_\_\_  
Steven C. Haas

Subscribed and sworn to before me on the 1st of March 2018.

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

SHELLEY S. GLANCY  
NOTARY PUBLIC, State of New York  
Qualified in St. Lawrence Co. No. 4975670  
Commission Expires December 17, 2018





LEWIS COUNTY - STATE OF NEW YORK  
 LINDA D. HOSKINS, LEWIS COUNTY CLERK  
 7660 NORTH STATE STREET, LOWVILLE, NEW YORK 13367

COUNTY CLERK'S RECORDING PAGE  
 \*\*\*THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH\*\*\*

COPY



INSTRUMENT #: 2018-001034

Receipt#: 2018150396  
 Clerk: CS  
 Rec Date: 03/02/2018 08:51:37 AM  
 Doc Grp: RP  
 Descrip: MORTGAGE  
 Num Pgs: 24

Party1: LEWIS COUNTY INDUSTRIAL  
 DEVELOPMENT AGENCY  
 Party2: DEVELOPMENT AUTHORITY OF THE  
 NORTH COUNTRY  
 Town: DENMARK

Recording:	
Recording Fee	0.00
Sub Total:	<u>0.00</u>
Mortgage Tax	
Basic	0.00
SONYMA	0.00
Additional	0.00
Local	0.00
Sub Total:	<u>0.00</u>
Total:	<u>0.00</u>
**** NOTICE: THIS IS NOT A BILL ****	
***** Mortgage Tax *****	
Serial #: DI-0781	
Exempt	
Mtg Amt: 725000.00	
Total:	0.00

Record and Return To:

*Linda D. Hoskins*  
 Linda D. Hoskins  
 Lewis County Clerk

NATIONAL ABSTRACT CORP  
 7557 SOUTH STATE STREET  
 LOWVILLE NY 13367

## ABSOLUTE ASSIGNMENT OF LEASES AND RENTS

**THIS ABSOLUTE ASSIGNMENT OF LEASES AND RENTS** (referred to herein as "Assignment") is made March 1, 2018, by **JOHNSON LUMBER COMPANY, LLC**, a New York limited liability company, with an address of 10972 State Route 26, Carthage, New York 13619 (referred to herein as "Assignor") to **DEVELOPMENT AUTHORITY OF THE NORTH COUNTRY**, a New York authority and public benefit corporation, with its principal place of business at 317 Washington Street, Watertown, NY 13601 the Assignee (referred to herein as "Lender").

1. **Assignment.** Assignor assigns and absolutely transfers to Lender all the right, title and interest of Assignor in, to, and under all leases for the use and occupancy of the real property described in the attached SCHEDULE A (referred to herein as the "Premises"), together with all the rents, royalties, issues, profits, income, security deposits, and other benefits at any time occurring with respect to the leases or Premises (referred to herein collectively as the "Rents") and all extensions, renewals, modifications or replacements of the leases, and together with any and all guarantees of the obligations of the tenants of the leases (referred to herein singularly as a "Tenant," and collectively as the "Tenants"), whether now existing or signed after the date of this Assignment, and all extensions and renewals of the guarantees. The leases, together with any and all guarantees, modifications, extensions, and renewals of the leases, are referred to herein singularly as "Lease" or collectively as the "Leases". In the event of any default under this Assignment, Assignor shall pay monthly in advance to the Lender or any receiver appointed to collect Rents, the fair and reasonable rental value for the use and occupation of the Premises or of such part thereof as maybe in the possession of the Assignor, and upon default in any such payment shall vacate and surrender the possession of the Premises to the Lender or to such receiver and in default thereof may be evicted by summary proceedings.

2. **Payment of Debt and Obligations.** The debt and the obligations (referred to herein as the "Debt" and the "Obligations") are defined in that certain Note dated the same date as this Assignment (referred to herein as the "Note"), executed and delivered by Assignor to Lender, and in any other obligations owed by the Assignor to the Assignee now or in the future. The Note is secured by that certain Mortgage dated the same date as this Assignment (referred to herein as the "Mortgage") which encumbers the Premises as security for the Debt and Obligations and is to be delivered and recorded contemporaneously with the delivery of this Assignment. The purpose of Assignor in making this Assignment is to relinquish to Lender the right of Assignor to collect and enjoy the Rents in partial payment of the outstanding Debt and Obligations of Assignor to Lender as provided in this Assignment.

