



SARATOGA COUNTY – STATE OF NEW YORK
SARATOGA COUNTY CLERK
CRAIG A. HAYNER
40 MCMASTER STREET, BALLSTON SPA, NY 12020

COUNTY CLERK'S RECORDING PAGE
THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



INSTRUMENT #: 2021047646

Receipt#: 2021212410625

Clerk: GB

Rec Date: 12/30/2021 02:15:00 PM

Doc Grp: R

Descrip: LEASE AGREEMENT W/TP 584

Num Pgs: 5

Party1: TIVOLI PROPERTIES LLC

Party2: SARATOGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

Town: MALTA

Recording:

Pages	20.00
Cover Sheet Fee	5.00
Recording Fee	20.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
Names	0.50
Markoffs	0.50
TP 584	5.00

Sub Total: 71.00

Transfer Tax
Transfer Tax 0.00

Sub Total: 0.00

Total: 71.00
**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
Transfer Tax #: 3715
Transfer Tax

Total: 0.00

Record and Return To:

LEMERY GREISLER LLC
60 RAILROAD PLACE STE 502
SARATOGA SPRINGS, NY 12866

This page constitutes the Clerk's endorsement, required by section 316-a (5) & 319 of the Real Property Law of the State of New York with a stamped signature underneath.

Saratoga County Clerk

SECOND AMENDMENT TO UNDERLYING LEASE

THIS SECOND AMENDMENT TO UNDERLYING LEASE dated as of December 29th, 2021 (this "Amendment") by and between TIVOLI PROPERTIES, L.L.C., a limited liability company organized and existing under the laws of the State of New York having an address of 1282 Dutchess Turnpike, Poughkeepsie, New York 12603 and M & L PROPERTIES, LLC, a limited liability company organized and existing under the laws of the State of New York having an address of 1282 Dutchess Turnpike, Poughkeepsie, New York 12603 (collectively, the "Company"), as landlord, and COUNTY OF SARATOGA INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having an office for the transaction of business located at Saratoga County Municipal Center, Ballston Spa, New York 12020 (the "Agency"), as tenant;

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, being Title I of Article 18-A of the General Municipal Law, Chapter 24, of the Consolidated Laws of the State of New York, as amended (the "Enabling Act"), authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any buildings or other improvements, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for, among other things, manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell any or all of its facilities; and

WHEREAS, the Agency was created pursuant to and in accordance with the provisions of the Enabling Act by Chapter 855 of the Laws of 1971 of the State of New York, as amended (said chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and improve their standard of living; and

WHEREAS, the Agency, by resolution adopted on August 17, 2016 (the "Resolution"), resolved to undertake a project (the "Project") consisting of (A) (1) the acquisition of an interest in an approximately 39 acre parcel of land constituting tax map parcel 240.-2-60.1 and located at 1 Racemark Way a/k/a 10 Stonebreak Road in the Town of Malta, New York, (2) the construction of a 20,000 square foot addition (the "Addition") to an existing 72,640 square foot facility (the "Existing Facility" and together with the Addition, collectively, the "Facility") located on the Land to be leased by the Company to Arnoff Moving & Storage of Albany, Inc. (the "Tenant") for use by the Tenant in its manufacturing, warehousing and shipping operations and for its corporate headquarters and (3) the acquisition and installation in the Facility of certain machinery and equipment (the "Equipment" and together with the Land and the Facility, collectively, the "Project Facility"), (B) the lease (with the obligation to purchase) or the sale of the Project Facility to the Company or such other person as may be designated by the company and agreed upon by the Agency and (C) the providing by the Agency of certain "financial assistance" (as defined in the Act) in the form of exemptions from mortgage recording tax, real property taxes and state and local sales tax; and;

2021047646

12/30/2021 02:15:00 PM
5 Pages RECORDED
LEASE AGREEMENT W/TP 584
Saratoga County Clerk

WHEREAS, by resolution duly adopted on September 11, 2017, the Agency agreed to undertake a project (the "2017 Project") consisting of (A) (1) the construction on the Land of (i) a 43,780 square foot addition (the "Addition") to the Facility and (ii) an approximately 7,682 square foot building (the "New Building" and together with the Addition, the "2017 Facility"), to be leased by the company to the Tenant for use by the Tenant in its manufacturing, warehousing and shipping operations and for its corporate headquarters and (2) the acquisition and installation therein of certain machinery and equipment (the "2017 Equipment" and together with the 2017 Facility, collectively, the "2017 Project Facility"), (B) the lease (with the obligation to purchase) or the sale of the 2017 Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency ; and (C) the granting of "Financial Assistance" (as such term is defined in the Act) with respect thereto in the form of exemptions from sales tax, mortgage recording tax and real property taxes; and

