

Danville-Pittsylvania Regional Industrial Facility Authority

**City of Danville, Virginia
County of Pittsylvania, Virginia**

AGENDA

November 13, 2018

12:00 P.M.

**Institute for Advanced Learning and Research
150 Slayton Avenue, Room 206
Danville, Virginia**

County of Pittsylvania Members

**Robert W. Warren, Chairman
Ronald S. Scarce
Elton W. Blackstock, Alternate**

City of Danville Members

**Sherman M. Saunders, Vice Chairman
Fred O. Shanks, III
J. Lee Vogler, Jr., Alternate**

Staff

**Ken Larking, City Manager, Danville
David M. Smitherman, Pittsylvania County Administrator
Clement Wheatley, Legal Counsel to Authority
Susan M. DeMasi, Authority Secretary
Michael L. Adkins, Authority Treasurer**

Danville-Pittsylvania Regional Industrial Facility Authority

1. MEETING CALLED TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT PERIOD

Members of the public who desire to comment on a specific agenda item will be heard during this period. The Chairman/Vice Chairman of the Authority may restrict the number of speakers. Each speaker shall be limited to a total of three minutes for comments. *[Please note that the public comment period is not a question-and-answer session between the public and the Authority.]*

4. APPROVAL OF MINUTES OF THE OCTOBER 9, 2018 MEETING

5. NEW BUSINESS

- A. Consideration of Resolution No. 2018-11-13-5A, approving a Ground Lease with the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia ("IALR"), for the lease by IALR of a portion of Parcel 78360 in the Authority's Cyber Park Project and the construction thereon of the Hawkins Expansion, together with related amendments to the current leases for the SEnTeC building and the Charles Hawkins Building located in the Authority's Cyber Park Project – Jennifer H. Burnett, Esq., and Michael C. Guanzon, Esq., Clement Wheatley, Legal Counsel to the Authority
- B. Consideration of Resolution No. 2018-11-13-5B, approving that certain Local Performance Agreement with BGF Industries, Inc., a Delaware corporation, and others, under which the Authority would provide an Industrial Enhancement Grant in the amount of \$245,000 and land in the Authority's Cyber Park project in Danville, Virginia, for a ground lease for new corporate headquarters and research center; and would apply for and disburse certain state grants and state loan, in exchange for capital investments of at least \$7,000,000 and creation of 65 full-time jobs with an average yearly base wage of at least \$75,000 and other capital investments in the Cyber Park project -- Matthew D. Rowe, Director of Economic Development, Pittsylvania County
- C. Consideration of Resolution No. 2018-11-13-5C, approving that certain Local Performance Agreement with Harlow Fastech LLC, and others, under which the Authority would provide an Industrial Enhancement Grant in the amount of \$500,000, residential housing expenses reimbursement in the maximum amount of \$35,000, payment of the first 12 months of base rent, up to \$75,000, under a Hawkins High Bay Lease with the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia, and land in the Authority's Cyber Park project in Danville, Virginia, for a lease for a new manufacturing facility; and would apply for and disburse certain state and private grants and state loan, in exchange for capital investments of at least \$8,000,000 and creation of 49 full-time jobs with an average yearly base wage of at least \$55,000 and other capital investments in the Cyber Park project -- Telly D. Tucker, Director of Economic Development, City of Danville

Danville-Pittsylvania Regional Industrial Facility Authority

- D. Consideration of Resolution No. 2018-11-13-5D, approving that certain Cooperation Agreement with the Industrial Development Authority of Danville, Virginia, a political subdivision of the Commonwealth of Virginia (the "City IDA"), under which the Authority shall donate approximately 10.17 acres or other land located in the Authority's Cyber Park project in Danville, Virginia, in support of Resolution No. 2018-11-13-5C; such Cooperation Agreement shall include among other things, the obligation of the City IDA to record a deed of trust to secure performance by Harlow Fastech LLC, a Virginia limited liability company, under a Local Performance Agreement – Mr. Guanzon and Mr. Tucker
- E. Financial Status Reports as of October 31, 2018 – Michael L. Adkins, CPA, Treasurer of the Authority, and Henrietta Weaver, CPA, City of Danville, Virginia

6. CLOSED SESSION

[During the closed session, all matters discussed shall involve receiving advice from legal counsel, and as such all communications during the closed session shall be considered attorney-client privileged.]

- A. As permitted by Section 2.2-3711(A)(5) of the Code of Virginia, 1950, as amended ("Virginia Code"), for discussion concerning one or more prospective businesses where no previous announcement has been made of that business's interest in locating its facilities in one or more of the Authority's projects located in Pittsylvania County, Virginia, and/or Danville, Virginia;
- B. As permitted by Virginia Code § 2.2-3711(A)(39) for discussion or consideration of records excluded under Virginia Code § 2.2-3705.6(3) (including without limitation (i) those certain confidential proprietary records voluntarily provided by private business pursuant to a promise of confidentiality from the Authority, and used by the Authority for business and trade development and (ii) those certain memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by the Authority, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the Authority); such information being excluded from mandatory disclosure under Virginia Code § 2.2-3705.1(12) (information relating to the negotiation and award of a specific contract pertaining to the Authority's Southern Virginia Mega Site at Berry Hill project, Cyber Park project and/or Cane Creek Centre project, where competition or bargaining is involved and where the release of such information would adversely affect the bargaining power or negotiating strategy of the Authority) and Virginia Code § 2.2-3705.1(8) (appraisals and cost estimates of real property in one or more of the Authority's projects subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease); and
- C. As permitted by Virginia Code §§ 2.2-3711(A)(3) for discussion or consideration of the acquisition and/or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority.

Danville-Pittsylvania Regional Industrial Facility Authority

RETURN TO OPEN SESSION

- D. Confirmation of Motion and Vote to Reconvene in Open Meeting
- E. Motion to Certify Closed Meeting

7. COMMUNICATIONS FROM:

- Authority Board Members
- Staff

- Attendance at Board Meetings via Electronic Communication – Mr. Guanzon; Ms. Burnett

8. ADJOURN

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.:	Item 4
Meeting Date:	11/13/2018
Subject:	Meeting Minutes
From:	Susan M. DeMasi, Authority Secretary

SUMMARY

Attached for the Board's review and approval are the Meeting Minutes from the Tuesday, October 9, 2018 Meeting.

ATTACHMENTS

Meeting Minutes – 10/09/18.

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

October 9, 2018

The Regular Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:10 p.m. on the above date at the Institute for Advanced Learning and Research, 150 Slayton Drive, Room 206, Danville, Virginia. Present were City of Danville Members Fred O. Shanks, III and Alternate J. Lee Vogler; Vice Chairman Sherman M. Saunders was absent. Pittsylvania County Members present were Ronald S. Scarce and Alternate Elton W. Blackstock; Chairman Robert W. Warren, was absent.

City/County staff members attending were: Danville City Manager Ken Larking, City of Danville Director of Economic Development Telly Tucker, Assistant Director of Economic Development Corrie Teague Bobe, Project Manager Kelvin Perry, Pittsylvania County Director of Economic Development Matt Rowe, Assistant County Administrator for Planning & Development Gregory Sides, City of Danville Director of Finance Michael Adkins, City of Danville Senior Accountant Henrietta Weaver, Clement Wheatley Attorney Michael Guanzon and Secretary to the Authority Susan DeMasi. Also present were Brian Bradner and Shawn Harden from Dewberry & Davis.

Secretary to the Authority, Susan DeMasi called the Meeting to order.

RIFA ELECTION FOR TEMPORARY PRESIDING OFFICER

Ms. DeMasi noted that neither the Chairman nor the Vice Chairman were present for this meeting. Accordingly, paragraph 5(a) of Article XI ("Officers") of the Bylaws provides that the Secretary is to conduct an election for the appointment of a temporary presiding officer for this meeting.

The floor was opened to nominations. Mr. Blackstock **nominated** Mr. Shanks as Temporary Presiding Officer; the Motion was **seconded** by Mr. Scarce and carried by the following vote:

VOTE: 4-0
AYE: Scarce, Blackstock, Shanks and Vogler (4)
NAY: None (0)

Mr. Shanks presided.

PUBLIC COMMENT PERIOD

No one desired to be heard.

APPROVAL OF MINUTES FOR THE SEPTEMBER 10, 2018 MEETING AND THE SEPTEMBER 14, 2018 SPECIAL MEETING

Upon **Motion** by Mr. Scarce and **second** by Mr. Vogler, Minutes of the September 10, 2018 Meeting and September 14, 2018 Special Meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

NEW BUSINESS

5A. – CONSIDERATION OF RESOLUTION NO. 2018-10-09-5A APPROVING AMENDMENT NO. 22 RELATED TO THE MEGA PARK MASTER PLAN

Brian Bradner from Dewberry explained the next step in the development of the connector road was to begin and complete the required NEPA environmental study. Funds have been

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

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secured for that study through the Tobacco Commission and also through a VEDP MEI Grant. This proposal includes two things: one, in coordination with staff, they will solicit from qualified firms that have a focus on NEPA, particularly those with experience with VDOT in this region, to help RIFA through this process. Once that is completed, the next step is to have a detailed scoping meeting with VDOT and the Federal Highway Administration. At that meeting, the defined scope of what will be studied in the NEPA process will be defined; Dewberry will come back to RIFA with that detailed process.

Mr. Vogler **moved** for adoption of *Resolution No. 2018-10-09-5A, approving Amendment No. 22, dated October 1, 2018, to Contract dated February 9, 2009, Engineering Services related to the Mega Park Master Plan, (i) to prepare a Request for Proposals (RFP) to solicit qualifications from consultants to assist in preparing a National Environmental Policy Act (NEPA) study and supporting studies for a connector road (U.S. 311) to service the Authority's Southern Virginia Mega Site at Berry Hill project located in Pittsylvania County, Virginia, (ii) to evaluate submissions and (iii) to make a recommendation to the Authority's staff, for a lump sum fee of \$4,500.*

The Motion was **seconded** by Mr. Searce and **carried** by the following vote:

VOTE: 4-0
AYE: Searce, Blackstock, Shanks and Vogler (4)
NAY: None (0)

5B. FINANCIAL STATUS REPORT AS OF SEPTEMBER 30, 2018

Authority Treasurer Michael Adkins gave the Financial Status report as of September 30, 2018 beginning with the Cane Creek Bonds showing no activity for the month of September. General Expenditures for FY 2019 show \$1,440 to Real Estate Consultants of Virginia for the Value Opinion on the Berry Hill acreage, \$14,351 to ADS for the helipad, \$230 for meals and \$31 for monthly utilities. Funding Other than Bonds for Berry Hill show no activity for September, Lot 4 Site Development at Berry Hill shows \$40,500 to Dewberry for the Phase 1 Pad Expansion Work, Lot 8 Site Development shows no activity and Water and Sewer at Berry Hill shows \$11,902 to Dewberry for Amendment #17. Staff has also started requesting local funding related to Tobacco Commission Grant #3011 and have received \$12,080 from Pittsylvania County; the City's equal portion will be forthcoming soon. Rent, Interest and Other Income for September shows \$439 in Interest Income and \$11,370 paid to the Institute for the Hawkins' Building Management Fee; their rent was received in August.

Mr. Vogler **moved** to accept the Financial Report as presented. The Motion was **seconded** by Mr. Searce and carried by the following vote:

VOTE: 4-0
AYE: Searce, Blackstock, Shanks and Vogler (4)
NAY: None (0)

6. CLOSED SESSION

[During the closed session, all matters discussed shall involve receiving advice from legal counsel, and as such all communications during the closed session shall be considered attorney-client privileged.]

At 12:17 p.m. Mr. Blackstock **moved** that the Meeting of the Danville-Pittsylvania Regional

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

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Industrial Facility Authority be recessed in a Closed Meeting for the following purposes:

A. As permitted by Section 2.2-3711(A)(5) of the Code of Virginia, 1950, as amended ("Virginia Code"), for discussion concerning one or more prospective businesses where no previous announcement has been made of that business's interest in locating its facilities in one or more of the Authority's projects located in Pittsylvania County, Virginia, and/or Danville, Virginia;

B. As permitted by Virginia Code § 2.2-3711(A)(39) for discussion or consideration of records excluded under Virginia Code § 2.2-3705.6(3) (including without limitation (i) those certain confidential proprietary records voluntarily provided by private business pursuant to a promise of confidentiality from the Authority, and used by the Authority for business and trade development and (ii) those certain memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by the Authority, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the Authority); such information being excluded from mandatory disclosure under Virginia Code §2.2-3705.1(12) (information relating to the negotiation and award of a specific contract pertaining to the Authority's Berry Hill Mega Site project where competition or bargaining is involved and where the release of such information would adversely affect the bargaining power or negotiating strategy of the Authority) and Virginia Code § 2.2-3705.1(8) (appraisals and cost estimates of real property in the Authority's Berry Hill Mega Site project subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease); and

C. As permitted by Virginia Code §§ 2.2-3711(A)(3) for discussion or consideration of the acquisition and/or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority.

The Motion was **seconded** by Mr. Vogler and carried by the following vote:

VOTE: 4-0
AYE: Scearce, Blackstock, Shanks and Vogler (4)
NAY: None (0)

D. On **Motion** by Mr. Blackstock and **second** by Mr. Scearce and by unanimous vote at 1:21 p.m., the Authority returned to open meeting.

E. Mr. Scearce **moved** for adoption of the following Resolution:

WHEREAS, the Authority convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia, 1950, as amended, requires a Certification by the Authority that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted by the open meeting requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered by the Authority.

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

October 9, 2018

The Motion was **seconded** by Mr. Vogler and carried by the following vote:

VOTE: 4-0

AYE: Scearce, Blackstock, Shanks and Vogler (4)

NAY: None (0)

7. COMMUNICATIONS

Mr. Blackstock thanked staff for their continued work.

Shawn Harden from Dewberry noted several meetings ago, the Board approved Dewberry to re-look at the wetlands at Berry Hill. The Corp went out last week and were able to eliminate a substantial section of wetlands that will allow them to defer to that pad as they wanted to. Mr. Harden explained when they told them the site conditions had changed from being clear cut to having trees growing on it, they expressed interest in re-looking at it.

Mr. Guanzon noted, to confirm, there will be a quorum for the November 12th RIFA meeting; he has noted as being available Mr. Scearce, Mr. Saunders, Mr. Shanks and Mr. Vogler. For a quorum, there needs to be three total members with at least one City member and one County member. The reason staff asked was because of the VACO conference which would be during that time. Mr. Blackstock noted he would be available.

Meeting adjourned at 1:24 p.m.

Chairman

Secretary to the Authority

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.: Item 5A

Meeting Date: 11/13/2018

Subject: Resolution 2018-11-13-5A, approving a Ground Lease with IALR
Jennifer H. Burnett, Esq. and Michael C. Guanzon, Esq.

From: Jennifer H. Burnett, Esq. and Michael C. Guanzon, Esq.
Clement Wheatley

SUMMARY

The Board will be asked to approve Resolution 2018-11-13-5A approving a Ground Lease with the Institute for Advanced Learning and Research for a portion of Parcel 78360.

ATTACHMENTS

Resolution 2018-11-13-5A

Exhibit A

Exhibit B

Exhibit C

Exhibit D

A RESOLUTION APPROVING A GROUND LEASE WITH THE INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA (“IALR”), FOR THE LEASE BY IALR OF A PORTION OF PARCEL 78360 IN THE AUTHORITY’S CYBER PARK PROJECT AND THE CONSTRUCTION THEREON OF THE HAWKINS EXPANSION, TOGETHER WITH RELATED AMENDMENTS TO THE CURRENT LEASES FOR THE SENTEC BUILDING AND THE CHARLES HAWKINS BUILDING LOCATED IN THE AUTHORITY’S CYBER PARK PROJECT

WHEREAS, the Danville-Pittsylvania Regional Industrial Facility Authority (the “**Authority**”) is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act (Virginia Code §§ 15.2-6400 *et seq.*) as amended; and

WHEREAS, at its meeting on August 13, 2018, the Authority adopted Resolution No. 2018-08-13-5A approving a letter agreement with The Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia (“**IALR**”), setting forth the terms and conditions of the Authority’s consent to IALR’s construction, at IALR’s expense, of the Gene Haas Expansion to the Charles Hawkins Building in the Authority’s Cyber Park Project, a fully-executed copy of which is attached hereto as **Exhibit A** (the “**Letter Agreement**”); and

WHEREAS, because IALR now refers internally to what the Letter Agreement defines as the Gene Haas Expansion as the “Hawkins Expansion”, the Gene Haas Expansion will be referred to hereafter as the “Hawkins Expansion”; and

WHEREAS, pursuant to and on the terms set forth in the Letter Agreement previously approved by the Authority, the Authority and IALR have finalized the formal Ground Lease between the Authority and IALR for the Hawkins Expansion, on the terms set forth in **Exhibit B** attached hereto and incorporated herein by this reference (the “**Hawkins Expansion Ground Lease**”), pursuant to which IALR is authorized, at its sole cost and expense, to construct the Hawkins Expansion, to be owned by IALR, and additional parking (referred to as the New Parking Lot), to be owned by the Authority, as described and on the terms and conditions set forth in the Hawkins Expansion Ground Lease, including, without limitation, the payment of annual rent by IALR to the Authority in the amount of \$100.00 and the payment of additional rent by IALR to the Authority in the form of IALR being responsible for the maintenance, repair, or replacement, as necessary, of the New Parking Lot; and

WHEREAS, pursuant to and on the terms set forth in the Letter Agreement previously approved by the Authority, the Authority and IALR have finalized the formal Amendment to the Ground Lease dated as of September 15, 2010, by and between the Authority and IALR for the SEnTeC Project, on the terms set forth in **Exhibit C** attached hereto and incorporated herein by this reference (the “**SEnTeC Lease Amendment**”); and

WHEREAS, pursuant to and on the terms set forth in the Letter Agreement previously approved by the Authority, the Authority and IALR have finalized the formal Second

Resolution No. 2018-11-13-5A

Amendment to Lease Agreement dated as of August 6, 2008, as amended by an Amendment to Lease Agreement dated June 1, 2013, and by an Addendum to Lease Agreement dated July 1, 2013, for the Charles Hawkins Building, on the terms set forth in **Exhibit D** attached hereto and incorporated herein by this reference (the “**Hawkins Lease Amendment**”).