3. **Present Assignment.** This Assignment is separate and apart from the Mortgage. This Assignment is a present, absolute, and unconditional assignment to Lender of both the Rents and the Leases. This Assignment presently gives Lender the right to collect the Rents and to apply the Rents in partial payments of the Debt and Obligations, as well as all other sums payable, as provided in the Mortgage or any other security instruments, Loan Agreement or loan documents

given as security for the Debt and Obligations. This Assignment is intended by Assignor to create, and will be construed to create, an absolute assignment to Lender. Assignor intends that the Rents absolutely assigned as provided in this Assignment are no longer, during the term of this Assignment, property of Assignor or property of any estate of Assignor as defined by 11 USC §541 of the Bankruptcy Code and will not constitute collateral, cash or otherwise, of Assignor. The term "Rents" as used in this Assignment will mean the gross capital rents without deduction or offset of any kind. This Assignment is intended by Assignor to create, and will be construed to create, a present transfer of an interest or interests in real estate. If despite this specifically expressed intention of Assignor, any law exists requiring Lender to take actual possession of the Premises (or some action equivalent to taking possession of the Premises, such as securing the appointment of a receiver) in order for Lender to "perfect" or "activate" the rights and remedies of Lender as provided in this Assignment, Assignor waives the benefits of such law and agrees that such law will be satisfied solely by: (A) Lender giving Assignor notice as provided in this Assignment that Lender intends to enforce, and is enforcing, the rights and remedies of Lender in and to the Premises and the Rents; and (B) Lender giving notice to any or all Tenants on the Premises that Tenants should begin making payments as provided in the Leases directly to Lender or the designee of Lender.

4. **No Assumption.** Assignor does not delegate or assign to Lender, and Lender does not accept or assume, any of the duties, obligations, or liabilities of Assignor as provided in the Leases. Despite the present and absolute assignment by Assignor to Lender of the Leases, Lender will not be required to perform any of the agreements or conditions contained in any Lease and nothing in this Assignment will impose any obligation upon Lender (including but not limited to any liability under any covenant of quiet enjoyment as provided in any Lease; any liability under any applicable state law if any Tenant is joined as a party defendant in any action to foreclose the Mortgage and the foreclosure bars and forecloses all right, title and interest, and equity of redemption, if any, in the Premises; or any liability under any applicable federal, state or local environmental, health and safety laws, codes and ordinances, and all rules and regulations promulgated thereunder), provided that Lender will be accountable for any Rents Lender actually receives as provided in this Assignment. Assignor retains and will perform all duties, obligations, and liabilities of Assignor as provided in the Leases, provided that Lender, in the sole and absolute discretion of Lender, may cure any default as provided in the Leases on behalf of Assignor, and Assignor shall reimburse Lender on demand for all amounts paid and expended by Lender to cure the defaults of Assignor as provided in the Leases. Assignor further appoints Lender as Assignor's attorney-in-fact coupled with an interest to act in Assignor's place with regard to any and all matters directly or indirectly connected with the Leases.

5. **License.** Lender grants to Assignor a revocable license to collect, as agent of Lender and subject to this Assignment, the Rents, as the Rents become due, and to enforce the Leases, so long as no default by Assignor exists in the payment or performance of the Debt or Obligations, the Mortgage, or this Assignment. This revocable license will automatically terminate without further action by Lender, except for notice to Assignor, if a default occurs as provided in the Debt or Obligations, the Mortgage, or in this Assignment. Unless and until the license is revoked,

Assignor will apply the Rents (other than nonforfeited security deposits) to the payment of taxes, assessments, insurance premiums, utility charges; and operation, repair, replacement, and maintenance charges with respect to the Premises which are the responsibility of Assignor and are due and payable at the time of collection of the Rents, before using the Rents for any other purpose.

**6. Direction to Tenants.** If a default occurs as provided in this Assignment, the Debt or Obligations, or the Mortgage; this Assignment will constitute a direction to and full authorization to Tenants and any guarantors of the Leases to pay all Rents to Lender without requiring any proof of the default. Assignor presently, irrevocably authorizes Tenants and any guarantors of the Leases to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents due or to become due. Tenants and any guarantors of the Leases shall have no right or duty to inquire if a default has actually occurred and Assignor shall have no claim against Tenants or any guarantors of the Leases for any Rents paid by Tenants or the guarantors to Lender. Assignor acknowledges that Assignor shall provide actual written notice, in form and substance reasonably acceptable to Lender, to each Tenant, of the existence and substance of this Assignment and shall provide Lender with written evidence of such notice.

**7. Indemnification.** Assignor hereby agrees to defend, indemnify, and hold Lender harmless from and against any and all claims, damages, judgments, penalties, costs and expenses (including without limitation by way of specification, the costs associated with administrative and judicial proceedings; engineering, consulting and attorneys fees; and court costs) arising directly or indirectly from this Assignment.

**8. Environmental Indemnification.** Assignor hereby agrees to defend, indemnify, and hold Lender harmless from and against any and all claims, damages, judgments, penalties, costs and expenses (including without limitation by way of specification, the costs associated with administrative and judicial proceedings; engineering, consulting and attorneys fees; and court costs) arising directly or indirectly from the activities of Assignor, Assignor's predecessors in interest, or third parties with whom Assignor has a contractual relationship (including but not limited to Tenants), or arising directly or indirectly from the violation of any environmental protection, health or safety law, whether such claims are asserted by any governmental agency or any other person. This indemnity shall survive any termination of this Assignment.