WHEREAS, the Project Facility and the 2017 Project Facility was leased by the Company to the Agency pursuant to the terms of an Underlying Lease dated as of August 30, 2016 by and between the Company, as landlord, and the Lessor, as tenant and recorded in the office of the Saratoga County Clerk on September 15, 2016 as Instrument #2016028874 as amended by a first amendment thereto dated December 14, 2017 and recorded in the office of the Saratoga County Clerk on December 21, 2017 as Instrument #2017040453 (hereinafter the "Underlying Lease") (all capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Underlying Lease); and

WHEREAS, the Agency has leased the Project Facility and the 2017 Project Facility to the Company pursuant to the terms of that certain Lease Agreement dated as of August 30, 2016 by and between the Agency, as lessor, and the Company, as lessee, and recorded in the office of the Saratoga County Clerk on September 15, 2016 as Instrument #2016028875 as amended by a first amendment thereto dated December 14, 2017 and recorded in the office of the Saratoga County Clerk on December 21, 2017 as Instrument #2017040454 (the "Lease Agreement"); and

WHEREAS, by resolution duly adopted on December 21, 2021, the Agency agreed to undertake a project (the "2021 Project") consisting of (A) (1) the construction on the Land of an approximately 120,000 square foot building (the "2021 Facility"), to be leased by the Company to the Tenant for use by the Tenant and potentially other third party tenants (the "Third Party Tenants") in manufacturing, warehousing and shipping operations and (2) the acquisition and installation therein of certain machinery and equipment (the "2021 Equipment" and together with the 2021 Facility, collectively, the "2021 Project Facility"), (B) the lease (with the obligation to purchase) or the sale of the 2021 Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency ; and (C) the granting of "Financial Assistance" (as such term is defined in the Act) with respect thereto in the form of exemptions from sales tax, mortgage recording tax and real property taxes; and

WHEREAS, in connection therewith, the parties desire to modify the Underlying Lease in the manner hereinafter set forth;

NOW, THEREFORE, THE AGENCY AND THE COMPANY HEREBY AGREE AS FOLLOWS:

1. Subsection (A) of Section 3.2 of the Underlying Lease is hereby amended and restated in its entirety to read as follows:

SECTION 3.2. TERM. (A) The term of this Underlying Lease (the "Lease Term") shall commence as of the dated date hereof and shall expire on the earliest to occur of (1) the date requested by the Company, or (2) December 31, 2032, or (3) so long as neither the Lease Agreement nor the Company's right of possession as purchaser thereunder shall have been terminated by the Agency pursuant to Article X thereof, the termination of the term of the Lease Agreement.

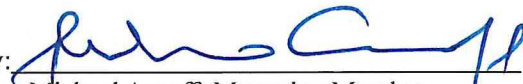
2. This Amendment shall be governed exclusively by the applicable laws of the State.

IN WITNESS WHEREOF, the Lessor and the Agency have caused this Amendment to be executed in their respective names by their respective Authorized Representatives, all as of the day and year first above written.

COUNTY OF SARATOGA INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Rodney Sutton, Chairman

TIVOLI PROPERTIES, L.L.C.

By: 
Michael Arnoff, Managing Member

M & L PROPERTIES, LLC

By: 
Michael Arnoff, Managing Member

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

On this 29th day of December, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Rodney Sutton**, 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 on behalf of which the individual acted, executed the instrument.


Notary Public
JAMES A. CARMINUCCI
NOTARY PUBLIC STATE OF NEW YORK
REG. NO. 02CA4864025
QUALIFIED IN SARATOGA COUNTY
COMMISSION EXPIRES JUN 9, 2022

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

On this 29th day of December, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Michael Arnoff**, 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 on behalf of which the individual acted, executed the instrument.


Notary Public
JAMES A. CARMINUCCI
Notary Public State of New York
Reg. No. 02CA4864025 - Saratoga County
Commission Expires 6/9/ 2022