NOW, THEREFORE, BE IT RESOLVED, that

1. The Authority hereby approves the Hawkins Expansion Ground Lease by and between the Authority and IALR as set forth in **Exhibit B** and as reviewed at this meeting, and authorizes and directs its Chairman or Vice Chairman, either of whom may act independently of the other, to execute and deliver the Hawkins Expansion Ground Lease, together with such amendments, deletions or additions thereto as may be approved by the Chairman or Vice Chairman of the Authority, either of whom may act independently of the other, such execution by the Chairman or the Vice Chairman of the Authority to conclusively establish his approval of the Hawkins Expansion Ground Lease and any amendments, deletions or additions thereto.

2. The Authority hereby approves the SEnTeC Lease Amendment by and between the Authority and IALR as set forth in **Exhibit C** and as reviewed at this meeting, and authorizes and directs its Chairman or Vice Chairman, either of whom may act independently of the other, to execute and deliver the SEnTeC Lease Amendment, together with such amendments, deletions or additions thereto as may be approved by the Chairman or Vice Chairman of the Authority, either of whom may act independently of the other, such execution by the Chairman or the Vice Chairman of the Authority to conclusively establish his approval of the SEnTeC Lease Amendment and any amendments, deletions or additions thereto.

3. The Authority hereby approves the Hawkins Lease Amendment by and between the Authority and IALR as set forth in **Exhibit D** and as reviewed at this meeting, and authorizes and directs its Chairman or Vice Chairman, either of whom may act independently of the other, to execute and deliver the Hawkins Lease Amendment, together with such amendments, deletions or additions thereto as may be approved by the Chairman or Vice Chairman of the Authority, either of whom may act independently of the other, such execution by the Chairman or the Vice Chairman of the Authority to conclusively establish his approval of the Hawkins Lease Amendment and any amendments, deletions or additions thereto.

4. The Authority hereby authorizes the Chairman or Vice Chairman of the Authority, either of whom may act independently of the other, to execute and deliver any other and all such further documents as may be reasonably required to carry out and consummate the transactions contemplated in any of the Hawkins Expansion Ground Lease, the SEnTeC Lease Amendment and the Hawkins Lease Amendment, as may be approved by the Chairman or Vice Chairman of the Authority (as the case may be), such execution by the Chairman or Vice Chairman of the Authority (as the case may be) to conclusively establish his approval of such other documents.

5. The Authority hereby directs and authorizes its support staff and other agents to take such other actions and to do all such things as are contemplated in any of the Hawkins Expansion Ground Lease, the SEnTeC Lease Amendment and the Hawkins Lease Amendment,

Resolution No. 2018-11-13-5A

or as they in their discretion deem necessary or appropriate in order to carry out the intent and purposes of these resolutions.

6. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, its agents and representatives, in respect to the Hawkins Expansion Ground Lease, the SEnTeC Lease Amendment and the Hawkins Lease Amendment, and the matters contemplated therein.

7. This Resolution shall take effect immediately upon its adoption.

- # -

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a meeting duly called and held on November 13, 2018, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority this 13th day of November 2018.

Susan M. DeMasi, Secretary
Danville-Pittsylvania Regional Industrial Facility
Authority

(SEAL)

Resolution No. 2018-11-13-5A

Exhibit A
(Letter Agreement)

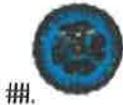
See attached.

Exhibit B
(Hawkins Expansion Ground Lease)

Exhibit C
(SEnTeC Lease Amendment)

Exhibit D
(Hawkins Lease Amendment)

Danville-Pittsylvania Regional Industrial Facility Authority



427 Patton Street, Room 428
Danville, Virginia 24541
(434) 797-8928
(434) 799-5041 – FAX



Sherman M. Saunders, Vice Chairman

Robert W. Warren, Chairman

August 13, 2018

Institute for Advanced Learning and Research
150 Slayton Avenue
Danville, Virginia 24540
Attention: Mark Gignac, Executive Director

Re: Conditional Approval of Gene Haas Expansion in RIFA Cyber Park

Dear Mr. Gignac:

This letter agreement (this "**Agreement**") sets forth the agreement between the Danville-Pittsylvania Regional Industrial Facility Authority, a political subdivision of the Commonwealth of Virginia ("**RIFA**"), and the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia ("**IALR**"), regarding the proposed expansion by IALR of the Charles Hawkins Building located at 230 Slayton Avenue, Danville, Virginia (the "**Charles Hawkins Building**"), to provide a "rapid-launch" space for advanced manufacturers establishing new operations in the region (the "**Gene Haas Expansion**"), as more particularly described in the "Executive Summary of the Gene Haas Expansion Facility in Southern Virginia" attached hereto as Exhibit A and incorporated herein by this reference (the "**Executive Summary**").

Background

The Charles Hawkins Building is located in RIFA's Cyber Park, specifically on Parcel ID No. 78360 (the "**RIFA Land**"). Also located on the RIFA Land, with an address of 228 Slayton Avenue, is the SEnTeC Building (the "**SEnTeC Building**"). RIFA owns the RIFA Land and the Charles Hawkins Building, and IALR owns the SEnTeC Building. RIFA currently leases to IALR the Charles Hawkins Building and that portion of the RIFA Land on which the Charles Hawkins Building is situated, pursuant to that certain Lease Agreement dated August 6, 2008, by and between RIFA and IALR, as amended by that certain Amendment to Lease Agreement dated June 1, 2013, and by that certain Addendum to Lease Agreement dated June 1, 2013 (collectively, the "**Charles Hawkins Lease**"). RIFA currently leases that portion of the RIFA Land on which the SEnTeC Building is situated pursuant to that certain Ground Lease dated September 15, 2010 (the "**SEnTeC Lease**").

Attached hereto as **Exhibit B** and incorporated herein by this reference is a plat showing the location of the Charles Hawkins Building, the SEnTeC Building, the proposed portion of the RIFA Land on which the Gene Haas Expansion will be situated (the "**Gene Haas Expansion Land**"), and the location of the Gene Haas Expansion on the Gene Haas Expansion Land, which will be semi-attached to the Charles Hawkins Building (the "**Expansion Plat**"). Also shown on the Expansion Plat as the shaded area, is the additional parking lot expansion that will need to be constructed in connection with the Gene Haas Expansion (the "**New Parking Lot**"). The existing parking lot is shown on the Expansion Plat adjacent to the New Parking Lot (the "**Existing Parking Lot**").

The RIFA Land and the construction and operation of improvements thereon are governed, in part, by certain grants made by the United States Economic Development Administration of the United States Department of Commerce, including, without limitation, Award 01-01-07639 and Award 01-01-07847 (collectively, the "**EDA Grants**").

The RIFA Land is subject to those certain Restrictive Covenants for the Cyber Park dated September 17, 2004 (adopted September 20, 2004), recorded in the Clerk's Office of the Circuit Court of Danville, Virginia, as Instrument No. 05-1671, as the same may be amended from time to time as set forth therein.

RIFA Consent to Construction of Gene Haas Expansion

Because IALR needs to move forward with obtaining bids for the construction of the Gene Haas Expansion, RIFA has agreed to consent to the construction by IALR of the Gene Haas Expansion, subject to the following terms and conditions previously reviewed and discussed by RIFA and IALR:

New Construction and Gene Haas Expansion Lease:

- IALR is authorized by RIFA to, and IALR shall, construct, at IALR's sole cost and expense, the Gene Haas Expansion and the New Parking Lot, in accordance with the Executive Summary and the Expansion Plat. RIFA and IALR will negotiate in good faith the terms and conditions of a definitive ground lease for the Gene Haas Expansion Land, incorporating therein the terms and conditions agreed to herein (the "**Gene Haas Expansion Lease**"). IALR will own the Gene Haas Expansion (but not the land underneath), and RIFA will own the New Parking Lot. Rent payable by IALR to RIFA under the Gene Haas Expansion Lease will be at fair market value, but expected to be \$100 annually.

Compliance with EDA Grants and Applicable Laws:

- IALR understands and agrees that the construction and operation of the Gene Haas Expansion is subject in all respects to the conditions and requirements of the EDA Grants, which are incorporated herein by this reference and will be incorporated by

reference into the Gene Haas Expansion Lease. IALR represents that it is aware of and is familiar with such conditions and requirements. IALR further understands and agrees that the construction of the Gene Haas Expansion and the New Parking Lot will be performed in a good and workmanlike manner, in accordance with all applicable building code requirements, the requirements of all applicable zoning codes and ordinances, the requirements of the Americans With Disabilities Act, if applicable, and free of all mechanics', materialmen's and/or other laborers' liens.

Other Terms of Gene Haas Expansion Lease; Sublease:

- The Gene Haas Expansion Lease will contain such other standard and customary provisions for a commercial ground lease, substantially similar to the provisions set forth in the SEnTeC Lease. Due to zoning impediments and restrictive covenants, IALR will not be granted an option to purchase the Gene Haas Expansion Land at the expiration of the Gene Haas Expansion Lease. The term of the Gene Haas Expansion Lease will be perpetual, and the Gene Haas Expansion Lease will be assignable only with RIFA's consent, though IALR will be free to sublease space to businesses in the same manner as in the SEnTeC Lease, and provided such subleases comply with the conditions and requirements of the EDA Grants. IALR must provide a copy of each sublease to RIFA within thirty (30) days of the effective date of the sublease, and each sublease must provide that the sublease is subject and subordinate to the requirements of the EDA Grants and the terms and conditions of the Gene Haas Expansion Lease. Notwithstanding any permitted assignment of the Gene Haas Expansion Lease or sublease, IALR must remain primarily responsible under the Gene Haas Expansion Lease and each sublease.

Amendments to Existing Leases:

- Contemporaneous with the execution and delivery of the Gene Haas Expansion Lease, RIFA and IALR agree to execute and deliver appropriate amendments to each of the Charles Hawkins Lease and the SEnTeC Lease addressing the following:

Amendments to Charles Hawkins Lease

Demised Premises Reduced:

- Reduce the Demised Premises thereunder to exclude therefrom (i) the Demised Area under the SEnTeC Lease, as amended as described below, and (ii) the Gene Haas Expansion Land under the Gene Haas Expansion Lease.

Parking Lots as Common Areas:

- The Existing Parking Lot and the New Parking Lot will be located on the reduced Demised Premises under the Charles Hawkins Lease, but they will be

designated as common areas to serve the Charles Hawkins Building, the SEnTeC Building and the Gene Haas Expansion. Maintenance, repair or replacement, as necessary, of the Existing Parking Lot and/or the New Parking Lot will be the responsibility of IALR. IALR will pay additional rent in the form of IALR being responsible for the maintenance, repair, or replacement, as necessary, of both the New Parking Lot and the Existing Parking Lot.

Term; Sublease:

- The term of the Charles Hawkins Lease will remain the same; however, the notice requirement for non-renewal will be amended from ninety (90) days to one (1) year. The amended Charles Hawkins Lease will be assignable only with RIFA's consent, though IALR will be free to sublease space to businesses in the Charles Hawkins Building provided such subleases comply with the conditions and requirements of the EDA Grants. IALR must provide a copy of each sublease to RIFA within thirty (30) days of the effective date of the sublease, and each sublease must provide that the sublease is subject and subordinate to the requirements of the EDA Grants and the terms and conditions of the Charles Hawkins Lease. Notwithstanding any permitted assignment of the Charles Hawkins Lease or sublease, IALR must remain primarily responsible under the Charles Hawkins Lease and each sublease.

Amendments to SEnTeC Lease

Perpetual Lease; Sublease:

- Amend to become a perpetual term ground lease at the same rent and assignable only with RIFA's consent, though IALR will be free to sublease space to businesses in the SEnTeC Building provided such subleases comply with the conditions and requirements of the EDA Grants. IALR must provide a copy of each sublease to RIFA within thirty (30) days of the effective date of the sublease, and each sublease must provide that the sublease is subject and subordinate to the requirements of the EDA Grants and the terms and conditions of the SEnTeC Lease. Notwithstanding any permitted assignment of the SEnTeC Lease or sublease, IALR must remain primarily responsible under the SEnTeC Lease and each sublease.

Demised Area Reduced:

- Amend the definition of the Demised Area to include only that portion of the RIFA Land on which the SEnTeC building is situated, as set forth on the Expansion Plat, and removing from the definition of the Demised Area the

“Leed Boundary” set forth on the plat of the Demised Area currently attached to the SEITeC Lease.

No Option to Purchase:

- Remove the option granted to IALR to purchase the Demised Area, due to zoning impediments and restrictive covenants which prevent the exercise of such option.

Parking Lots as Common Areas:

- The Existing Parking Lot and the New Parking Lot will be designated as common area to serve the Charles Hawkins Building, the SEITeC Building and the Gene Haas Expansion.

Amendments. No amendment or modification of this Agreement shall be valid and binding unless made in writing and signed by the respective authorized representatives of RIFA and IALR.

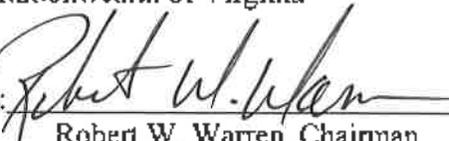
Effect on Existing Leases. Except as amended by this Agreement, all other terms, provisions, and conditions of the Charles Hawkins Lease and the SEITeC Lease shall remain in full force and effect until the amended leases required herein are approved, executed and delivered. The parties hereby ratify and confirm that the Charles Hawkins Lease and the SEITeC Lease, as amended by this Agreement, are and remain in full force and effect.

Conflict. If any of the terms of this Agreement and the terms of either or both of the Charles Hawkins Lease and/or the SEITeC Lease conflict, the terms of this Agreement control.

Please indicate IALR's acceptance of this Agreement by having the appropriate authorized officer or agent of IALR sign this letter as indicated below and return it to RIFA, c/o Susan M. DeMasi, Secretary.

Sincerely,

**DANVILLE-PITTSYLVANIA COUNTY
REGIONAL INDUSTRIAL FACILITY
AUTHORITY**, a political subdivision of the
Commonwealth of Virginia

By: 
Robert W. Warren, Chairman

Institute for Advanced Learning
and Research
August 13, 2018
Page 6

ACCEPTED AND AGREED TO THIS
____ DAY OF _____ 2018:

**INSTITUTE FOR ADVANCED LEARNING
AND RESEARCH**, a political subdivision of the
Commonwealth of Virginia

By: Mark Gignac
Name: MARK GIGNAC
Title: OB-21-18



Gene Haas Expansion Facility

in Southern Virginia

Executive Summary



Executive Summary

The Institute for Advanced Learning and Research (IALR), in concert with regional economic development, proposes to expand the Gene Haas Center on the IALR campus in Danville, Virginia. The proposed expansion is not a stand-alone project, but rather a vital next phase in the region's long-term economic recovery plan. In conjunction with recent investments made in workforce development that provide the region with certified skilled workers, this expansion will provide a more effective platform for successfully recruiting leading-edge manufacturers to the region.

The expansion will involve the establishment of two high bay launch spaces that are connected with the Gene Haas Center and designed to meet the start-up needs of industry. An addition of 13,700 square feet, a \$3.6 million investment will be required and could be completed within one year. It will operate as an extension of the IALR and draw upon the existing organization for managerial and administrative support.

The intent of this expansion is to provide a "rapid-launch" space for advanced manufacturers establishing new operations in the region. It will significantly reduce the traditional startup time it takes businesses to become operational in a new facility (generally 12 to 24 months), often a critical element in the location decision resulting in significant cost savings.

It should be noted that this expansion, while a stand-alone proposal, would complement a larger program involving the building of the Center for Manufacturing Advancement (CMA). The combined total of five rapid-launch labs, three in the new center and two from this expansion, is commensurate with the long-term total demand for this type of space. The advantage of this two-part approach will be to capture both near-term demand through this expansion and longer-term demand through the CMA. Without this expansion, a significant number of near-term economic development prospects may be lost due to lack of available space.

Timing of this project is critical as it builds upon the momentum of the 2013 expansion of the advanced manufacturing training programs at Danville Community College (DCC) and IALR. As a result of these investments, our region is currently attracting significant interest from European manufacturers and this expansion will be critical in capturing these additional opportunities over the next four years and beyond.

Currently, there are eight companies considering a new facility in the region, half of which consider the availability of this type of temporary rapid-launch space a primary consideration in their location decision. Additionally, recent economic development successes have depleted the area's inventory of available shell buildings further exacerbating the need for both a near and long term launch space solution.