**9. Notice.** Any notice under this Assignment to the Assignor or to the Lender shall be in writing and, if by personal service, shall be deemed to have been given when personally served, if by facsimile transmitted over telephone lines, shall be deemed to have been given when sent, and if mailed, shall be deemed to have been given five (5) days after the date sent by certified mail, postage prepaid, and addressed to the Assignor or the Lender at their respective addresses as set forth in this Assignment above. Notices will be given at such other addresses as a party may reasonably designate by written notice received by the other party to this Assignment.

**10. Further Assurances.** Assignor hereby agrees that upon the request of Lender, Assignor

shall make, execute and deliver any and all further assignments or other instruments sufficient for the purpose of confirming this present assignment and confirming this conveyance of the Leases and Rents.

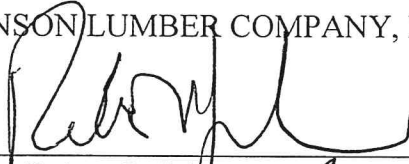
11. **Subordination.** The lien created by this Instrument in favor of the Development Authority of the North Country is subject and subordinate to the liens granted to M&T Bank, as their interests may appear, to secure loans in the aggregate amount of \$1,917,000.00.


12. **Gender and Number.** The gender and number used in this Assignment are used for reference only and shall apply with the same effect whether the parties are masculine, feminine, neuter, singular or plural.

EXECUTED as of the day and year first above written.

ASSIGNOR:

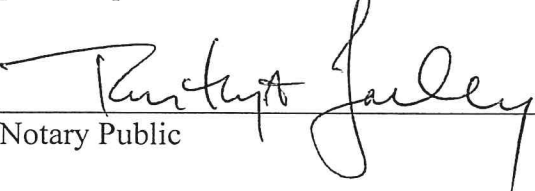
JOHNSON LUMBER COMPANY, LLC

  
By: Robert P. Johnson, Member

  
By: Ronald J. Johnson, Member

STATE OF NEW YORK )  
COUNTY OF JEFFERSON ) ss:

On the 1<sup>st</sup> day of March the year 2018, before me, the undersigned, a notary public in and for said state, personally appeared ROBERT P. JOHNSON and RONALD J. JOHNSON, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

TIMOTHY A. FARLEY  
Notary Public, State of New York  
Qualified in Jefferson County  
Commission Expires Feb. 22, 2022

**RECORD AND RETURN TO:**

*Natinal Abstract*  
Steven C. Haas, Esq.  
Schwerzmann & Wise, PC  
PO Box 704  
220 Sterling Street  
Watertown, NY 13601



SCHEDULE A

(Page 1 of 6)

Parcel 1

ALL THAT TRACT OR PARCEL OF LAND situate on the East side of New York State Route No. 26, in the Town of Denmark, County of Lewis, State of New York and being further described as follows:

BEGINNING at a point in the pavement centerline of New York State Route 26 at the intersection of the northwest corner of a 50 acre parcel of land that is described with other land in a Deed to Russell and Kathryn Maurer dated June 14, 1979 in Book 402 of Deeds at page 207, and the southwest corner of a 0.60 acre parcel of land (No. 2) that was conveyed with other land to Robert P. and Ronald J. Johnson by Deed dated July 16, 1985 in Book 458 of Deeds at page 254;

THENCE from said point of beginning, North 66 degrees 59 minutes 13 seconds East along the apparent former occupation line as attested to by Russell Maurer which divides the above referenced 50 acre parcel of land to the South from the above referenced 0.60 acre and also a 2.5 acre parcel of land owned by Johnson to the North a total distance of 609.00 feet to a point at the southeasterly corner of Johnson and passing on line at 49.9 feet a 5/8 inch iron rod found and at 490.41 feet a 1 1/2 inch iron pipe found (bent);

THENCE South 13 degrees 41 minutes 43 seconds East a distance of 458.51 feet to a 24 inch tree;

THENCE South 75 degrees 48 minutes West a total distance of 587.00 feet to a point in the aforementioned pavement centerline of New York State Route 26 and passing on line at 544.48 feet a 5/8 inch iron rod found;

THENCE North 15 degrees 53 minutes 22 second West along the pavement centerline thereof, a distance of 365.35 feet to the point of beginning.