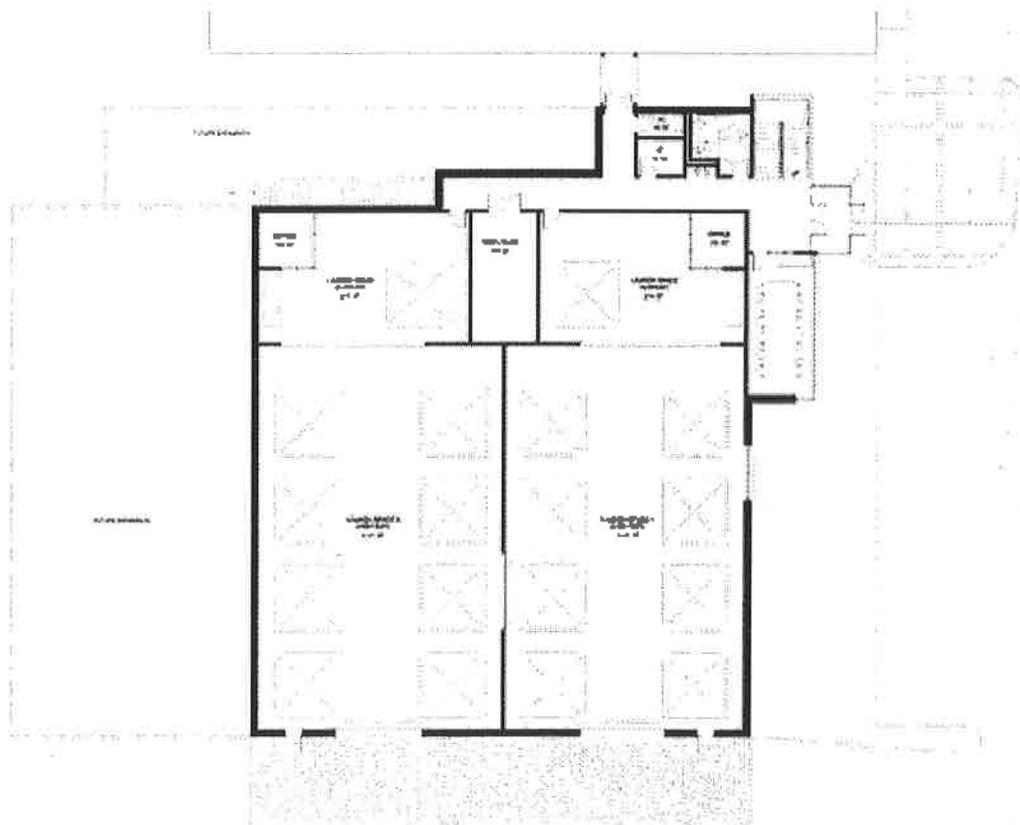
Within the past year, Kyocera SGS choose the region to establish a new manufacturing facility. The facility is currently under construction in the Cyber Park and will be completed by mid 2018. As part of the agreement, IALR provided temporary operating and office space, allowing Kyocera SGS to move forward immediately with hiring, sales efforts, product manufacture and customer demonstrations. The provision of this space was instrumental in winning the project and allowed for a more immediate economic benefit for our region. These experiences have formed a better understanding of what is required for economic development success in the region.

*"The provision of this space at IALR has been critical to Kyocera's success in the region.
Without this support, it would have been very difficult to launch this business"*

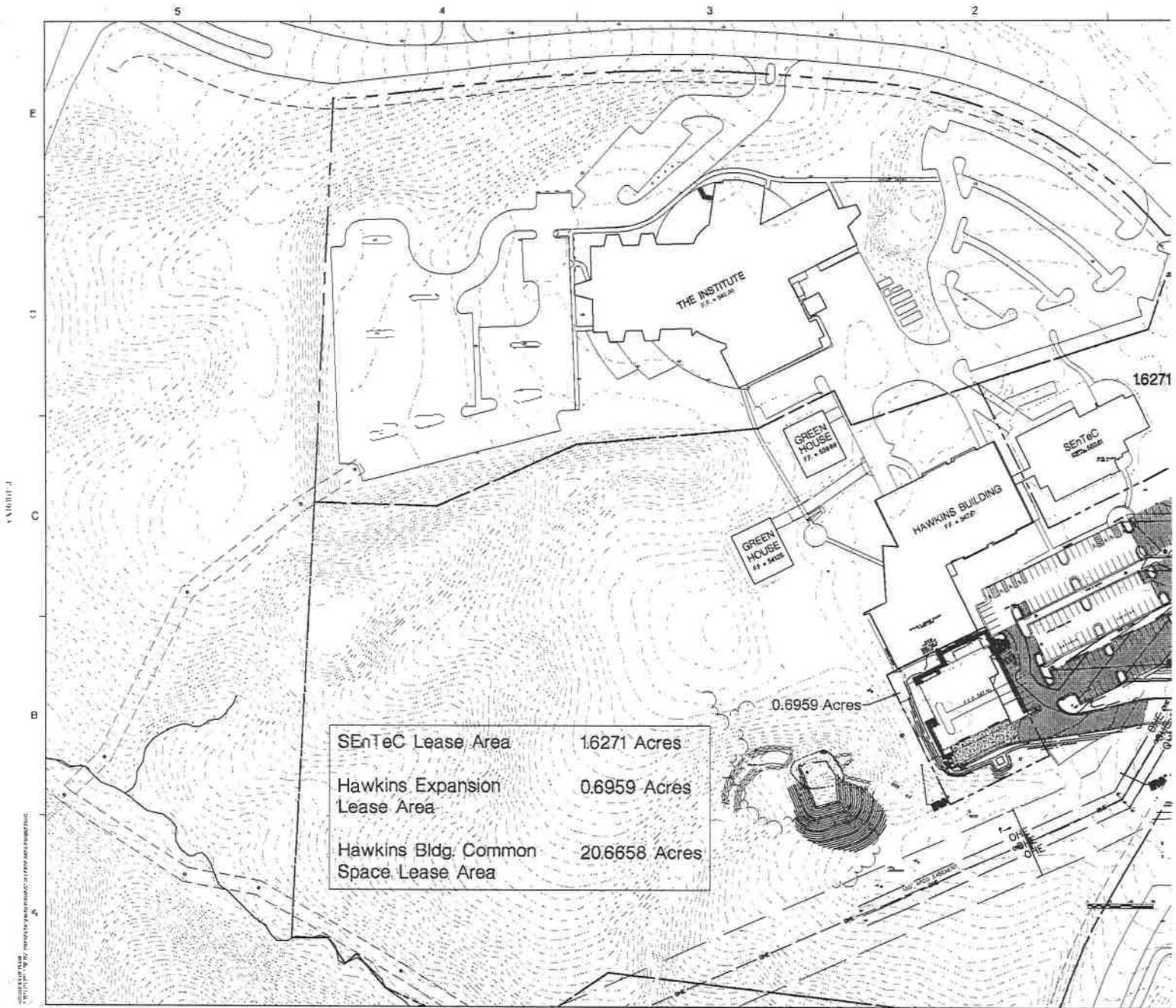
- Jason Wells, President, Kyocera SGS Tech Hub LLC

With demonstrated demand for this type of "rapid-launch" space, we expect this expansion will ignite regional economic development efforts and accelerate the movement of new manufacturing and jobs to the region. Over the next four years it is projected to attract 5 to 6 new companies to the region, creating 300 - 360 direct jobs and 750 - 900 indirect jobs (Totals: 1050 - 1260 new jobs). Over a ten-year period, this could grow to 15 new companies to the region, creating 900 direct jobs and 2250 indirect jobs (Total: 3150 new jobs). The expansion will serve as an extremely powerful economic development tool and provide the region with a significant competitive edge in attracting 21st century manufacturing. It will become an important aspect of the region's pro-business environment as it:

- Becomes a tangible, world-class example of a business friendly environment;
- Builds upon recent investments in workforce development and pipeline growth;
- Significantly increases the number of well-paying jobs;
- Improves the lives of our citizens, industry partners, and the region and state.



FIRST FLOOR - 10,600 SF



GROUND LEASE

THIS GROUND LEASE (“Lease”) is made and entered into as of the ____ day of _____ 2018, by and between **THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**RIFA**”), and **THE INSTITUTE FOR ADVANCED LEARNING AND RESEARCH**, a political subdivision of the Commonwealth of Virginia (“**IALR**”).

WHEREAS, the Danville Regional Foundation (the “**Foundation**”) has awarded a grant (the “**Grant**”) to expand the Charles Hawkins Building located in RIFA’s Cyber Park at 230 Slayton Avenue, Danville, Virginia, on a portion of Parcel 78360 (Parcel 78360 being referred to herein as the “**RIFA Land**”), to provide a “rapid-launch” space for advanced manufacturers establishing new operations in the region (the “**Hawkins Expansion**”); and

WHEREAS, the RIFA Land and the construction of improvements thereon are governed, in part, by certain grants made by the United States Economic Development Administration of the United States Department of Commerce, including, without limitation, Award 01-01-07639 and Award 01-01-07847 (collectively, the “**EDA Grants**”); and

WHEREAS, the RIFA Land is subject to those certain Restrictive Covenants for the Cyber Park dated September 17, 2004 (adopted September 20, 2004), recorded in the Clerk’s Office of the Circuit Court of Danville, Virginia, as Instrument No. 05-1671, as the same may be amended from time to time as set forth therein (the “**Restrictive Covenants**”); and

WHEREAS, RIFA is in general support of the Hawkins Expansion to be constructed upon a portion of the RIFA Land, on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the premises, covenants, and agreements contained herein, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RIFA and IALR mutually covenant and agree as follows:

1. Term. The term of this Lease shall be perpetual (the “**Term**”). Nothing in this Lease will be intended to limit IALR’s use of the remainder of the RIFA Land as permitted in any existing leases between the parties with respect to the RIFA Land or any portion thereof. RIFA represents that it has all requisite power and authority to enter into this Lease and to carry out its obligations hereunder. IALR represents that it has all requisite power and authority to enter into this Lease and to carry out its obligations hereunder.
2. The Demised Area. The “**Demised Area**” shall mean that portion of the RIFA Land, as more particularly described in **Schedule 2**, attached hereto and incorporated herein by this reference (the “**Demised Area Plat**”). RIFA hereby grants to IALR a non-exclusive license to use the common areas on the RIFA

Land serving the Demised Area or otherwise designated by RIFA for the common use of tenants of the RIFA Land or improvements thereon, including without limitation, the existing parking lot and the New Parking Lot (as hereafter defined).

3. Rental. During the Term, IALR will pay to RIFA as annual rental the sum of One Hundred and 00/100 Dollars (\$100.00). IALR shall have the right to prepay rent for the entire Term. IALR will pay additional rent in the form of IALR being responsible for the maintenance, repair, or replacement, as necessary, of the New Parking Lot.
4. Use of the Demised Area. The Demised Area will be used and occupied by IALR (or its authorized subtenant(s) or assignee(s)) for a research and/or development facility as set forth in the Grant (as the same may be modified from time to time with the consent of the Foundation). The use of the Demised Area also will be consistent with (i) all applicable zoning ordinances of the City of Danville, Virginia (the “City”), (ii) the conditions and requirements of the EDA Grants and (iii) the conditions and requirements of the Restrictive Covenants. IALR represents that it is aware of and is familiar with such conditions and requirements, all of which are incorporated herein by this reference.
5. Utilities. IALR will pay or cause to be paid, on a timely basis, directly to the provider thereof, all costs and charges for electricity, gas, sewer, heat, water, and all other utilities to the extent used by IALR on the Demised Area, and all taxes or charges imposed by the City or any other governmental or quasi-governmental units on such utility services which are used on or attributable to the Demised Area during the Term.
6. Authority to Construct Building and Parking Lot as Part of Hawkins Expansion. IALR will be authorized during the Term to construct or to have constructed a facility on the Demised Area as set forth in the Demised Area Plat, and additional parking on the RIFA Land as designated by the shaded parking lot area on the Demised Area Plat (the “**New Parking Lot**”), all at IALR’s expense, as IALR deems appropriate. Construction of the Hawkins Expansion will be performed and completed substantially in accordance with the plans and specifications attached hereto as Schedule 6 and incorporated herein by this reference (the “**Plans and Specifications**”), provided, IALR may reduce the size and scope of the Hawkins Expansion Building and/or the New Parking Lot as it deems necessary so that the reasonably anticipated cost of the Hawkins Expansion will be equal to or less than the amount of the Grant, and further provided the Foundation approves the final construction budget for the Hawkins Expansion. For clarity, IALR will have no obligation to construct the Hawkins Expansion unless the project is funded by the Grant or other available grant funds. Construction of the Hawkins Expansion will be performed and completed in accordance with the requirements of the Grant (as the same may be modified from time to time with the consent of the Foundation), all applicable building code

requirements, the conditions and requirements of the EDA Grants, the conditions and requirements of the Restrictive Covenants, the requirements of any applicable zoning codes or ordinances, and if applicable, the requirements of the Americans with Disabilities Act. IALR will timely pay for all construction and will keep the Demised Area and the RIFA Land free from mechanics', materialmen's, and/or other laborers' liens as a result of any construction performed by or on behalf of IALR on any portion of the Demised Area or the RIFA Land in connection with the construction of the New Parking Lot, during the Term. In the event that any such lien is filed against any portion of the Demised Area or the RIFA Land in connection with the construction of the New Parking Lot, IALR will, within sixty (60) days after receipt by IALR of notice of such lien, either (a) pay to such lien claimant such sums as are necessary to release such lien in full, or (b) if IALR desires to contest all or any portion of such lien, either: (i) post bond before the Danville Circuit Court sufficient to release such lien of record, or (ii) obtain a bond from a bank or insurance company reasonably acceptable to RIFA. IALR will cause all work performed in the construction on any portion of the Demised Area or on the RIFA Land in connection with the construction of the New Parking Lot, to be performed in a good and workmanlike manner, in conformity with all applicable requirements of law. All improvements constructed on, located on, or affixed to the Demised Area which are constructed or caused to be constructed by or on behalf of IALR during the Term will be owned by IALR. RIFA will own the New Parking Lot and all improvements constructed, located on, or affixed to the RIFA Land in connection therewith. RIFA, at IALR's expense, will reasonably cooperate with IALR in obtaining all permits needed to develop, construct and operate any such improvements on the Demised Area. IALR will have the right to make alterations to the initial improvements on the Demised Area during the Term and to construct new structures on the Demised Area as it deems appropriate, provided that all such alterations and improvements conform to the same requirements and conditions set forth herein with respect to the initial construction. At the end of the Term, IALR shall have the right to leave or remove, at IALR's expense, all such improvements and alterations constituting equipment, fixtures, machinery, and all other personal property; provided, however, IALR, at its expense, shall promptly repair all damages to the Demised Area as a result of such removal.

7. General Indemnification. Except for any claims resulting from the negligent acts of RIFA or its employees and agents (collectively, or individually, a "**RIFA Protected Party**"), IALR will, to the maximum extent allowable by law and without waiving sovereign immunity, indemnify and hold harmless RIFA, its directors, employees and agents, from any and all suits, actions, damages, claims, judgments, costs, liabilities, and expenses in connection with loss of life, bodily or personal injury, or property damage arising from or out of (a) any occurrence in, upon, or from the Demised Area or any improvements thereon, regardless of the person or entity alleged to be responsible for such damage or injury; (b) the use by IALR of the Demised Area occasioned in whole or in part by any act or omission by IALR, its agents, contractors, employees, servants, invitees,

licensees, or subtenants; or (c) any action, activity, or use by IALR of any portion of the Demised Area, occasioned in whole or in part by any act or omission by IALR, its agents, contractors, employees, servants, invitees, licensees, or subtenants. IALR will agree to give prompt notice to RIFA in case of any fire or acts of God on the Demised Area, or any claims by third parties concerning defects in the Demised Area, or any fixtures or equipment located thereon. If any RIFA Protected Party is made a party to any litigation for which indemnification by IALR is required under this Lease, then IALR will pay all costs, expenses, and reasonable attorneys' fees which may be incurred by such RIFA Protected Party as a result of such litigation; provided, however, that should IALR, at its expense or at the expense of any insurance carrier, provide counsel for such RIFA Protected Party reasonably acceptable to such RIFA Protected Party or its insurer for such claim, then any additional counsel employed by such RIFA Protected Party in such claim will be solely at the expense of such RIFA Protected Party. IALR agrees to promptly notify RIFA of any claim, action, proceeding, or suit instituted or threatened in writing against IALR or RIFA, for which IALR has received written notice, with respect to or arising out of the Demised Area.