**Parcel 2**

**ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate in the Town of Denmark, County of Lewis and State of New York, being a part of Great Lot Number 54 in Township Number 5, and being a portion of the 50 acre parcel of land conveyed to Duwayne R. Maurer and Darlene Davoy by Russell H. Maurer and Kathryn Maurer by Deed dated April 21, 2003 and recorded in the Lewis County Clerk's Office on March 29, 2004 as Instrument No. 2004-00948, and said parcel being bounded and described as follows:**

**BEGINNING at a 1/2" rebar set in a 30" maple stump to mark the southeast corner of the 5.626 acre parcel of land conveyed to Reginald Farney by Russell H. Maurer and Kathryn P. Maurer. by Deed dated December 4, 1996 and recorded in the Lewis County Clerk's Office on December 17, 1996 in Book 602 of Deeds at page 349;**

**THENCE from said point of beginning S. 16 deg. 41 min. 05 sec. E. along the southerly extension of the easterly boundary of the 5.626 acre parcel, a distance of 141.49' to a set 1/2" rebar;**

**THENCE S. 63 deg. 41 min. 07 sec. W. 553.63' to a set 1/2" rebar;**

**THENCE continuing S. 63 deg. 41 min. 07 sec. W. a distance of 33.29' to a point in the centerline of the present surface of New York State Route 26;**

**THENCE N. 18 deg. 43 min. 06 sec. W. along the centerline of the present surface of New York State Route 26, a distance of 234.65' to the southwest corner of the said 5.626 acre parcel;**

**THENCE N. 72 deg. 48 min. 38 sec. E. along the South boundary of the 5.626 acre parcel, a distance of 42.52' to a found 2 foot tall 5/8" iron pin set in concrete;**

**THENCE continuing N. 72 deg. 48 min. 38 sec. E. along the south boundary of the 5.626 acre parcel, a distance of 544.48' to the point of beginning.**

Parcel 3

ALSO ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate in the Town of Denmark, County of Lewis and State of New York, being a part of Great Lot Number 54 of Township Number 5, and being a portion of the 50 acre parcel of land conveyed to Duwayne R. Maurer and Darlene Davoy by Russell H. Maurer and Kathryn Maurer by Deed dated April 21, 2003 and recorded in the Lewis County Clerk's Office on March 29, 2004 as Instrument No. 2004-00948 and said parcel being bounded and described as follows:

BEGINNING at a 1/2" rebar set in a 30" maple stump to mark the southeast corner of the 5.626 acre parcel of land conveyed to Reginald Famey by Russell H. Maurer and Kathryn P. Maurer by Deed dated December 4, 1996 and recorded in the Lewis County Clerk's Office on December 17, 1996 in Book 602 of Deeds at page 349;

THENCE from said point of beginning N. 16 deg. 41 min. 05 sec. W. along the easterly boundary of the 5.626 acre parcel, a distance of 458.51' to the northeast corner of the 5.626 acre parcel, said corner also being the southwest corner of the 23.509 acre parcel of land conveyed to Robert P. Johnson and Ronald J. Johnson by Gregory M. Maurer and Katherine A. Essenlohr by Deed dated October 28, 1998 and recorded in the Lewis County Clerk's Office on November 12, 1998 in Book 631 of Deeds at page 347;

THENCE N. 63 deg. 04 min. 28 sec. E. along the South boundary of the 23.509 acre parcel, a distance of 1142.02' to a 3/8" drill hole set in a 2 foot boulder at the East end of a stone row to mark the southeast corner of the 23.509 acre parcel, said corner being on the westerly boundary of lands of County Of Lewis IDA, Con Rail Railroad;

THENCE S. 32 deg. 45 min. 00 sec. E. along the westerly boundary of the Con Rail Railroad, a distance of 453.55' to a set 1/2" rebar;

THENCE S. 63 deg. 04 min. 28 sec. W. 1269.56' to the point of beginning.

**PARCEL 4**

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Denmark, County of Lewis, State of New York, also being a part of Great Lot Number 54 of Township Number 5 of the Black River Tract and being further described as follows:

BEGINNING at an iron pin set at the northeasterly corner of that parcel of land conveyed by Robert Paul Johnson and Ronald J. Johnson to Robert P. Johnson and Pamela Lunn Staub Johnson by deed dated January 20, 1987 and recorded in the Lewis County Clerk's Office in Liber 479 of Deeds at page 88;

THENCE N. 58 deg. 50' 09" E. a distance of 898.35 feet to an iron pin set at the westerly railroad margin of Con Rail Railroad;

THENCE S. 36 deg. 56' 56" E. along the same westerly railroad margin a distance of 1009.11 feet to an iron pin set;

THENCE S. 58 deg. 52' 32" W. a distance of 1142.41 feet to an iron pin set;

THENCE N. 23 deg. 05' 16" W. a distance of 1013.23 feet to the point of beginning.

EXCEPTING AND RESERVING the premises conveyed by Robert P. Johnson, et al. to Johnson Lumber Company, LLC f/k/a Johnson Lumber Acquisitions by virtue of Warranty Deed with Lien Covenant dated September 13, 2017 and recorded September 15, 2017 under Instrument No. 2017-005224.