8. Casualty Insurance. Prior to IALR or its authorized subtenant's taking occupancy, IALR, at IALR's sole expense, will maintain throughout the Term, fire and extended coverage insurance covering all improvements on the Demised Area, in an amount equal to the replacement costs of all such improvements on the Demised Area. Such insurance will be maintained with an insurer licensed to issue such insurance in the Commonwealth of Virginia, and such insurance will name both IALR and RIFA as insureds thereunder ("**Casualty Insurance**"). Upon reasonable request prior to taking occupancy, IALR will provide to RIFA a certificate of insurance evidencing that such Casualty Insurance is in full force and effect. Any such Casualty Insurance policy will also provide that such Casualty Insurance will not be cancelled or the coverage thereunder modified before the expiration of thirty (30) days after notice of such termination, cancellation, or modification is sent by such Casualty Insurance carrier to RIFA. In the event of any termination of such Casualty Insurance coverage, prior to the effective date of such termination, IALR will obtain a substitute Casualty Insurance policy so that coverage is continuous throughout the Term. IALR will, upon reasonable request by RIFA, provide to RIFA a certificate of insurance verifying that the required Casualty Insurance remains in full force and effect. In the event of a fire or other casualty which damages or destroys any improvements on the Demised Area, the proceeds of the Casualty Insurance will be utilized by IALR to repair, restore or rebuild, as the case may be, such improvements, unless otherwise consented by RIFA, which consent will not be unreasonably withheld, conditioned, or delayed.
9. Liability Insurance. Throughout the Term, IALR will maintain comprehensive general liability insurance, at IALR's sole expense, covering all conditions and operations on or upon the Demised Area, with minimum coverage in the amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars

(\$3,000,000) in the aggregate, or such other lesser amount as is acceptable to RIFA (“**Liability Insurance**”). Such Liability Insurance will be provided by an insurance carrier licensed to issue such coverage in the Commonwealth of Virginia and will name both IALR and RIFA as insureds thereunder. Upon reasonable request prior to taking occupancy, IALR will provide to RIFA a certificate of insurance evidencing that such Liability Insurance is in full force and effect. Any such Liability Insurance policy will also provide that such Liability Insurance will not be cancelled or the coverage thereunder modified before the expiration of thirty (30) days after notice of such termination, cancellation, or modification is sent by such Liability Insurance carrier to RIFA. In the event of any termination of such Liability Insurance coverage, prior to the effective date of such termination, IALR will obtain a substitute Liability Insurance policy so that coverage is continuous throughout the Term. IALR will, upon reasonable request by RIFA, provide to RIFA a certificate of insurance verifying that the required Liability Insurance remains in full force and effect.

10. Builder’s Risk Insurance. At any time during the Term that IALR, its contractors, or agents are performing any new construction, excluding customary ordinary maintenance and repairs, major repairs, minor modifications, and landscaping, on any portion of the Demised Area or the RIFA Land in connection with the construction of the New Parking Lot, then, in addition to the Casualty Insurance otherwise required by this Lease, IALR will provide (directly or through its contractors) builder’s risk insurance in the minimum amount of the costs of such construction, which builder’s risk insurance will name IALR and RIFA as insureds thereunder; and at the written request of RIFA, IALR will provide reasonable evidence that such coverage is in full force and effect during such construction periods.
11. Destruction. In the event of any fire or other casualty causing damage to any improvements on the Demised Area, such damage or destruction will not result in a termination of this Lease and this Lease will remain in full force and effect.
12. Maintenance. As consideration for the terms of this Lease, IALR agrees, at its expense, to maintain throughout the Term all of the parking areas, landscaped areas, and all improvements located on the Demised Area, and the New Parking Lot, in the manner hereafter set forth in this paragraph, and to repair and replace, as necessary, the New Parking Lot. The parties understand and agree that RIFA will have no maintenance responsibilities whatsoever, with respect to the parking areas, landscaped areas, the improvements, any other portion of the Demised Area, or the New Parking Lot, and all such maintenance will be solely at IALR’s expense. With respect to the Demised Area, IALR agrees to maintain throughout the Term the parking areas, landscaped areas, and all improvements on the Demised Area, including both the interior and exterior thereof, all plumbing, heating, air conditioning, and electrical systems, and the New Parking Lot, in good operating condition. Within thirty (30) days after the issuance of a temporary or permanent Certificate of Occupancy for the initial construction,

IALR will have provided to RIFA one copy of all drawings, written specifications, warranty documentation, and any other available documents relating to the Hawkins Expansion construction, including but not limited to all plumbing, heating, air conditioning, and electrical systems.

13. Collateral Assignments and Leasehold Mortgages.

- a. No Prohibition. For the purposes of this paragraph, neither the assignment of IALR's interest to an institutional lender as collateral security (the **"Collateral Assignment"**) nor the making of a Leasehold Mortgage (as hereinafter defined) will be deemed to constitute an assignment or transfer of this Lease or the subletting of the leasehold estate hereby created, nor will any Collateral Assignee (as hereinafter defined) or Leasehold Mortgagee (as hereinafter defined), as such, be deemed an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Collateral Assignee or Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of IALR to be performed hereunder, but the assignee or purchaser at any sale of this Lease and of the leasehold estate hereby created under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage, neither of which will require the consent of RIFA, will be deemed to be an assignee or transferee within the meaning of this paragraph and will be deemed to have assumed the performance of all of the post-assignment or post-purchase terms, covenants and conditions on the part of IALR to be performed hereunder. All obligations of IALR under this Lease accruing before such assignment or purchase shall remain those of IALR.

- b. Loan Obtained by IALR. IALR, at its option, will have the unlimited and unrestricted right, at any time and from time to time, at IALR's own expense, to negotiate and obtain a loan or loans which will be secured by an assignment or a mortgage of all or any part of IALR's interest in this Lease (including IALR's interest in any improvements or fixtures constructed on the Demised Area and any equipment or other personal property owned, leased or otherwise used by IALR in connection with the Hawkins Expansion). Upon written request, RIFA will promptly execute and deliver to IALR (a) an attornment and non-disturbance agreement in the form reasonably requested by IALR's lender for the benefit of IALR and any permitted/authorized sublessees/subtenants of IALR, and (b) a waiver of RIFA's landlord and related liens in respect of any trade fixtures, other fixtures and personal property of IALR. Unless otherwise agreed to by RIFA in writing, any such loan shall be subordinate to this Lease, and RIFA shall have no obligation to subordinate this Lease and/or its rights hereunder and in the Demised Area to any such loan or to any lender in connection with any such loan.

- c. Notice to RIFA of Collateral Assignment or Leasehold Mortgage. Upon any Collateral Assignment or the placing of a Leasehold Mortgage, IALR will notify RIFA thereof, and of the address of the assignee of IALR's interest in the Lease (the "**Collateral Assignee**") or the holder of the Leasehold Mortgage (the "**Leasehold Mortgagee**"), as the case may be, to which notices will be sent. So long as a Collateral Assignment or a Leasehold Mortgage is in effect, then (i) no alteration, amendment or modification of this Lease will be effective without the prior written consent of such Collateral Assignee or Leasehold Mortgagee, (ii) no termination of this Lease by IALR, other than from default by IALR, will be effective without the prior written consent of the Collateral Assignee or Leasehold Mortgagee, and (iii) RIFA will not accept a surrender of the Demised Area or a cancellation of this Lease from IALR prior to the expiration or termination of this Lease without the prior written consent of the Collateral Assignee or Leasehold Mortgagee. For purposes hereof, the Foundation shall be deemed a Leasehold Mortgagee until the Foundation certifies in writing that all of the terms of the Grant have been satisfied and that IALR has been released from all further obligations under the Grant or until the Foundation (or its successor) is no longer in existence, whichever is earlier.
- d. Notice by RIFA to Collateral Assignee or Leasehold Mortgagee. When giving notice to IALR with respect to any default of IALR in accordance with the terms and provisions hereof, RIFA will also serve a copy of such notice upon each Collateral Assignee or Leasehold Mortgagee (of whose existence RIFA has been notified in writing by IALR), and no such notice to IALR will be effective unless and until a copy of such notice is given to the Collateral Assignee or Leasehold Mortgagee in the manner described in this Lease at the address for such Collateral Assignee or Leasehold Mortgagee last given in writing to RIFA. Each Collateral Assignee or Leasehold Mortgagee will have the same period after the giving of said notice to such Collateral Assignee or Leasehold Mortgagee for remedying the defaults or causing the same to be remedied as is given IALR after notice to IALR. Upon the occurrence of any default by IALR and the giving of the notice and the passage of any applicable cure period without such default having been cured, Collateral Assignee or Leasehold Mortgagee will have the right to cure such default, whether the same consists of failure to pay the rental or failure to make any other payment or to perform any other matter or thing which IALR is hereby required to do or perform, and RIFA will accept such performance on the part of the Collateral Assignee or Leasehold Mortgagee as though the same had been done or performed by IALR. In the case of any default by IALR, other than in the payment of money hereunder, RIFA will take no action to effect a termination of this Lease without first giving to the Collateral Assignee or Leasehold Mortgagee thirty (30) days within which either (i) to obtain possession of the Demised Area (including possession of a

receiver) and cure such default in the case of a default which is susceptible of being cured when the Collateral Assignee or Leasehold Mortgagee has obtained possession, or (ii) to institute foreclosure proceedings and complete such foreclosure, or otherwise acquire IALR's interest under this Lease, with diligence and continuity in the case of a default which is not susceptible of being cured by the Collateral Assignee or Leasehold Mortgagee; provided, however, that the Collateral Assignee or Leasehold Mortgagee will not be required to continue such possession or continue such foreclosure proceedings if the default which will have been the reason for effecting a termination of this Lease will preclude RIFA from exercising any rights and remedies under this Lease with respect to any other default by IALR during any period of such forbearance, subject to the provisions hereof. Any Collateral Assignee or Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its Leasehold Mortgage, or as a result of the assignment of this Lease in lieu of foreclosure.

- e. New Lease. In the event of the termination of this Lease prior to its stated expiration date, RIFA will give the Collateral Assignee or Leasehold Mortgagee notice of such termination. RIFA will enter into a new lease of the Demised Area with the Collateral Assignee or Leasehold Mortgagee or the holders of notes secured by the Collateral Assignment or Leasehold Mortgage held by such Collateral Assignee or Leasehold Mortgagee, or, at the request of such Collateral Assignee or Leasehold Mortgagee, to such other person as such Collateral Assignee or Leasehold Mortgagee will designate, for the remainder of the Term, effective as of the date of such termination of such prior lease, at the rental and upon the covenants, agreements, terms, conditions and limitations herein contained, provided that such Collateral Assignee or Leasehold Mortgagee makes written request upon RIFA for such new lease within fifteen (15) days from the date of notice of such termination and such written request is accompanied by payment to RIFA of all amounts then due to RIFA under this Lease.

- f. Definition of Leasehold Mortgage. The term "**Leasehold Mortgage**" shall include mortgage, deed of trust or other such classes of instruments as are commonly given to secure advances on, or the unpaid purchase price of, real estate and leasehold interests under the laws of the Commonwealth of Virginia and/or the credit instruments, if any, secured thereby. Moreover, Leasehold Mortgage shall also include any regulatory or similar agreement, whether or not recorded in the land records, between IALR or any of its affiliates and the Foundation pertaining to the Grant, the conditions thereof, and the use of the Grant proceeds. Unless otherwise agreed to by RIFA in writing, any Leasehold Mortgage shall be subordinate to this Lease, and RIFA shall have no obligation to subordinate this Lease and/or its rights hereunder and in the Demised Area

to the Leasehold Mortgage or to any Leasehold Mortgagee, including the Foundation.

14. Eminent Domain.

- a. Substantial Taking. In the event that a Substantial Portion (as hereafter defined) of the Demised Area shall be taken for public improvements or otherwise under the exercise of the right of eminent domain, then upon such taking, IALR will have the right to terminate this Lease. RIFA will deliver written notice of such taking to IALR within sixty (60) days after such taking, and IALR will have thirty (30) days after such notice from RIFA in which to notify RIFA that IALR wishes to terminate this Lease. If IALR elects not to terminate this Lease, this Lease will automatically be deemed amended so that the Demised Area describes only the portion of the Demised Area remaining after such taking, without any abatement of rent, and RIFA agrees to apply the award RIFA receives in accordance with the provisions of paragraph 14(b) below. Any award as a result of the taking of the Demised Area (or portion thereof) by eminent domain will be paid to and belong to RIFA and any award as a result of the taking of the improvements constructed by or on behalf of IALR will be paid to and belong to IALR. For these purposes, “**Substantial Portion**” shall mean either (a) a taking of any portion of any improvements on the Demised Area or any taking which materially adversely affects access to the Demised Area or (b) a taking of any portion of any improvements to the Demised Area that will cause IALR to be unable to carry on its business in its usual and customary manner as determined in the reasonable judgment of IALR. IALR will have the right to participate in any condemnation proceedings and be represented by counsel for the purpose of protecting IALR’s interests under this Lease. Furthermore, IALR will be able to make a separate claim to the condemning authority for the value of IALR’s inventory, removable trade fixtures, machinery, moving expenses, and business damages and loss of IALR’s beneficial interest under this Lease, provided that the making of such claim or claims does not adversely affect or diminish RIFA’s award for the value of the land.
- b. Partial Taking. If only a portion of the Demised Area is taken by eminent domain proceedings and such portion taken does not constitute a Substantial Portion of the Demised Area as defined in paragraph 14(a) above, or IALR has elected to continue this Lease despite a taking which constitutes a Substantial Portion, this Lease will not terminate and rent will not abate, and this Lease will continue in full force and effect; provided, however, that any award for such partial taking will be applied in the following order: (i) RIFA and IALR will be reimbursed for any actual out-of-pocket costs incurred in obtaining such award; (ii) the costs to retrofit the remainder of the Demised Area and improvements as is

necessary for their intended use under this Lease will be paid out of the award, solely from the condemning authority; and (iii) the remainder will be paid to RIFA for the portion of the Demised Area taken and to IALR for the portion of the improvements taken. IALR will be able to make a separate claim to the condemning authority for the value of IALR's inventory, removable trade fixtures, machinery, moving expenses, and business damages and loss of IALR's beneficial interest under this Lease, provided that the making of such claim or claims does not adversely affect or diminish RIFA's award for the value of the land.

15. Remedies on IALR's Default.

- a. IALR's Default. In the event that IALR: (i) does not cease all conduct prohibited hereby within thirty (30) days following receipt of written notice from RIFA; (ii) fails to remedy IALR's failure to perform any of the terms, covenants, and conditions of this Lease within thirty (30) days following receipt of written notice from RIFA; (iii) commits an uncured act in violation of this Lease, and such violation is not cured within thirty (30) days following receipt of written notice from RIFA; (iv) is adjudicated bankrupt or insolvent by a court of competent jurisdiction, files any debtor proceeding, takes or has taken against IALR any petition of bankruptcy, takes action or has action taken against IALR for the appointment of a receiver for all or a portion of IALR's assets, files a petition for a corporate reorganization, makes an assignment for the benefit of creditors, or if in any other manner IALR's interest hereunder shall pass to another by operation of law (any or all of the occurrences in this paragraph 15(a)(iv) shall be deemed a default on account of bankruptcy for the purposes hereof and such default on account of bankruptcy shall apply to and include any guarantor of this Lease); (v) commits waste to the Demised Area without cure or restoration within the respective required time frame; (vi) fails to meet or is not in compliance with all of the requirements of the Grant (as the same may be modified from time to time with the consent of the Foundation) and all applicable cure periods, if any, under the Grant have expired; or (vii) is otherwise in breach of IALR's obligations hereunder and shall not have cured same within thirty (30) days following written notice from RIFA; then IALR will be in default hereunder and RIFA may, at its option and without further notice to IALR, terminate IALR's right to possession of the Demised Area and without terminating this Lease re-enter and resume possession of the Demised Area, and/or declare this Lease terminated, and may thereupon in either event remove all persons and property from the Demised Area, in accordance with the laws of the Commonwealth of Virginia. If any of the defaults described above are of a nature that they cannot through the exercise of diligent and reasonable efforts be cured within the time frames allotted above, then IALR will not be in default in

such instance if IALR promptly commences and diligently pursues the cure of such default(s).