ALSO EXCEPTING AND RESERVING the premises conveyed by Robert P. Johnson, et al. to Robert P. Johnson & Pamela Lynn Staub Johnson by virtue of Warranty Deed with Lien Covenant dated September 13, 2017 and recorded September 15, 2017 under Instrument No. 2017-005225.

**PARCEL 5**

ALL that tract or parcel of land situate in the Town of Denmark, County of Lewis and State of New York, and being a part of Great Lot Number 54, Township Number 5 of the Black River Tract and being further described as follows:

BEGINNING at the centerline of New York State Route 26, being the intersection of the northerly line of a parcel of land conveyed by Reginal Farney to Johnson Lumber Company, LLC, by warranty deed recorded in the Lewis County Clerk's Office as Instrument No. 2017-003497 on June 19, 2017, and the centerline of New York State Route 26;

THENCE N.34°17'09"W., a distance of 587.22 feet along the centerline of New York State Route 26;

THENCE N.55°37'36"E., passing through a 1/2" iron rod found at 32.33 and continuing a total distance of 689.83 feet to a capped iron rod set;

THENCE S.34°22'24"E., passing through capped iron rods set at 52.70 and 478.01 feet respectively, and continuing a total distance of 543.28'

THENCE S.52.15'21"W., passing through a capped iron rod set at 88.51 feet and continuing a total distance of 642.67 feet to a 5/8" iron rod found;

THENCE S.48°29'56"W., a distance of 49.55 feet to the point of beginning.

(Page 6 of 6)

SUBJECT to the easement granted to New York Telephone Company dated November 6, 1915 and recorded in the Lewis County Clerk's office on November 23, 1915 in Liber 125 of Deeds at page 310.

SUBJECT to a Drainage Easement Agreement between Elwood J. Meister and Frances Meister, Robin E. Johnson, Millard A. Mauer and Eliza M. Meister and Leslie Latham dated May 31, 1963 and recorded in the Lewis County Clerk's office on August 2, 1963 in Liber 276 of Deeds at page 3.

SUBJECT to the overhead utility easement to Niagara Mohawk Power Corporation dated October 21, 2003 and recorded in the Lewis County Clerk's office on October 4, 2005 as Instrument No. 2005-03352.

SUBJECT to the overhead utility easement to Niagara Mohawk Power Corporation dated May 20, 2004 and recorded in the Lewis County Clerk's office on October 6, 2011 as Instrument No. 2011-004760.

SUBJECT to the underground utility easement to Niagara Mohawk Power Corporation dated May 20, 2004 and recorded in the Lewis County Clerk's office on October 6, 2011 as Instrument NO. 2011-004761.

NO FILING OR RECORDING FEE  
NO TRANSFER TAX  
NO MORTGAGE TAX  
AFFIDAVIT

STATE OF NEW YORK )  
 )ss.  
COUNTY OF JEFFERSON )

STEVEN C. HAAS, being duly sworn, deposes and says that:

1. I am a principal of the law firm of Schwerzmann & Wise, P.C., duly admitted to practice law in the State of New York, and represent the Development Authority of the North Country (the "Authority").

2. This affidavit is given in connection with the recording and filing in the Lewis County Clerk's office of an Absolute Assignment of Leases and Rents made by Johnson Lumber Company, LLC to Development Authority of the North Country in the amount of \$725,000.00 in respect to property located at 10960 and 10972 NYS Route 26, Town of Denmark, Lewis County, New York.

3. The Authority is an authority and public benefit corporation created by special act of the New York State Legislature under Title 29 of the Public Authorities Law.

4. The Authority is exempt, pursuant to Section 2719 of the Public Authorities Law, from mortgage taxes or transfer taxes, and from instrument recording and filing fees, to wit:

". . . nor shall the authority be required to pay any filing or recording fee or transfer tax of any kind on account of instruments filed or recorded by it or on its behalf. Mortgages made or financed (directly or indirectly) by the authority shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law."

  
\_\_\_\_\_  
STEVEN C. HAAS

Subscribed and sworn to before me on the 1st of March 2018.

  
\_\_\_\_\_  
Notary Public  
SHERRY S. CLANCY

NOTARY PUBLIC, State of New York  
Qualified in St. Lawrence Co. No. 4975670  
Commission Expires December 17, 2018





LEWIS COUNTY - STATE OF NEW YORK  
 LINDA D. HOSKINS, LEWIS COUNTY CLERK  
 7660 NORTH STATE STREET, LOWVILLE, NEW YORK 13367

COUNTY CLERK'S RECORDING PAGE

\*\*\*THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH\*\*\*

COPY



Recording:

Recording Fee	0.00
255 Affidavit	0.00

Total:	0.00
**** NOTICE: THIS IS NOT A BILL ****	

INSTRUMENT #: 2018-001035

Receipt#: 2018150396  
 Clerk: CS  
 Rec Date: 03/02/2018 08:51:38 AM  
 Doc Grp: RP  
 Descrip: ASST OF RENTS & LEASES  
 Num Pgs: 11