- b. Bankruptcy. If RIFA shall not be permitted to terminate this Lease, as hereinabove provided, because of the provisions of Title 11 of the United States Code relating to Bankruptcy, as amended, then IALR, as a debtor-in-possession or any trustee for IALR, agrees to promptly, within no more than sixty (60) days upon request by RIFA to the United States Bankruptcy Court, assume or reject this Lease. IALR further agrees that IALR, on its behalf and any trustee for IALR, shall not seek or request any extension or adjournment of any application to assume or reject this Lease by RIFA with such Court. In such event, IALR or any trustee for IALR may only assume this Lease if it: (i) cures or provides adequate assurance that the trustee shall promptly cure any default hereunder; (ii) compensates or provides adequate assurances that IALR shall promptly compensate RIFA for any actual pecuniary loss to RIFA resulting from IALR's defaults; and (iii) provides adequate assurance of performance during the Term of all of the terms, covenants, and provisions of this Lease to be performed by IALR. In no event after the assumption of this Lease shall any then-existing default remain uncured for a period in excess of the earlier of ten (10) days or the time period set forth herein.
 - c. Legal Remedies. The parties agree that the remedies provided in this Lease in the event of default on the part of IALR are in addition to and not in lieu of any other remedies or relief made available to IALR under applicable state law, which latter remedies or relief shall be likewise available to RIFA in the event of a breach of any of the terms of this Lease.
 - d. Attorneys' Fees. Upon the occurrence of a default by IALR as defined in paragraph 15(a) above, if RIFA employs or retains legal counsel to enforce the terms of this Lease as a result of such default, whether such employment requires institution of suit or other legal services required to secure compliance on the part of IALR, IALR shall be responsible for and shall promptly pay to RIFA the reasonable attorneys' fees incurred by RIFA. With respect to any other disputes or claims by either party under or pursuant to this Lease which result in any legal proceedings concerning such disputes, the parties agree that the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees incurred in such action.
16. Hazardous Materials. IALR will not cause or permit the storage, use, generation, release, or disposition of any Hazardous Materials in, on, or about the Demised Area, in violation of any Environmental Laws, by IALR, its agents, employees, contractors, guests, licensees, or invitees present on the Demised Area during the Term. Notwithstanding the foregoing, IALR may use and store on the Demised

Area any chemicals, solvents, or other materials customarily used in the ordinary course of IALR's business and for such uses of the Demised Area permitted in this Lease, so long as such substances are used and handled as prescribed by the manufacturer(s) thereof and in accordance with all requirements of applicable law, and are kept on the Demised Area only in such quantities as reasonably necessary for IALR's business and stored in a proper and legal manner. IALR will not permit the Demised Area to be used or operated in a manner that may cause any portion of the Demised Area to be contaminated by any Hazardous Materials in violation of any Environmental Laws. IALR will immediately inform RIFA in writing of (1) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Environmental Laws relating to any Hazardous Materials affecting the Demised Area; and (2) all claims made or threatened by any third party against IALR, RIFA, and/or the Demised Area relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Materials on or about the Demised Area. Without RIFA's prior written consent, IALR will not take any remedial action or enter into any agreements or settlements in response to the presence of any Hazardous Materials, in, on or about the Demised Area. IALR shall also provide, during the Term, reasonable policing of the Demised Area as will be customary or reasonable for a business owner of the same type as IALR operating from premises owned by such business. To the maximum extent allowable by law and without waiving sovereign immunity, IALR will be solely responsible for and will defend, indemnify and hold RIFA, its agents, and employees harmless from and against all claims, costs, expenses, damages, and liabilities, including attorneys' fees and costs, arising out of or in connection with (i) IALR's breach of its obligations in this paragraph, and (ii) the removal, cleanup, and restoration work and materials necessary to remediate any such breach in a manner which properly removes all Hazardous Materials from the Demised Area placed on the Demised Area in violation of IALR's obligations hereunder. IALR's obligations under the paragraph will survive the expiration or other termination of this Lease. For the purposes of this Lease, "**Hazardous Materials**" shall mean polychlorinated biphenyls, petroleum, flammable explosives, radioactive materials, asbestos and any hazardous, toxic or dangerous waste, substance or material defined as "**Regulated Substances**", "**Toxic Substances**", "**Hazardous Chemicals**", "**Hazardous Materials**", "**Hazardous Substances**", or similar terms, in any Environmental Law or listed as such by the Environmental Protection Agency. For the purposes of this Lease, "**Environmental Law**" shall mean any and all federal, state or local laws, statutes, ordinances, regulations, orders or decrees for the protection of human health, the environment or public safety, now in existence or hereafter promulgated, including without limitation the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. §§ 6901 *et seq.*, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §§ 9601-9657 as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), the Hazardous Materials Transportation Authorization Act of 1994, 49 U.S.C. §§ 5101 *et seq.*, the Federal

Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, the Clean Air Act, 42 U.S.C. §§ 741 *et seq.*, the Clean Water Act, 33 U.S.C. § 7401, the Toxic Substance Control Act, 15 U.S.C. §§ 2601-2629, the Safe Drinking Water Act, 42 U.S.C. § 300(f)-(j), the Chesapeake Bay Preservation Act, the Solid Waste Disposal Act, the Endangered Species Act of 1973, and any and all state or federal wetlands control acts, and any successor provisions of law as the same may be amended from time to time.

17. General Provisions.

- a. RIFA's Right of Entry. During the Term, RIFA reserves the right at (i) reasonable times during normal business hours upon at least 48 hours notice to IALR, and (ii) such other reasonable times during an emergency requiring first responders with reasonable notice to IALR, to enter the Demised Area for the purpose of inspecting and examining the same and to ensure compliance by IALR with its obligations under this Lease. RIFA and its agents shall use reasonable care not to materially disturb IALR or IALR's business during any such inspection or examination of any improvements on the Demised Area. If necessary due to the nature of the research work being conducted by IALR on the Demised Area, IALR may restrict RIFA's access to certain areas in the building or require that RIFA be escorted by IALR personnel, except for an emergency requiring first responders. Nothing herein contained, however, shall be deemed or construed to impose upon RIFA any obligation, responsibility or liability whatsoever for the care, maintenance or repair of improvements on the Demised Area, or any part thereof.
- b. Quiet Enjoyment. RIFA agrees that IALR shall lawfully and peaceably have, hold, possess, use and occupy and enjoy the Demised Area during the Term, without hindrance disturbance or molestation from RIFA, subject to the specific provisions of this Lease.
- c. Waiver. Waiver by RIFA of any default, breach, or failure of IALR under this Lease shall not be construed to be a waiver of any subsequent or different default, breach, or failure. In case of a breach by IALR of any of the covenants or undertakings of IALR, RIFA nevertheless may accept from IALR any payment or payments hereunder without in any way waiving any of RIFA's right upon default for any other breach or lapse which was in existence at the time such payment or payments were accepted by RIFA.
- d. Liability of RIFA. Notwithstanding any provision of this Lease to the contrary, the liability of RIFA under this Lease will be limited to its interest in the Demised Area and there will be no recourse under this Lease to any other assets or properties of RIFA whether now owned or hereafter acquired.

- e. Memorandum of Lease. Contemporaneously with the execution of this Lease, the parties will execute a Memorandum of Ground Lease in the form attached hereto as **Schedule 17(e)**. IALR will be entitled, at IALR's expense, to record the Memorandum of Ground Lease.
- f. Further Assurances. The parties agree to execute such further documents and undertake such further acts as may reasonably be necessary, in good faith, to carry out the purposes of this Lease, the Grant, and the Award and to assist IALR in obtaining leasehold title insurance.
- g. Assignment; Subletting. Neither this Lease nor IALR's rights hereunder may be assigned by IALR without RIFA's prior written consent, which consent may be withheld in RIFA's sole and absolute discretion. Notwithstanding the foregoing, IALR may lease space in the Hawkins Expansion facility to third parties, provided that each such sublease complies with the conditions of the Grant and the EDA Grants, and provides that such sublease is subject and subordinate to the requirements of the Grant and the EDA Grants and the terms and conditions of this Lease. IALR must provide a copy of any authorized sublease to RIFA within thirty (30) days of the effective date of such sublease. Notwithstanding any permitted assignment or authorized sublease hereunder, IALR must remain primarily responsible to RIFA under this Lease and each authorized sublease.
- h. Gender and Number. Throughout this Lease, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.
- i. Counterparts. This Lease may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Lease.
- j. Limitation on IALR's Obligations. IALR's agreement to indemnify or to otherwise hold harmless RIFA, including without limitation under Sections 7 and 16, are or may be subject to limitation(s) imposed or provided by law. IALR makes all such agreements to indemnify or hold harmless only to the extent permitted by applicable law and only to the extent IALR is covered by insurance in the amount claimed by RIFA. Nothing in this Lease, including without limitation any and all indemnification and hold harmless provisions, is intended to, or shall be construed as having the effect of, waiving the sovereign immunity of IALR as a political subdivision of the Commonwealth. The limitations set forth in this Section 17(j) are for the sole benefit of IALR and shall

not be transferred or otherwise assigned to, by operation of law or otherwise, nor inure to the benefit of, any assignee, successor or sublessee of IALR.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, RIFA and IALR have caused this **GROUND LEASE** to be executed as of the day and year first written above.

LANDLORD:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Robert W. Warren, Chairman of the Danville-Pittsylvania Regional Industrial Facility Authority, on behalf of said Landlord.

Notary Public
Registration No. _____

My Commission Expires:

IN WITNESS WHEREOF, RIFA and IALR have caused this **GROUND LEASE** to be executed as of the day and year first written above.

TENANT:

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____, of the Institute for Advanced Learning and Research, on behalf of said Tenant.

Notary Public
Registration No. _____

My Commission Expires:

Schedule 2
(Demised Area)

“Demised Area” as used in this Lease shall mean all of that certain area containing 0.6959 acres as shown on that certain layout sketch titled “Lease Area Exhibit” made by Dewberry Engineers, Inc. dated June 1, 2018 for Project No. 500101432, which is attached hereto on the following page.

Schedule 6
(Plans and Specifications)

See Site & Utility Plan attached hereto, Sheet No. C1.02, and Exterior Elevations attached hereto, Sheet No. A2.01, each made by Dewberry Engineers, Inc. and dated July 20, 2018, together with Section 099113 – Exterior Painting (pages 47-52).

Schedule 17(e)
(Memorandum of Lease)

This instrument prepared by:
Glenn, Feldmann, Darby & Goodlatte
P. O. Box 2887
Roanoke, Virginia 24001-2887

Tax Map Identification Number: 78360

This Memorandum of Lease is exempt from recording taxes
pursuant to Virginia Code §§ 811.A.3., 811.C.4., and 811.E.

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is executed as of the ___ day of _____, 2018, to evidence for recording purposes the execution of a certain Ground Lease (the “**Lease**”), dated the date hereof, the relevant terms of which are set forth below:

1. Name and Addresses of Parties: The landlord under the Lease is DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia (“**Landlord**”), whose office address is 427 Patton Street, Room 428, Danville, VA 24541. The tenant under the Lease is INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia (“**Tenant**”), whose office address is 150 Slayton Avenue, Danville, VA 24540.

2. Reference to Lease: Landlord hereby grants, leases and demises unto Tenant the Premises (as hereinafter defined) for the term of the Lease, subject to the terms and conditions of the Lease which are made a part hereof by this reference. This Memorandum of Lease is not a complete summary of the Lease. In the event of a conflict between the language of this Memorandum of Lease and the terms of the Lease, the terms of the Lease shall govern. A copy of the Lease is maintained in Tenant's files at the Tenant's office set forth above.

3. Term of the Lease: The term of the Lease is perpetual, commencing on _____, 2018.

4. Description of Premises: The property demised to Tenant under the Lease (the “**Premises**”) is described in Exhibit “A” attached hereto and incorporated herein by this reference.

5. Severability: This Memorandum of Lease (i) shall be construed in all respects so as to not violate, and (ii) shall in all respects be subordinate to, the terms and conditions of any awards and grants from the U.S. Department of Commerce Economic Development Administration that pertain, in part or in whole, to the Premises, including without limitation Award 01-01-07639 and Award 01-01-07847.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be executed as of the day and year first above written. The following signature and seal of Danville-Pittsylvania Regional Industrial Facility Authority (Landlord), on page 2, and the following signature and seal of Institute for Advanced Learning and Research (Tenant), on page 3:

LANDLORD:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Robert W. Warren, Chairman of the Danville-Pittsylvania Regional Industrial Facility Authority, on behalf of said Landlord.

Notary Public
Registration No. _____

My Commission Expires:

TENANT:

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____, _____ of the Institute for Advanced Learning and Research, on behalf of said Tenant.

Notary Public
Registration No. _____

My Commission Expires:

Exhibit A

“Demised Area” as used in this Lease shall mean all of that certain area containing 0.6959 acres as shown on that certain layout sketch titled “Lease Area Exhibit” made by Dewberry Engineers, Inc. dated June 1, 2018 for Project No. 500101432, which is attached hereto on the following page.

AMENDMENT TO LEASE AGREEMENT

THIS AMENDMENT TO LEASE AGREEMENT (this “**Amendment**”) is made effective as of the ___ day of _____ 2018, by and between **DANVILLE-PITTSYLVANIA COUNTY REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**Landlord**”), and **INSTITUTE FOR ADVANCED LEARNING AND RESEARCH**, a political subdivision of the Commonwealth of Virginia (“**Tenant**”).

WITNESSETH:

THAT for and in consideration of the mutual covenants and promises of the parties to this Amendment, the parties do agree as follows:

1. Recitals. The parties hereto recite the following:

(a) Landlord and Tenant made and entered into a Ground Lease dated as of September 15, 2010 (the “**Lease Agreement**”), for the lease by Landlord to Tenant of that certain lot or parcel of land described in Schedule 2 to the Lease Agreement, being a portion of Parcel ID Number 78360. Capitalized terms used and not otherwise defined herein have the meanings given to them in the Lease Agreement.

(b) Pursuant to the Lease Agreement, Tenant has constructed on the Demised Area the SEnTeC Project, with an address of 228 Slayton Avenue, Danville, Virginia.

(c) The Lease Agreement remains in full force and effect, but the parties desire to make certain amendments to the Lease Agreement, as set forth herein.

2. Amendments to Lease Agreement. The parties do hereby amend the Lease Agreement as follows effective as of the date hereof:

(a) Section 1 of the Lease Agreement is hereby amended and restated in its entirety to read as follows:

“1. Term. The term of this lease will be perpetual (the “**Term**”). Nothing in this Lease will be intended to limit Tenant’s use of the remainder of the RIFA Land (as defined in Schedule 2) as permitted in any existing leases between the parties with respect to the RIFA Land or any portion thereof. RIFA represents that it has all requisite power and authority to enter into this Lease and to carry out its obligations hereunder. IALR represents that it has all requisite power and authority to enter into this Lease and to carry out its obligations hereunder.”

(b) Schedule 1 to the Lease Agreement is hereby deleted in its entirety.

(c) Section 2 of the Lease Agreement is hereby amended and restated in its entirety to read as follows:

“2. The Demised Area. The “**Demised Area**” shall mean the Portion of Parcel 78360, as more particularly described in **Schedule 2**, attached hereto and incorporated herein by this reference.”

(d) Schedule 2 to the Lease Agreement is hereby amended and restated in its entirety as set forth in **Schedule 2(d)** attached hereto and incorporated herein by this reference.

(e) The last sentence of Section 6 of the Lease Agreement is hereby amended and restated in its entirety to read as follows:

“At the end of the Term, IALR shall have the right to leave or remove, at IALR’s expense, all such improvements and alterations constituting equipment, fixtures, machinery, and all other personal property; provided, however, IALR, at its expense, shall promptly repair all damages to the Demised Area as a result of such removal.”

(f) The last sentence of Section 14(a) of the Lease Agreement is hereby amended and restated in its entirety to read as follows:

“Furthermore, IALR will be able to make a separate claim to the condemning authority for the value of IALR's inventory, removable trade fixtures, machinery, moving expenses, and business damages and loss of IALR’s beneficial interest under this Lease, provided that the making of such claim or claims does not adversely affect or diminish RIFA's award for the value of the land.”

(g) The last sentence of Section 14(b) of the Lease Agreement is hereby amended and restated in its entirety to read as follows:

“IALR will be able to make a separate claim to the condemning authority for the value of IALR’s inventory, removable trade fixtures, machinery, moving expenses, and business damages and loss of IALR’s beneficial interest under this Lease, provided that the making of such claim or claims does not adversely affect or diminish RIFA's award for the value of the land.”

(h) Section 17 of the Lease Agreement is hereby amended and restated in its entirety to read as follows:

“17. [Intentionally Omitted.]”

(i) Section 18 of the Lease Agreement is hereby amended by adding new subsections (i) and (j) thereto, as follows:

- i. Assignment; Subletting. Neither this Lease nor IALR’s rights hereunder may be assigned by IALR without RIFA’s prior written consent, which consent may be withheld in RIFA’s sole and absolute discretion. Notwithstanding the foregoing, IALR may lease space in the SENtec Project to third parties, provided that each such sublease complies with the conditions of the EDA grants, including the Award, and provides that such sublease is subject and subordinate to the requirements of the EDA Grants, including the Award, and the terms and conditions of this Lease. IALR must provide a copy of

any authorized sublease to RIFA within thirty (30) days of the effective date of such sublease. Notwithstanding any permitted assignment or authorized sublease hereunder, IALR must remain primarily responsible to RIFA under this Lease and each authorized sublease.

- j. Limitation on IALR's Obligations. IALR's agreement to indemnify or to otherwise hold harmless RIFA, including without limitation under Sections 7 and 16, are or may be subject to limitation(s) imposed or provided by law. IALR makes all such agreements to indemnify or hold harmless only to the extent permitted by applicable law and only to the extent IALR is covered by insurance in the amount claimed by RIFA. Nothing in this Lease, including without limitation any and all indemnification and hold harmless provisions, is intended to, or shall be construed as having the effect of, waiving the sovereign immunity of IALR as a political subdivision of the Commonwealth. The limitations set forth in this Section 18(j) are for the sole benefit of IALR and shall not be transferred or otherwise assigned to, by operation of law or otherwise, nor inure to the benefit of, any assignee, successor or sublessee of IALR.

3. Effect on Lease Agreement. Except as amended by this Amendment, all other terms, provisions, and conditions of the Lease Agreement shall remain in full force and effect, and the parties hereby ratify and confirm that the Lease Agreement, as amended by this Amendment, is and remains in full force and effect.

4. Due Authorization. Each party represents, warrants, and agrees that the execution and performance of this Amendment by such party have been duly approved by all necessary action of such party's governing body, that the individual executing this Amendment on behalf of such party is duly authorized to do so, and that this Amendment is a valid binding, legal obligation of such party, enforceable in accordance with its terms.

5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Amendment.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures to this **AMENDMENT TO LEASE AGREEMENT** effective as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Amendment to Lease Agreement was acknowledged before me by Robert W. Warren acting in his capacity as Chairman of the Danville-Pittsylvania Regional Industrial Facility Authority, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2018.

My commission expires: _____.

Notary Public

Registration No. _____

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Amendment to Lease Agreement was acknowledged before me by _____ acting in his/her capacity as _____ of the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2018.

My commission expires: _____.

Notary Public

Registration No. _____

Schedule 2(d)

SCHEDULE 2

“Demised Area” or “Demised Premises” as used in this Lease shall mean all that certain area designated as the SEnTeC Lease Area, consisting of approximately 1.6271 acres, on that certain layout sketch titled “Lease Area Exhibit” made by Dewberry Engineers, Inc. dated June 1, 2018 for Project No. 500101432 (the “Plat”). In connection with Tenant’s use of the Demised Area as set forth in this Lease, Landlord hereby grants to Tenant a non-exclusive license to use the common areas on Parcel 78360 (the “RIFA Land”) serving the Demised Area or otherwise designated by Landlord for the common use of tenants of the RIFA Land or improvements thereon, including without limitation, those areas designated on the Plat as “Hawkins Bldg. Common Space Lease Area”, consisting of approximately 20.6658 square feet, and being the existing parking lot shown thereon and the new parking lot being constructed thereon as designated by the shaded parking lot area on the Plat.

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (this “**Amendment**”) is made effective as of the ___ day of _____ 2018, by and between **DANVILLE-PITTSYLVANIA COUNTY REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**Landlord**”), and **INSTITUTE FOR ADVANCED LEARNING AND RESEARCH**, a political subdivision of the Commonwealth of Virginia (“**Tenant**”).

WITNESSETH:

THAT for and in consideration of the mutual covenants and promises of the parties to this Amendment, the parties do agree as follows:

1. Recitals. The parties hereto recite the following:

(a) Landlord and Tenant made and entered into a Lease Agreement dated as of August 6, 2008, as amended by an Amendment to Lease Agreement dated June 1, 2013, and by an Addendum to Lease Agreement dated June 1, 2013 (collectively, the “**Lease Agreement**”), for the lease by Landlord to Tenant of that certain lot or parcel of land, together with all improvements thereon and appurtenances thereunto belonging, located at 230 Slayton Avenue in the City of Danville, Virginia, identified as Parcel ID Number 78360. Capitalized terms not otherwise defined herein shall have the meanings given them in the Lease Agreement.

(b) The Lease Agreement remains in full force and effect, but the parties desire to make certain amendments to the Lease Agreement, as set forth herein.

2. Amendments to Lease Agreement. The parties do hereby amend the Lease Agreement as follows effective as of the date hereof:

(a) The definition of “Demised Premises” in Section 1.1.4 of the Lease Agreement is hereby amended and restated in its entirety to read as follows:

“Demised Premises” shall mean that certain lot or parcel of land, together with improvements thereon and appurtenances thereunto belonging, located at 230 Slayton Avenue, being a portion of Parcel ID Number 78360, as more particularly described in **Schedule 1.1.4** attached hereto and incorporated herein by this reference.”

(b) Section 3.1 of the Lease Agreement is hereby amended and restated to read in its entirety as follows:

“3.1 Term. The term of this Lease (“Term”) shall begin upon the Commencement Date and shall extend for a period of five (5) years after the Commencement Date. The Term of this Lease shall automatically renew thereafter for successive one (1) year periods (each, a “Renewal Period”), unless either party gives the other party notice of its intention not to renew at least one (1) year prior to the expiration of the then current Term.”

(c) Section 4.3 of the Lease Agreement is hereby amended and restated to read in its entirety as follows:

“4.3 Maintenance: As consideration for the terms of this Lease, Tenant agrees, at its expense, to maintain throughout the Term all of the parking areas, landscaped areas, and all of the Building, other improvements located on the Demised Premises in the manner hereafter set forth in this Section. The parties understand and agree that Landlord shall have no maintenance responsibilities whatsoever, with respect to the parking areas, landscaped areas, the Building, improvements, or any other portion for the Demised Premises, and all such maintenance shall be solely at Tenant’s expense. With respect to the Demised Premises, Tenant agrees to maintain throughout the Term of this Lease the parking areas, landscaped areas, the Building or portions of the Building on the Demised Premises, including both the interior and exterior thereof, and all plumbing, heating, air conditioning, and electrical systems, in good operating condition. Tenant shall have sole discretion regarding the maintenance of, and decisions regarding if and when to replace, the personal property.

Notwithstanding the foregoing, Landlord agrees, at its expense, to maintain throughout any Renewal Period all of the Building located on the Demised Premises commonly known as the “Charles Hawkins Building” (the “Charles Hawkins Building”), including both the interior and exterior thereof, its landscaped areas, its plumbing, heating, air conditioning, and electrical systems, and the Existing Parking Lot, in good operating condition.”

(d) Section 4.4 of the Lease Agreement is hereby amended and restated to read in its entirety as follows:

“Section 4.4 Repairs: As consideration for the terms of this Lease and throughout the Term, Tenant agrees, at its expense, to perform all ordinary and minor repairs related to normal “wear and tear” relating to all of the parking areas, landscaped areas, all of the Building, and other improvements (for which Landlord maintains ownership) located on the Demised Premises in the manner hereafter set forth in this Section. As consideration for the terms of this Lease and throughout the Term, Tenant agrees to perform all major repairs relating to and to replace as necessary all of the parking areas, landscaped areas, all of the Building, and other improvements (for which Landlord maintains ownership) located on the Demised Premises.

Notwithstanding the foregoing, Landlord agrees, at its expense, throughout any Renewal Period, (i) to perform all ordinary and minor repairs related to normal “wear and tear” relating to all of the Charles Hawkins Building, its landscaped areas and the Existing Parking Lot and (ii) to perform all major repairs relating to and to replace as necessary all of the Charles Hawkins Building, its landscaped areas and the Existing Parking Lot.”

(e) Section 9.2 of the Lease Agreement is hereby amended and restated to read in its entirety as follows:

“9.2 Tenant Subletting: Tenant shall not be permitted to sublease its interests in any portion of the Charles Hawkins Building to other individuals, entities, and organizations, without Landlord’s written consent, which consent may be withheld at Landlord’s sole discretion. Notwithstanding the foregoing, Tenant may lease space in the Charles Hawkins Building to third parties, provided that each such sublease complies with the conditions of the EDA grants and the terms and conditions of this Lease, and that each such sublease shall not be inconsistent with Tenant’s enabling legislation. Tenant must provide a copy of any authorized sublease to Landlord within thirty (30) days of the effective date of such sublease. Notwithstanding any authorized sublease hereunder, Tenant must remain primarily responsible under this Lease and each authorized sublease.”

3. Effect on Lease Agreement. Except as amended by this Amendment, all other terms, provisions, and conditions of the Lease Agreement shall remain in full force and effect, and the parties hereby ratify and confirm that the Lease Agreement, as amended by this Amendment, is and remains in full force and effect.

4. Due Authorization. Each party represents, warrants, and agrees that the execution and performance of this Amendment by such party have been duly approved by all necessary action of such party’s governing body, that the individual executing this Amendment on behalf of such party is duly authorized to do so, and that this Amendment is a valid binding, legal obligation of such party, enforceable in accordance with its terms.

5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Amendment.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures to this **SECOND AMENDMENT TO LEASE AGREEMENT** effective as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Second Amendment to Lease Agreement was acknowledged before me by Robert W. Warren acting in his capacity as Chairman of the Danville-Pittsylvania Regional Industrial Facility Authority, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2018.

My commission expires: _____.

Notary Public

Registration No. _____

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Second Amendment to Lease Agreement was acknowledged before me by _____ acting in his/her capacity as _____ of the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2018.

My commission expires: _____.

Notary Public

Registration No. _____

Schedule 1.1.4
Demised Premises

All of that certain area designated as the “Charles Hawkins Building” on that certain layout sketch titled “Lease Area Exhibit” made by Dewberry Engineers, Inc. dated June 1, 2018 for Project No. 500101432, which is attached hereto on the following page (the “Plat”), including the 20.6558 Acres representing the Hawkins Bldg. Common Space Lease Area, being the existing parking lot shown on the Plat (the “Existing Parking Lot”) and the new parking lot to be constructed by IALR as designated by the shaded parking lot area on the Plat (the “New Parking Lot”) in connection with the expansion of the Charles Hawkins Building pursuant to that certain Ground Lease of even date herewith by and between Landlord and Tenant (such expansion being the “Hawkins Expansion Building”). While the Existing Parking Lot and the New Parking Lot are located on the Demised Premises under this Lease, both the Existing Parking Lot and the New Parking Lot are hereby designated as common areas to serve the Charles Hawkins Building, the SEnTeC Building located at 228 Slayton Avenue, Danville, Virginia, and the Hawkins Expansion Building, each of which is shown on the Plat.

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.: Item 5B

Meeting Date: 11/13/2018

Subject: Resolution 2018-11-13-5B, approving a local performance agreement with BGF Industries, Inc.

From: Matthew D. Rowe, Director of Economic Development
Pittsylvania County

SUMMARY

The Board will be asked to approve Resolution 2018-11-13-5B approving a local performance agreement with BGF Industries, Inc.

ATTACHMENTS

Resolution 2018-11-13-5B
Exhibit A

A RESOLUTION APPROVING THAT CERTAIN LOCAL PERFORMANCE AGREEMENT WITH BGF INDUSTRIES, INC., A DELAWARE CORPORATION, AND OTHERS, UNDER WHICH THE AUTHORITY WOULD PROVIDE AN INDUSTRIAL ENHANCEMENT GRANT IN THE AMOUNT OF \$245,000 AND LAND IN THE AUTHORITY’S CYBER PARK PROJECT IN DANVILLE, VIRGINIA, FOR A GROUND LEASE FOR NEW CORPORATE HEADQUARTERS AND RESEARCH CENTER; AND WOULD APPLY FOR AND DISBURSE CERTAIN STATE GRANTS AND STATE LOAN, IN EXCHANGE FOR CAPITAL INVESTMENTS OF AT LEAST \$7,000,000 AND CREATION OF 65 FULL-TIME JOBS WITH AN AVERAGE YEARLY BASE WAGE OF AT LEAST \$75,000 AND OTHER CAPITAL INVESTMENTS IN THE CYBER PARK PROJECT

WHEREAS, the Danville-Pittsylvania Regional Industrial Facility Authority (the “**Authority**”) is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act, as amended; and

WHEREAS, the Authority, the City of Danville, Virginia (the “**City**”), and the County of Pittsylvania County, Virginia (the “**County**”), in order to stimulate economic growth and development of the community by creating jobs and infrastructure have agreed to provide incentives to new and expanding businesses which conduct industrial activity; and

WHEREAS, BGF Industries, Inc., a Delaware corporation (the “**Company**”), currently is headquartered in North Carolina and is a subsidiary of French-based Porcher Industries; and

WHEREAS, the Company is a U.S. manufacturer of innovative technical fiber materials for global markets, with its products delivering high strength, high temperature, lightweight solutions that provide structural integrity, thermal, environmental and ballistic protection or decorative appeal in many everyday products, such as circuit boards, surf boards, mufflers, snowmobiles, airplanes, armor and others; and

WHEREAS, the Company has agreed to relocate its corporate headquarters (the “**New Corporate HQ**”), and to establish and to operate a research center (the “**Research Center**”) to contain approximately 25,000 square feet of space, on approximately twelve (12) acres of land (the “**Project Site**”), which is part of a larger tract of land owned by the Authority and located in its Cyber Park project, in Danville, Virginia (the “**Cyber Park**”); and

WHEREAS, during a three (3) year performance period, the Company plans to make certain capital investments in the Project Site of at least Seven Million and 00/100 Dollars (\$7,000,000.00) with the New Corporate HQ and the Research Center and to create sixty-five (65) full-time jobs with an average yearly base wage of at least Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), as more particularly set forth in that certain Local Performance Agreement, attached hereto as **Exhibit A**, incorporated herein by this reference (the “**LPA**”); and

WHEREAS, under the LPA, each of the Authority, the City and the County would agree to provide certain incentives to the Company in exchange for the Company meeting certain

Resolution No. 2018-11-13-5B

performance metrics within the performance period. Such incentives from the Authority, as more particularly described in the LPA, would include, among other things, an Industrial Enhancement Grant in the amount of Two Hundred Forty Five Thousand and 00/100 Dollars (\$245,000.00); a Tobacco Region Opportunity Fund Loan in the principal amount of Six Hundred Twenty Thousand and 00/100 Dollars (\$620,000.00) from the Virginia Tobacco Region Revitalization Commission for construction of the New Corporate HQ and the Research Center; and the availability of the Project Site for the construction of the New Corporate HQ and the Research Center which would be ground leased for the Company's use with the option to purchase; and

WHEREAS, the Authority's Board of Directors (the "**Board**") has determined that the location, construction and operation of the New Corporate HQ and the Research Center in the Cyber Park will add to the tax base of the City and the County; and

WHEREAS, the Board has determined that it is in the best interests of the Authority and the citizens of the City and the County for the Authority to approve the form of the LPA.

NOW, THEREFORE, BE IT RESOLVED BY THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, THAT:

1. The Authority hereby approves the form of the LPA as set forth in **Exhibit A** and as reviewed at this meeting.
2. The Authority hereby authorizes the Chairman and the Vice Chairman of the Authority, either of whom may act independently of the other, on behalf of the Authority to execute and to deliver, on behalf of the Authority, the LPA.
3. The Authority further authorizes those certain amendments, deletions or additions to the LPA as may be approved by the Chairman or the Vice Chairman, the execution of which by the Chairman (or Vice Chairman as the case may be) shall conclusively establish his approval of any amendments, deletions or additions thereto.
4. The Authority hereby authorizes and directs staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things as are contemplated by the LPA as may be executed and delivered by the Chairman (or Vice Chairman as the case may be), or as such staff, agents and representatives in their discretion deem necessary or appropriate in order to carry out the intent and purposes of these resolutions.
5. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, its agents and representatives, in respect to the LPA and the matters contemplated therein or related thereto, including without limitation any confidentiality agreement, letter of intent or other document related to the LPA dated on before the date of this Resolution is adopted.
6. This Resolution shall take effect immediately upon its adoption.

- # -

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a regular meeting duly called and held on November 13, 2018, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority as of the 13th day of November 2018.

SUSAN M. DeMASI, Secretary
Danville-Pittsylvania Regional Industrial Facility
Authority

(SEAL)

Exhibit A
(Form of LPA)

LOCAL PERFORMANCE AGREEMENT

THIS LOCAL PERFORMANCE AGREEMENT (this "**Agreement**"), made and entered into as of the 16th day of October 2018, by and among **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("**RIFA**"); the **COUNTY OF PITTSYLVANIA, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "**County**"); the **CITY OF DANVILLE, VIRGINIA**, a Virginia municipal corporation (the "**City**"); and **BGF INDUSTRIES, INC.**, a Delaware corporation (the "**Company**");

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. - Recitals. The parties recite the following facts:

- a. RIFA, the City and the County, in order to stimulate economic growth and development of the community by creating jobs and infrastructure have agreed to provide incentives to new and expanding businesses which conduct industrial activity.
- b. Currently headquartered in North Carolina and a subsidiary of French-based Porcher Industries, the Company is a U.S. manufacturer of innovative technical fiber materials for global markets, with its products delivering high strength, high temperature, lightweight solutions that provide structural integrity, thermal, environmental and ballistic protection or decorative appeal in many everyday products, such as circuit boards, surf boards, mufflers, snowmobiles, airplanes, armor and others.
- c. The Company has agreed to relocate its corporate headquarters (the "**New Corporate HQ**"), and to establish and to operate a research center (the "**Research Center**") to contain approximately 25,000 square feet of space, on approximately twelve (12) acres of land (the "**Project Site**"), which is part of a larger tract of land owned by RIFA and located in RIFA's Cyber Park, in Danville, Virginia. The New Corporate HQ and the Research Center shall be collectively referred to as the "**New Facility**".
- d. During the Performance Period described below, the Company plans to make capital investments in the Project Site of at least Seven Million and 00/100 Dollars (\$7,000,000.00) with the New Facility and to create sixty-five (65) full-time jobs with an average yearly base wage of at least Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), as set forth in this Agreement.
- e. Each of RIFA, the City and the County is willing to provide those certain

incentives to the Company summarized in **Schedule 1(e)**, attached hereto and incorporated herein by this reference, provided that the Company satisfies certain criteria relating to employment projections and capital investment as described below.

f. Each of RIFA, the City and the County finds that the provisions of this Agreement and the commitments of the Company will promote the expansion of industry by inducing industrial development within the Cyber Park, and that such development will promote the safety, health, welfare, convenience and prosperity of the citizens of the City and the County.