Party1: JOHNSON LUMBER COMPANY LLC  
 Party2: DEVELOPMENT AUTHORITY OF THE  
 NORTH COUNTRY.  
 Town: DENMARK

Linda D. Hoskins  
 Lewis County Clerk

Record and Return To:

NATIONAL ABSTRACT CORP  
 7557 SOUTH STATE STREET  
 LOWVILLE NY 13367

# AGENT AGREEMENT

THIS AGENT AGREEMENT, dated July 25, 2017, is by and between

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY,  
a public benefit corporation of the State of New York, having its office at 7642 N.  
State St., PO Box 106, Lowville, NY 13367

(the "Agency")

And

JOHNSON LUMBER COMPANY, LLC,  
a New York limited liability company, having its office at 10972 State Route 26,  
P.O. 469, Carthage, NY 13619

(the "Company")

## WITNESSETH:

WHEREAS, the Agency was pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of:

- (A) Acquisition of real property adjacent to the existing facility of Johnson Lumber, LLC in the Town of Denmark, Lewis County (the "Land"); and
- (B) Construction of an approximate 20,000 square foot building to house the Project (the "Improvements"); and
- (C) Purchase and installation of equipment that would allow Johnson Lumber, LLC to expand their existing pre-finished product line (the "Equipment"; and collectively with the Land and the Improvements, the "Facility"); and
- (D) Paying certain costs and expenses incidental to those activities (the costs associated with items A, B, and C above being hereinafter collectively referred to as "Project Costs"); and

WHEREAS, by Resolution adopted on July 6, 2017 (the "Resolution"), the Agency conditionally authorized the Company to act as its agent for the purposes of undertaking the Project subject to the Company entering into this Agent Agreement

and, pursuant to the Resolution and this Agent Agreement, the Company has the power to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses including but not limited to the individuals and entities described on Schedule A attached hereto, provided that the Company shall have the right to amend Schedule A from time to time provided that it maintains an accurate list of all parties acting as agent for the Agency.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition of the Equipment and the installation thereof in and around the Facility. The right of the Company to act as agent of the Agency shall expire on July 1, 2018, unless extended as contemplated by the Resolution. The aggregate amount of work performed as Agent for the Agency shall not exceed the amounts described in the Application of the Company in this matter. All contracts entered into by the Company as agent for the Agency shall include the following language:

"This contract is being entered into by JOHNSON LUMBER COMPANY, LLC (the "Agent"), as agent for and on behalf of the COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), in connection with a certain project of the Agency for the benefit of the Agent consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at 10960 AND 10972 State Route 26, Carthage,, New York 13619 (the "Premises"). The machinery, equipment and building materials to be incorporated and installed in the Premises shall be exempt from the sales and use taxes levied by the State of New York if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the sales tax exemption letter issued by the Agency to the Company dated July , 2017. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

2. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:

(a) The Company is a limited liability company duly formed and validly existing under the laws of the State of New York, is duly qualified and authorized to conduct business in New York State (the "State"), has the authority to enter into this Agreement and has duly authorized the execution and delivery of this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

(e) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the

Agency, its executive director, directors, members, officers, employees, agents (except the Company), representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Agency upon demand, and agrees that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

(f) Any personal property acquired by the Company in the name of the Agency shall be located in the County of Lewis, New York, except for temporary periods during ordinary use.

(g) In accordance with Section 875(3) of the New York General Municipal Law, the Company covenants and agrees that, if it receives New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") from the Agency, and it is determined that: (i) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project, then the Company will (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.

(h) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in the amount up to **\$24,000.00**, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **\$28,000.00**.

(i) The Company further covenants and agrees to complete "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (NYS Form ST-60) for itself and each agent, subagent, contractor, subcontractor, contractors or subcontractors of such agents and subagents and to such other parties as the Company



chooses who provide materials, equipment, supplies or services and execute said form as agent for the Agency (or have the general contractor, if any or other designated subagent execute) and forward said form to the State Department of Taxation and Finance within thirty (30) days of appointment. A sample of NYS Form ST-60 is attached to this Agreement as Exhibit A, and the Company shall ensure that the identity, address, phone number and employer identification/social security number of the Company designee/appointee is fully and accurately reflected upon it.

(j) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance by the last day of February of each year an "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340) regarding the value of sales and use tax exemptions the Company, its agents, subagents, consultants or subcontractors or the contractors or subcontractors of such agents and subagents have claimed in the preceding year pursuant to the agency conferred on the Company with respect to the Project, in accordance with General Municipal Law Section 874(8). The Company further covenants and agrees that it will simultaneously provide the Agency with a copy of that filing. The Company understands and agrees that the failure to file such annual statement or to furnish a copy of it to the Agency in a timely manner will result in the removal of the Company's authority to act as agent for the Agency.

(k) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123, a copy of which is attached hereto as Exhibit B), and it shall be the responsibility of the Company (and not the Agency) to complete NYS Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state, "I, [NAME OF AGENT], certify that I am a duly appointed agent of the COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agent agreement between JOHNSON LUMBER COMPANY, LLC and the COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY." The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: the name of the Project, the street address of the Project site, and IDA project number.

3. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members employees,



agents (except the Company), representatives, successors and assigns harmless from and against any and all liability, claim or expense (including the costs of defending any lawsuit) arising from (i) loss or damage to property or injury to or death of any and all persons that may be occasioned by 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 on, in or about the Facility or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, rehabilitating, constructing, renovation, equipping, owning and leasing of the Equipment or the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents (except the Company) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

4. Insurance Required. Effective as of the date hereof and until the Agency transfers title to the Equipment to the Company as provided in Section 9 below, the Company shall maintain, or cause to be maintained by its subagent or subcontractors, certain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type, and paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) (i) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirement of periodic appraisal), the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well. Such insurance shall have a commercially reasonable deductible.

(b) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including

death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable worker's compensation law; and a blanket excess liability policy in the amount not less than \$2,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

5. Additional Provisions Respecting Insurance. (a) All insurance required by Section 4 hereof shall name the Agency as an additional insured, as its interest may appear. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance may be written with commercially reasonable 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 Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) at least thirty (30) days prior written notice of the cancellation thereof to the Company and the Agency, except in the event of non-payment, in which at least ten (10) days prior written notice of the cancellation shall be delivered to the Company and the Agency. All insurance requirements in Section 4 may be satisfied by blanket policies subject to the reasonable approval by the Agency; provided, however, that approval or acceptance by a commercial lender (if any) in connection with the financing of the Project shall not require approval by the Agency.

(b) All such policies of insurance, or a certificate or certificates of insurance that such insurance is in force and effect, shall be deposited with the Agency on the date hereof. Prior to expiration of any such policy, the Company shall furnish evidence to the Agency that the policy has been renewed or replaced or is no longer required by this Agreement.

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

7. Notices. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY  
7642 State Street, PO Box 106  
Lowville, NY 13367  
Attn: Executive Director

With Copy To: Campany, McArdle & Randall, PLLC  
7571 S. State Street, P.O. Box 311  
Lowville, New York 13367  
Attention: Kevin M. McArdle

To the Company: JOHNSON LUMBER COMPANY, LLC  
10972 State Route 26, PO Box 469  
Carthage, NY 13619

With Copy To: Timothy A. Farley, P.C.  
1717 State Street  
Watertown, NY 13601  
Attention: Timothy A. Farley

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

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

9. Agency Limitation. The Company agrees not to take title to any real property as agent for the Agency until the Lease Agreement, Leaseback Agreement and PILOT Agreement have been executed and delivered. At any time prior to the execution of the Lease Agreement, Leaseback Agreement and PILOT Agreement, the Agency can transfer title to the Company of all assets acquired by the Company as agent for the Agency. Additionally, at any time prior to execution of the Lease Agreement, Leaseback Agreement and PILOT Agreement, the Company can demand that the Agency transfer title to the Company with respect to all assets acquired by the Company as agent for the Agency, provided all amounts owed the Agency have been paid current OR The Company agrees not to take title to any real property as agent for the Agency. Upon completion of the acquisition and installation of the Equipment, the Agency shall transfer title to the Equipment to the Company by a bill of sale (the "Bill of Sale") in the form attached hereto as Exhibit C. It shall be the sole responsibility of the Company to notify the Agency of Project completion.

10. Fees, Costs and Expenses. By executing this Agent Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency for (i) legal services in connection with the Project, including but not limited to

those provided by the Agency's transaction counsel, and (ii) other consultants retained by the Agency in connection with the Project; with all such charges to be paid by the Company at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Agency's invoices therefore. The Company is entitled to receive a written estimate of fees and costs of the Agency's transaction counsel.

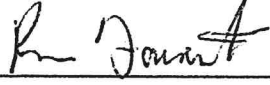
The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Agency or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

11. Signatory Authority. By their signatures hereto, each of the undersigned individuals executing this instrument in an agency capacity covenants and warrants that he or she has the authority to contract on behalf of the principals he or she purports to represent in regard to all of the matters addressed in this Agreement.