Section 2. - Definitions. For the purposes of this Agreement, the following terms shall have the following definitions:

a. **"Agreement"** shall mean this Local Performance Agreement and shall have the same meaning as set forth in the header paragraph.

b. **"Capital Investment"** means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility. A capital expenditure related to a leasehold interest in real property will be considered to be made **"on behalf of the Company"** if a lease between a developer and the Company is a capital lease, or is an operating lease having a term of at least ten (10) years, and the real property would not have been constructed or improved but for the Company's interest in leasing some or all of the real property. Only the capital expenditures allocated to the portion of the real property to be leased by the Company will count as Capital Investment. The purchase or lease of furniture, fixtures, machinery and equipment, including under an operating lease, will qualify as Capital Investment hereunder.

c. **"City"** shall have the same meaning as that term in the header paragraph of this Agreement.

d. **"Company"** shall have the same meaning as that term in the header paragraph of this Agreement.

e. **"County"** shall have the same meaning as that term in the header paragraph of this Agreement.

f. **"Event of Default"** shall have the same meaning as that term is used in Section 8 below.

g. **"Event of Force Majeure"** shall mean without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes;

tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

h. **"Government Party" or "Government Parties"** shall mean any one or more of RIFA, the City and the County.

i. **"GSL Term"** shall mean the term of the New Facility Ground Sublease and shall have the same meaning as that term is used in Section 3(b)(i) below.

j. **"Land"** shall mean that portion of the Project Site upon which the New Facility was constructed.

k. **"Maintain"**, as it pertains to a New Job, shall mean that the New Job will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company's employment levels (so long as there is active recruitment for open positions), (ii) strikes and (iii) other temporary work stoppages not to exceed sixty (60) days.

l. **"New Corporate HQ"** shall mean the corporate headquarters of the Company to be constructed and located on the Project Site.

m. **"New Facility"** shall have the same meaning as that term is used in Section 1(c).

n. **"New Facility Completion Date"** shall mean November 1, 2020, which is the target date that the construction of the New Corporate HQ and the Research Center is to be completed upon the Project Site.

o. **"New Facility Ground Sublease"** shall mean that certain fifteen (15) year ground sublease for the Project Site, with the Company as subtenant, and Samet as sublandlord, as more particularly described in Section 3 below.

p. **"New Job"** shall mean new permanent full-time employment of an indefinite duration at the New Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an average annual wage of at least Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), excluding standard fringe benefits, excluding standard fringe benefits. Each New Job must require a minimum of either (i) thirty-five (35) hours of an employee's time per week for the entire normal year of the Company's operations, which **"normal year"** must consist of at least forty-eight (48) weeks, or (ii) one thousand six hundred eighty (1,680) hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth of Virginia, and

positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs.

q. **"Performance Date"** shall mean the date that is three (3) years after the date of this Agreement. The Performance Date shall be extended one (1) day, for a maximum of three hundred sixty-five (365) days, for each day after the New Facility Completion Date has passed without all of the applicable certificates of occupancy having been issued. The Company shall give written notice to RIFA of any extension of the Performance Date.

r. **"Performance Period"** shall mean that period of time commencing on the date of this Agreement and ending on the Performance Date.

s. **"Purchase Option"** shall have the same meaning as that term is used in Section 3(c) below.

t. **"Project Site"** shall have the same meaning as that term is used in Section 1(c) above, the specific location of which shall be mutually agreed by RIFA, Samet and the Company within RIFA's Cyber Park located in Danville, Virginia, and as generally set forth in **Schedule 2(t)**, attached hereto and incorporated herein by this reference. The estimated value of the Project Site is One Million and 00/100 Dollars (\$1,000,000.00).

u. **"Recruitment Documents"** shall mean any one or more of this Agreement, the New Facility Ground Sublease, any and all performance grant agreements executed by the Company pertaining to State Grants and any other document(s) executed, at the request of RIFA, by the Company in connection with this Agreement.

v. **"Research Center"** shall have the same meaning as that term is used in Section 1(c) above, to be constructed and located on the Project Site.

w. **"RIFA"** shall have the same meaning as that term in the header paragraph of this Agreement.

x. **"RIFA Land Clawback Option"** shall mean RIFA's right to purchase the Project Site (including without limitation the improvements thereon and appurtenances thereunto belonging), in whole or in part, in the event that the Company no longer owns the Project Site, the Company discontinues business for a period of ninety (90) days or more, the Company materially changes the nature of the Company's business, the New Facility is not being used in substantially the same manner as was used on the Performance Date. The RIFA Land Clawback Option shall have a term of ten (10) years beginning on the date that title to the Land is transferred to the Company (the **"RIFA Land Clawback Option Period"**), and shall be recorded in the land records of the City. The purchase price for the Land shall be equal to the fair market value of the Land (including without limitation the improvements thereon and appurtenances thereunto belonging), as established by a qualified written appraisal obtained by

RIFA, minus all the cash incentives provided to or for the Company under this Agreement for that phase of construction (excluding, however, those cash incentives paid as a result of the Company's creation of New Jobs, the financing incentives), and minus One Million and 00/100 Dollars (\$1,000,000.00) in real property incentives. To exercise such option, RIFA must provide written notice to the Company or its permitted assignee on or before the end of the term of the RIFA Land Clawback Option. At the closing of the purchase of the RIFA Land Clawback Option, the seller, at its expense, shall transfer title to the Land and New Facility by special warranty deed, free and clear of any monetary liens. The exercise of the RIFA Land Clawback Option shall not be deemed to be an election of remedies by RIFA, and shall be in addition to, and not in lieu of, any rights or other remedies of RIFA under this Agreement or applicable law.

y. **"RIFA Land Clawback Option Period"** shall have the same meaning as that term is used in Section 2(x) above.

z. **"Samet"** shall mean Samet Corporation, a North Carolina corporation, or its affiliate.

aa. **"State Grants"** shall mean the Commonwealth Opportunity Fund Grant; the Tobacco Region Opportunity Fund Grant; the Virginia State Enterprise Zone Grant; and the Virginia Jobs Investment Program Grant.

bb. **"Tobacco Commission"** shall mean the Virginia Tobacco Region Revitalization Commission, a political subdivision of the Commonwealth of Virginia, as created in Chapter 31 of Title 3.2 of the Code of Virginia, 1950, as amended.

Section 3. - New Facility Ground Sublease.

a. **Samet as Sublandlord.** As of the date of this Agreement, the Project Site is part of a larger tract of property belonging to RIFA in its Cyber Park located in Danville, Virginia. On or before the beginning of the Performance Period, RIFA shall ground lease the Project Site for a term of fifteen (15) years to Samet in order to facilitate the construction and financing of the New Facility, on such terms and conditions as deemed reasonably in the sole and absolute discretion of RIFA.

b. **New Facility Ground Sublease.** Within ninety (90) days after the Company's execution of this Agreement, the Company shall execute a New Facility Ground Sublease between Samet, as sublandlord, and the Company, as subtenant, for the Project Site, in the form reasonably acceptable to RIFA; however, the New Facility Ground Sublease, at a minimum, shall provide the following:

i. The term of the New Facility Ground Sublease shall be fifteen (15) years (the "**GSL Term**").

ii. The Company and Samet, at no direct expense to RIFA or other Government Party, shall cause the construction the New Facility upon the Project Site on or before the Performance Date.

iii. The Company and Samet shall obtain prior written approval from RIFA of (A) the construction plans for the New Facility, and (B) the schedule that is reasonably calculated to complete the construction and capital expenditures within the Performance Period.

c. The Company's Purchase Option. At any time during the GSL Term after September 1, 2022, or a sooner date that is acceptable to the U.S. Economic Development Administration, the Company shall have the right to purchase from RIFA the Land for the purchase price of One Hundred and 00/100 Dollars (\$100.00) (the "**Purchase Option**"), conditioned, however, upon the occurrence or satisfaction all of the following:

i. RIFA's Land Clawback Option shall have been recorded in the Clerk's Office of the Circuit Court of the City, and shall constitute a first position encumbrance upon the Land. At RIFA's choosing, RIFA's Land Clawback Option may be included as a reservation of rights in the special warranty deed to the Land from RIFA to the Company; and

ii. The New Facility have been completed as evidenced by the issuance of all applicable certificates of occupancy, and all of the construction costs and expenses of the New Facility have been paid in full; and

iii. The Company is not then in default of any one or more of the Recruitment Documents.

At the closing of the Purchase Option, RIFA, at its expense, shall prepare and deliver to the Company a special warranty deed to the Land, "**AS IS**", "**WHERE IS**" and "**WITH ALL FAULTS**", and subject to all easements, conditions, restrictions and agreements of record affecting the Land, including without limitation a deed of trust securing the Company's obligation to maintain its corporate headquarters at the Project Site as described in Section 3(d) below, but free and clear of any monetary liens. RIFA shall pay any grantor's tax due with respect to the transfer of the Land to the Company. The Company shall pay the Virginia recordation tax on the special warranty deed, the Company's attorneys' fees, title insurance premiums and expenses and all other costs and expenses incurred by the Company in connection with the closing of the Purchase Option. Prepaid items shall be prorated. RIFA and the Company agree to execute and deliver to the other such documents as may be then legally necessary to carry out the terms of this Section 3(c) and complete the Purchase Option closing in accordance with the custom in the Commonwealth of Virginia for commercial real property transactions.

d. 10-Year Obligation to Maintain Corporate Headquarters at the Project Site. Throughout the RIFA Land Clawback Option Period, the Company shall maintain its corporate headquarters at the Project Site, and this covenant shall be secured by a deed of trust covering the Land. The parties agree and acknowledge that in the event the Company fails to comply with this covenant, RIFA's damages would be uncertain and difficult, if not impossible, to accurately estimate, in light of (i) the value of the Land, (ii) RIFA's mission to promote industrial and economic development within its region, (iii) the fact that the development of the Cyber Park with the recruitment of business and industry promotes the further development in the Cyber Park, (iv) the financial and marketing effect of having a corporate headquarters in RIFA's region, and (v) the anticipated tax revenues from the Company. Accordingly, the parties agree that in the event of a breach by the Company of this covenant, the Company shall pay to RIFA liquidated damages (and not as a penalty) as follows:

X = Occurrence of Breach after the Company obtained fee simple title to the Project	Amount of Liquidated Damages
x < 5 years	\$1,000,000
5 years ≤ x < 7 years	\$900,000
7 years ≤ x < 8 years	\$700,000
8 years ≤ x < 9 years	\$350,000
9 years ≤ x < 10 years	\$100,000
X ≥ 10 years	\$0

The liquidated damages under this Section 3(d) shall be in addition to, and not in lieu of, any other relief available under this Agreement or under applicable law. The provisions of this Section 3(d) shall specifically and without limitation survive any transfer or conveyance to the Company of title to the Land and/or the New Facility.

Section 4. - Capital Investment and New Job Creation by the Company.

a. \$7M Capital Investment. On or before the Performance Date, the Company shall make Capital Investment in the minimum aggregate amount of Seven Million and 00/100 Dollars (\$7,000,000.00) for the New Facility. Notwithstanding the foregoing, it shall not constitute an Event of Default under Section 8 below if the Company during the Performance Period shall make a Capital Investment of at least Six Million Three Hundred Thousand and 00/100 Dollars (\$6,300,000.00) on or before the Performance Date.

b. 65 New Jobs. The Company shall create and employ sixty-five (65) New Jobs on or before the Performance Date and shall Maintain these New Jobs until at least the Performance Date. Beginning May 1, 2019, on May 1 and November 1 of each year during the Performance Period, the Company shall produce and deliver to RIFA a New Jobs roster itemizing, at a minimum, each New Job and the base pay (excluding fringe benefits), as described in Section 2(p) above and any other information pertaining to such New Job employees as may be reasonably requested by RIFA. The Company shall redact from the New Jobs roster any personally identifiable information of its employees. The Company hereby authorizes each of the County's Economic Development Director, the City Economic Development Director and the RIFA Treasurer or his respective designees to obtain and to verify the information contained in the New Jobs roster from the Virginia Employment Commission. Notwithstanding the foregoing, it shall not constitute an Event of Default under Section 8 below if the Company during the Performance Period shall create and Maintain at least fifty-eight (58) New Jobs on or before the Performance Date.

c. Financial Report. On May 1 and November 1 of each year during the Performance Period, the Company shall produce and deliver to RIFA a general financial report on the status of the Company's business since the date of its opening of the New Corporate HQ and the Research Center.

Section 5. - Funds Extended to or for the Company.

a. State Grant Applications. As part of the construction of the New Facility, RIFA or other Government Parties shall apply for and accept State Grants as follows:

- i. Up to \$275,000 Commonwealth Opportunity Fund Grant. As a condition to and as a part of the application for the Commonwealth Opportunity Fund Grant, RIFA and the Company shall enter into a performance grant agreement with the Virginia Economic Development Partnership. If the application for such grant is approved, RIFA shall disburse the funds to the Company upon the Company's satisfaction or achievement of certain performance metrics as set forth in such performance grant agreement.
- ii. Up to \$620,000 Tobacco Region Opportunity Fund. As a condition to and as a part of the application for the Tobacco Region Opportunity Fund Grant, RIFA and the Company shall enter into a performance grant agreement with the Tobacco Commission. If the application for such grant is approved, RIFA shall disburse the funds to the Company upon the Company's satisfaction or achievement of certain performance metrics as set forth in such performance grant agreement.
- iii. \$620,000 Tobacco Region Opportunity Fund Loan. The loan from the

Tobacco Commission would be for the principal amount of Six Hundred Twenty Thousand and 00/100 Dollars (\$620,000.00) from the Tobacco Commission with a five (5) year repayment period at zero interest. The loan proceeds shall only be applied toward the New Facility construction.

- iv. \$244,000 job creation and up to \$200,000 real property improvement: Virginia State Enterprise Zone Grant. The Project Site is located in a Virginia Enterprise Zone. RIFA or the City shall apply for a Virginia State Enterprise Zone Grant from the Virginia Department of Housing and Community Development, estimated at up to Two Hundred Forty Four Thousand and 00/100 Dollars (\$244,000.00) for job creation and up to Two Hundred Thousand and 00/100 Dollars (\$200,000.00) for the improvements to the Project Site. If such application for such grant is approved, RIFA or the City shall disburse the grant to the Company according to the terms and conditions of the Virginia Enterprise Zone program.
- v. \$48,750 Virginia Jobs Investment Program Grant. RIFA shall assist the Company in applying for grants under the Virginia Economic Development Partnership's Virginia Jobs Investment Program, estimated at Forty Eight Thousand Seven Hundred Fifty and 00/100 Dollars (\$48,750.00) for job creation of the New Jobs. If such application for such grant is approved, the Virginia Economic Development Partnership (or if allowed by the program, RIFA) shall disburse the grant to the Company according to the terms and conditions of the Virginia Jobs Investment Program.

The Company shall reasonably cooperate with the Government Parties in connection with the applications for the State Grants, including without limitation providing financial information about the Company, the Company's planned Capital Investments, and the creation schedule of the New Jobs.

The Government Parties acknowledge that one or more advances of the State Grants could be made by RIFA or other Government Party applying for such grants, provided that the advanced disbursements are adequately secured in the sole and absolute determination of such applicant Government Party, in the event that the Company does not meet the performance metrics or other requirements for such State Grant.

b. \$245,000.00 Danville-Pittsylvania County Industrial Enhancement Grant. RIFA shall pay to or for the Company a Danville-Pittsylvania County Industrial Enhancement Grant in the amount of Two Hundred Forty-Five Thousand and 00/100 Dollars (\$245,000.00) in connection with certain costs approved by RIFA for construction of the New Facility. In the event of an Event of Default, the Company shall reimburse to RIFA all or a portion the Danville-

Pittsylvania County Industrial Enhancement Grant disbursed to or for the Company to RIFA as set forth in Sections 9 and/or 10 below.

c. Up to \$113,750 Danville Enterprise Zone Grant. The City acknowledges that under the City's Enterprise Zone program, the Company's Capital Investment for the New Facility and creation of New Jobs as contemplated in this Agreement could qualify for up to One Hundred Thirteen Thousand Seven Hundred Fifty and 00/100 Dollars (\$113,750.00) in value in the form of cash payments, commercial building permit fee waivers and development fee waivers. The City shall disburse such grant according to the terms and conditions of its Enterprise Zone program. After this grant is disbursed, this grant is not subject to recapture by the City or any other Government Party in the event the Company fails to make the Capital Investment and/or create and Maintain the New Jobs on or before the Performance Date.

Section 6. - Capital Investment Report and Unaudited Annual Financial Statements. The Company shall provide a signed report to RIFA annually, beginning November 1, 2019, documenting the Company's progress in Capital Investment and in maintenance of the Capital Investment. The Company further agrees that each of the County's Economic Development Director, the City Economic Development Director and the RIFA Treasurer or his respective designees are authorized to verify all taxable Capital Investment and related information through the Office of the Commissioner of Revenue for the City. Along with the report in this Section, the Company shall provide to RIFA (i) unaudited financial statements covering the previous twelve (12) month period, prepared under generally accepted accounting principles (GAAP) as used in the United States of America and (ii) documentation or other information reasonably satisfactory to RIFA demonstrating the Company's plans to have sufficient working capital to operate its business for at least the next eighteen (18) months and to meet its required Capital Investment as set forth in this Agreement.

Section 7. - Representations and Warranties of the Company. As of the date of this Agreement and continuing until the Performance Date, the Company hereby represents and warrants to each Government Party the following:

a. The Company is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware as of the date of this Agreement and is authorized to transact business in the Commonwealth of Virginia and all other jurisdictions in which it is required by law.

b. This Agreement, the transactions contemplated herein, and the other Recruitment Documents to be executed by the Company have been or shall have been approved by all necessary corporate action by the Company; and the persons executing this Agreement and any of the other Recruitment Documents to be executed by the Company have or shall have full and complete authority to execute and deliver the same for and on behalf of the Company.

c. The execution, delivery, and performance of this Agreement, the other

Recruitment Documents, and the consummation of the transactions contemplated hereby and thereby by the Company will not violate, conflict with, or result in any default under, or cause any acceleration of any obligation under, any (i) Articles of Incorporation, Bylaws, Shareholder Agreement, or other organizational documents of the Company; (ii) any existing contract, agreement, note, or other document to which the Company is a party, or by which the Company is bound; or (iii) any orders, decrees, or laws of any jurisdiction applicable to and binding upon the Company.

d. This Agreement and all other Recruitment Documents constitute the legal, binding and enforceable obligations of the Company in accordance with the terms contained herein or therein.

e. There is no pending or threatened litigation or proceeding against the Company which may materially adversely affect the financial condition, business operations, or business prospects of the Company.

f. The Company is not in material default with respect to any existing indebtedness incurred by it.

g. All financial statements, certificates, resolutions, and other information or documentation furnished to any one or more of the Government Parties prior to the date of this Agreement by the Company are true, correct, and accurate, and no such information fails to disclose or misrepresents any information which could materially or adversely affect the transactions contemplated in this Agreement; and the Company has not failed to disclose any information which could materially and adversely affect the business or financial condition of the Company.