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

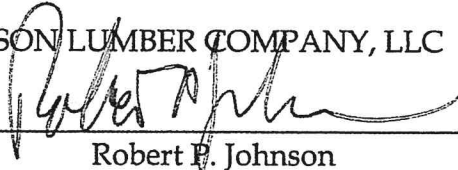
Dated: July 25, 2017

COUNTY OF LEWIS INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Name: Roscoe Fawcett  
Title: Chairman

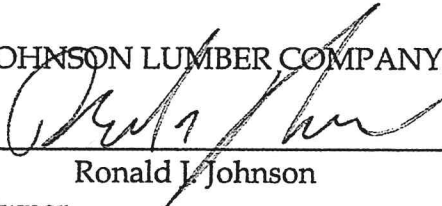
Dated: July \_\_\_\_, 2017

JOHNSON LUMBER COMPANY, LLC

By:   
Name: Robert F. Johnson  
Title: Owner

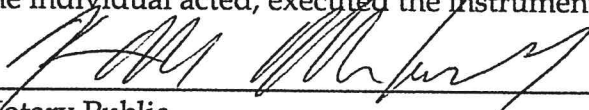
Dated: July \_\_\_\_, 2017

JOHNSON LUMBER COMPANY, LLC

By:   
Name: Ronald L. Johnson  
Title: Owner

STATE OF NEW YORK )  
COUNTY OF LEWIS )

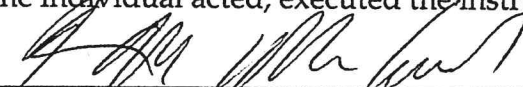
On this 25 day of July, 2017 before me, the undersigned, ROSCOE FAWCETT, personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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

KEVIN M. McARDLE  
Notary Public, State of New York  
No. 4817358  
Qualified in Lewis County  
My Commission Expires April 30, 2018

STATE OF NEW YORK )  
COUNTY OF LEWIS )

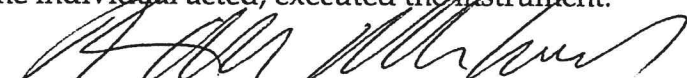
On this 25 day of July, 2017 before me, the undersigned, ROBERT P. JOHNSON, personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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

KEVIN M. McARDLE  
Notary Public, State of New York  
No. 4817358  
Qualified in Lewis County  
My Commission Expires April 30, 2018

STATE OF NEW YORK )  
COUNTY OF LEWIS )

On this 25 day of July, 2017 before me, the undersigned, RONALD J. JOHNSON, 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 instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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

KEVIN M. McARDLE  
Notary Public, State of New York  
No. 4817358  
Qualified in Lewis County  
My Commission Expires April 30, 2018



**SCHEDULE A**

**LIST OF APPOINTED AGENTS<sup>1</sup>**

1. **DC Building Systems**
2. **B&D Enterprises of NNY**
3. **McCabes Supply, Inc.**
4. **V.S. Virkler, Inc.**
5. **Varco Pruden Buildings**
6. **McQuade & Bannigan, Inc.**
7. **Farney's Home Center**
8. **White's Lumber**
9. **Champion Materials, Inc.**
10. **MJL Crushing**
11. **Lyndacker Excavating & Trucking**
12. **Reed JL Trucking, Inc.**

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<sup>1</sup> FOR EACH AGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED WITH NYS DEPARTMENT OF TAXATION AND FINANCE INDICATING THE APPOINTMENT OF SUCH AGENT OF THE COMPANY.

**AGENT AGREEMENT**  
**EXHIBIT A**

**(NEW YORK DEPARTMENT OF TAXATION AND FINANCE  
FORM ST-60)**

**EXHIBIT B**

**(NEW YORK DEPARTMENT OF TAXATION AND FINANCE  
FORM ST-123)**

**EXHIBIT C**  
**FORM OF BILL OF SALE TO COMPANY**  
**JOHNSON LUMBER COMPANY, LLC PROJECT (2017)**

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY,  
a public benefit corporation of the State of New York having an office for  
transaction of business located at 7642 State St., Lowville, New York 13367  
(the "Grantor"),  
for the consideration of One Dollar (\$1.00), cash in hand paid, and other  
good and valuable consideration received by the Grantor from

JOHNSON LUMBER COMPANY, LLC,  
a limited liability company duly organized and validly existing under the laws of  
the State of New York, with an office and place of business at 10972 State Route  
26, P.O. Box 469, Carthage, NY 13619  
(the "Grantee"),

the receipt of which is hereby acknowledged by the Grantor, hereby sells,  
transfers and delivers unto the Grantee and its successors and assigns all of the  
machinery and equipment identified on the annexed Schedule A. (the  
"Equipment"), which Equipment is located or intended to be located on premises  
situated at 10972 State Route 26, Carthage, Lewis County, New York.

TO HAVE AND TO HOLD the same unto the Grantee, and its successors and  
assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS  
TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR  
FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE  
SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE'S  
PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE  
EQUIPMENT "AS IS", WITHOUT RECOURSE OF ANY NATURE AGAINST THE  
GRANTOR FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO  
WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY  
IS MADE. IN THE EVENT OF ANY DEFECT OF DEFICIENCY OF ANY NATURE,  
WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO  
RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