Section 8. - Event of Default. It shall be an Event of Default upon the occurrence of any one or more of the following events:

a. The occurrence of any material default under this Agreement, or any other Recruitment Document which is not cured within sixty (60) days after written notice to the Company of such default (or if such default cannot reasonably be cured within such sixty (60) day period, then if the Company fails to substantially begin such cure within such sixty (60) day period or fails thereafter to diligently pursue such cure);

b. The Company discontinues business for a period of sixty (60) days or more, or materially changes the nature of the Company's business;

c. The Company (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors which is not dismissed within sixty (60) days of such filing; (ii) is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the

Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; or (vi) becomes insolvent, however otherwise evidenced;

d. The controlling owner of the Company (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors which is not dismissed within sixty (60) days of such filing; (ii) is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; or (vi) becomes insolvent, however otherwise evidenced;

e. The Company is not in good standing with the Virginia State Corporation Commission after having received at least sixty (60) days written notice from the Commission; or

f. An officer or controlling owner of the Company (i) is convicted of a felony, or (ii) is convicted of any other crime involving lying, cheating, stealing, fraud, misappropriation, or other similar acts of dishonesty.

Section 9. - Upon Occurrence of an Event of Default. In addition to and not in lieu of any other remedies or relief made available to any one or more of the Government Parties under this Agreement, at law or in equity, upon the occurrence of an Event of Default, irrespective of whether any Government Party has terminated this Agreement, each Government Party (as the case may be) may elect any one or more of the following:

a. The Government Party may immediately cease to disburse any further payments to or for the Company under this Agreement or the Recruitment Documents;

b. The Government Party may give written notice to the Company exercising the right to accelerate the Company's obligation to repay its unpaid indebtedness of the Company to that Government Party, declaring the outstanding balance to be immediately due and payable;

c. The Government Party shall have the right to demand the Company to immediately refund the Danville-Pittsylvania County Industrial Enhancement Grants as set forth in Section 5(b) above; however, if the Event of Default is based on the Company's failure to make the Capital Investment and/or to create and Maintain New Jobs as required in this Agreement, the amount of the refund shall be calculated as set forth below in Section 10 below;

Upon giving written notice to the Company, the Government Party shall have the right, but not the obligation, to offset any amounts owed by the Government Party against amounts owed or claimed to be owed by the Company; and/or

d. The Government Party may pursue any and all other remedies available to it under this Agreement, any one or more of the Recruitment Documents or applicable law.

Notwithstanding anything to the contrary contained herein, if the Company repays RIFA all amounts due under Section 10 below in full, any Event of Default due to the Company's failure to make Capital Investment and/or to create and Maintain New Jobs (but due to no other default) shall be deemed cured for the purposes of this Agreement and all other Recruitment Documents and, in such instance, no Government Party shall have the right to exercise its default rights under this Agreement or any of the other Recruitment Documents.

Section 10. - Repayment of Grants for Failure to make the Capital Investment and/or to create and Maintain New Jobs. In the event the Company fails to make the Capital Investment and/or to create and Maintain New Jobs as required under this Agreement and such failure constitutes an Event of Default, the Company shall repay to RIFA portions of the Danville-Pittsylvania County Industrial Enhancement Grants as follows:

a. Failure to make the Capital Investment. In the event the Company fails to make the Capital Investment as required under this Agreement and such failure constitutes an Event of Default, the Company shall repay to RIFA an amount equal to the following:

- i. Repayment of a portion of the Danville-Pittsylvania County Industrial Enhancement Grant. An amount equal to fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the Capital Investment actually made by the Company as of the Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually disbursed as of the Performance Date, and (B) the denominator of which is Six Million Three Hundred Thousand and 00/100 Dollars (\$6,300,000.00).

b. Failure to Create and Maintain New Jobs. In the event the Company fails to create and Maintain New Jobs as required under this Agreement and such failure constitutes an Event of Default, the Company shall repay to RIFA an amount equal to the following:

- i. Repayment of a portion of the Danville-Pittsylvania County Industrial Enhancement Grant. An amount equal to fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the New Jobs actually Maintained by the Company as of Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually

disbursed as of the Performance Date, and (B) the denominator of which is fifty-eight (58) New Jobs.

c. The Company shall pay the sums described in this Section 10 no later than sixty (60) days after the date on which the Company is given written notice of such Event(s) of Default described in this Section.

Section 11. - Audit and Guideline Requirements. Upon reasonable prior written request, the Company shall allow each of the County's Economic Development Director, the City Economic Development Director and the RIFA Treasurer (or his respective designees) reasonable access during regular business hours to all records pertaining to the Company's employment and investment at the Facility, and the Company shall cooperate with RIFA in any audit of such records by furnishing all information necessary to verify the Company's performance under this Agreement. In return, each of RIFA, the County and the City agrees to maintain the confidentiality of any and all proprietary, confidential and/or sensitive information, including without limitation personal payroll earnings or similar information that those Government Parties or its designees may receive or access.

Section 12. - Force Majeure. Notwithstanding the foregoing, if the Company does not meet the New Job and Capital Investments requirements because of an Event of Force Majeure, the Performance Date will be extended day-for-day by the delay in meeting the targets caused by the Event of Force Majeure.

Section 13. - Subject to Annual Appropriations. As provided under Virginia law, the obligations of the Government Parties to pay the cost of performing its obligations under this Agreement are subject to and dependent upon annual appropriations being made from time to time by the governing body of such Government Party, for such purpose.

Section 14. - Non-waiver. No waiver of any term or condition of this Agreement by any party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

Section 15. - Attorneys' Fees. Each of the parties shall be solely responsible for their respective attorneys' fees in the negotiating, drafting, and execution of this Agreement and any of the transactions contemplated hereby.

Section 16. - Other Documents. The parties agree that they shall execute, acknowledge, and deliver all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Agreement.

Section 17. - Default. In the event that a party to this Agreement incurs attorneys' fees and/or costs in pursuing or defending an alleged breach of this Agreement, the non-prevailing party, in addition to any other remedy, shall be responsible for the reasonable attorneys' fees and

costs incurred by the prevailing party. The parties retain all rights at law and in equity to enforce the provisions of this Agreement in accordance with applicable law.

Section 18. - Entire Agreement. This Agreement and the schedules hereto contain the entire agreement and understanding of the parties to this Agreement with respect to the transactions contemplated hereby; and this Agreement and the schedules hereto supersede all prior understandings and agreements of the parties with respect to the subject matter hereof.

Section 19. - Headings. The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

Section 20. - Notices. Any notice required or contemplated to be given to any of the parties by any other party shall be in writing and shall be given by hand delivery, certified or registered United States mail, or a private courier service which provides evidence of receipt as part of its service, as follows:

If to RIFA:

Danville-Pittsylvania Regional
Industrial Facility Authority
Attn.: Susan M. DeMasi, Secretary
427 Patton Street
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

With a copy to:

Michael C. Guanzon, Esq.
Clement Wheatley
549 Main Street
P.O. Box 8200 (zip code 24543)
Danville, VA 24541

If to the County:

Attn.: Matthew D. Rowe
Director of Economic Development
1 Center Street
P.O. Box 426
Chatham, VA 24531

With a copy to:

J. Vaden Hunt, Esq.
County Attorney
1 Center Street
P.O. Box 426
Chatham, VA 24531

If to the City:

Attn.: Telly D. Tucker
Director of Economic Development
427 Patton Street
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

With a copy to:

W. Clarke Whitfield, Jr., Esq.
City Attorney
427 Patton Street, Room 421
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

If to the Company:

BGF Industries, Inc.
3802 Robert Porcher Way
Greensboro, NC 27410-2190

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change in the manner provided herein. A notice given hereunder shall be deemed given on the date of hand delivery, deposit with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. Copies as set forth in this Section 20 are provided as a courtesy and shall not be required to effectuate notice as provided herein.

Section 21. - Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. The parties hereby submit to the exclusive jurisdiction of the state court located in Danville, Virginia, or the U.S. District Court for the Western District of Virginia (Danville Division), in any action or proceeding arising out of, or related to this Agreement, and the parties hereby agree that all claims in respect of any action or proceeding shall be heard or determined only in either of these courts. The parties agree that a final judgment in any action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the judgment, or in any other manner provided by applicable law related to the enforcement of judgments. If any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement.

Section 22. - Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

Section 23. - Amendment, Modification and/or Supplement. The parties may amend, modify, and/or supplement this Agreement in such manner as may be agreed upon by the parties, provided such amendments, modifications, and/or supplement are reduced to writing and signed by the parties or their successors in interest.

Section 24. - Gender and Number. Throughout this Agreement, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

Section 25. - Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

Section 26. - Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 27. - Survival. Any termination, cancellation or expiration of this Agreement notwithstanding, provisions which are by their terms intended to survive and continue shall so survive and continue.

Section 28. - No Third-Party Beneficiaries. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

[SIGNATURES ARE ON FOLLOWING PAGES.]

WITNESS our signature and seal to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman

(SEAL)

ATTEST:

Susan M. DeMasi
Corporate Secretary
Danville-Pittsylvania Regional Industrial Facility Authority

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **ROBERT W. WARREN**, in his capacity as Chairman of **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

WITNESS our signature and seal to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

COUNTY OF PITTSYLVANIA, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman
Board of Supervisors

(SEAL)

ATTEST:

David M. Smitherman
Clerk
Pittsylvania County Board of Supervisors

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **ROBERT W. WARREN**, in his capacity as Chairman of the Board of Supervisors of **COUNTY OF PITTSYLVANIA, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

WITNESS our signature and seal to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

CITY OF DANVILLE, VIRGINIA, a Virginia municipal corporation

By: _____
Kenneth F. Larking
City Manager

(SEAL)

ATTEST:

Susan M. DeMasi
City Clerk
City of Danville, Virginia

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **KENNETH F. LARKING**, in his capacity as City Manager of **CITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

WITNESS our signature and seal to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

BGF INDUSTRIES, INC., a Delaware corporation

By: _____
Printed Name: _____
Title: _____

(SEAL)

STATE OF _____
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by _____, in his/her capacity as _____ of **BGF INDUSTRIES, INC.**, a Delaware corporation, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

List of Schedules

- 1(e) - Summary of Incentives
- 2(t) - The Project Site

Schedule 1(e)
(Summary of Incentives)

Cash Incentives*	Value or Max. Value
<i>New Facility Construction</i>	
Commonwealth Opportunity Fund Grant (§5(a)(i))	\$275,000.00
Danville-Pittsylvania County Industrial Enhancement Grant (§5(b))	\$245,000.00
Danville Enterprise Zone Grant (§5(c))	\$113,750.00
Tobacco Region Opportunity Fund Grant (§5(a)(ii))	\$620,000.00
Virginia Jobs Investment Program Grant (§5(a)(v))	\$48,750.00
Virginia State Enterprise Zone Grant – job creation (§5(a)(iv))	\$244,000.00
Virginia State Enterprise Zone Grant – real property improvements (§5(a)(iv))	\$200,000.00
TOTAL CASH INCENTIVES	\$1,746,500.00

Financing Incentives	
<i>New Facility Construction</i>	
Tobacco Region Opportunity Fund Loan (§5(a)(iii))	\$620,000.00
TOTAL FINANCING INCENTIVES	\$620,000.00

Real Property Incentives	
Project Site	\$1,000,000.00
TOTAL REAL PROPERTY INCENTIVES	\$1,000,000.00

**Any and all advances of cash incentives are secured by irrevocable letter of credit or other collateral provided by the Company and acceptable to RIFA, in the event that the Company does not meet the performance metrics or other requirements for such cash incentives.*

Schedule 2(t)
(The Project Site)

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.: Item 5C

Meeting Date: 11/13/2018

Subject: Resolution 2018-11-13-5C, approving a local performance agreement with Harlow Fastech LLC, and others.

From: Telly D. Tucker, Director of Economic Development
City of Danville

SUMMARY

The Board will be asked to approve Resolution 2018-11-13-5C approving that certain Local Performance Agreement with Harlow Fastech, and others.

ATTACHMENTS

Resolution 2018-11-13-5C
Exhibit A

A RESOLUTION APPROVING THAT CERTAIN LOCAL PERFORMANCE AGREEMENT WITH HARLOW FASTECH LLC, AND OTHERS, UNDER WHICH THE AUTHORITY WOULD PROVIDE AN INDUSTRIAL ENHANCEMENT GRANT IN THE AMOUNT OF \$500,000, RESIDENTIAL HOUSING EXPENSES REIMBURSEMENT IN THE MAXIMUM AMOUNT OF \$35,000, PAYMENT OF THE FIRST 12 MONTHS OF BASE RENT, UP TO \$75,000, UNDER A HAWKINS HIGH BAY LEASE WITH THE INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA, AND LAND IN THE AUTHORITY’S CYBER PARK PROJECT IN DANVILLE, VIRGINIA, FOR A LEASE FOR A NEW MANUFACTURING FACILITY; AND WOULD APPLY FOR AND DISBURSE CERTAIN STATE AND PRIVATE GRANTS AND STATE LOAN, IN EXCHANGE FOR CAPITAL INVESTMENTS OF AT LEAST \$8,000,000 AND CREATION OF 49 FULL-TIME JOBS WITH AN AVERAGE YEARLY BASE WAGE OF AT LEAST \$55,000 AND OTHER CAPITAL INVESTMENTS IN THE CYBER PARK PROJECT

WHEREAS, the Danville-Pittsylvania Regional Industrial Facility Authority (the “**Authority**”) is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act, as amended; and

WHEREAS, the Authority, the City of Danville, Virginia (the “**City**”), and the County of Pittsylvania County, Virginia (the “**County**”), in order to stimulate economic growth and development of the community by creating jobs and infrastructure have agreed to provide incentives to new and expanding businesses which conduct industrial activity; and

WHEREAS, Harlow Fastech LLC, a Virginia limited liability company (the “**Company**”), is a subsidiary of Harlow Group Limited, a private limited company organized in the United Kingdom (“**Harlow Group Limited**”); and

WHEREAS, Harlow Group Limited is a market-leading provider of precision sheet metalwork, fabrications and assemblies and its proven history of supplying some of the best-known names globally in the aerospace, automotive, consumer and industrial electronics, marine, medical, retail, vending, and telecommunications and energy industries; and

WHEREAS, Harlow Group Limited and the Company have agreed to establish the Company’s first U.S. manufacturing operation on approximately five (5) to ten (10) acres of land (the “**Project Site**”) in the Authority’s Cyber Park project (the “**Cyber Park**”) in Danville, Virginia. The Project Site would be (i) a portion of that certain real property commonly known as Lot 10B, Tax Parcel ID 78359 fronting on Slayton Avenue or (ii) some other suitable site in the Cyber Park that is agreeable to both Authority and the Company; and

WHEREAS, during a five (5) year performance period, the Company plans to make certain capital investments in the Project Site of at least Eight Million and 00/100 Dollars (\$8,000,000.00) with the construction of a new facility (the “**New Facility**”) and the installation of manufacturing equipment and to create forty-nine (49) full-time jobs with an average yearly

Resolution No. 2018-11-13-5C

base wage of at least Fifty-Five Thousand and 00/100 Dollars (\$55,000.00), as more particularly set forth in that certain Local Performance Agreement, attached hereto as **Exhibit A**, incorporated herein by this reference (the “**LPA**”); and

WHEREAS, under the LPA, each of the Authority, the City, the Industrial Development Authority of Danville, Virginia, and the County would agree to provide certain incentives to the Company in exchange for the Company meeting certain performance metrics within the performance period. Such incentives from the Authority, as more particularly described in the LPA, would include, among other things, an Industrial Enhancement Grant in the amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00); a Tobacco Region Opportunity Fund Loan in the principal amount of Six Hundred Thirty Thousand and 00/100 Dollars (\$630,000.00) from the Virginia Tobacco Region Revitalization Commission for construction of the New Facility; residential housing expenses reimbursement in the maximum amount of Thirty Five Thousand and 00/100 Dollars (\$35,000.00); payment of the first twelve (12) months of base rent, up to Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), under a Hawkins High Bay Lease with the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia, pending construction of the New Facility; and the availability of the Project Site for the construction of the New Facility which would be leased for the Company’s use with the option to purchase; and

WHEREAS, the Authority’s Board of Directors (the “**Board**”) has determined that the location, construction and operation of the New Facility in the Cyber Park will add to the tax base of the City and the County; and

WHEREAS, the Board has determined that it is in the best interests of the Authority and the citizens of the City and the County for the Authority to approve the form of the LPA.

NOW, THEREFORE, BE IT RESOLVED BY THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, THAT:

1. The Authority hereby approves the form of the LPA as set forth in **Exhibit A** and as reviewed at this meeting.
2. The Authority hereby authorizes the Chairman and the Vice Chairman of the Authority, either of whom may act independently of the other, on behalf of the Authority to execute and to deliver, on behalf of the Authority, the LPA.
3. The Authority further authorizes those certain amendments, deletions or additions to the LPA as may be approved by the Chairman or the Vice Chairman, the execution of which by the Chairman (or Vice Chairman as the case may be) shall conclusively establish his approval of any amendments, deletions or additions thereto.
4. The Authority hereby authorizes and directs staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things as are contemplated by the LPA as may be executed and delivered by the Chairman (or Vice

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Chairman as the case may be), or as such staff, agents and representatives in their discretion deem necessary or appropriate in order to carry out the intent and purposes of these resolutions.

5. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, its agents and representatives, in respect to the LPA and the matters contemplated therein or related thereto, including without limitation any confidentiality agreement, letter of intent or other document related to the LPA dated on before the date of this Resolution is adopted.

6. This Resolution shall take effect immediately upon its adoption.

- # -

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a regular meeting duly called and held on November 13, 2018, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority as of the 13th day of November 2018.

SUSAN M. DeMASI, Secretary
Danville-Pittsylvania Regional Industrial Facility
Authority

(SEAL)

Exhibit A
(Form of LPA)

LOCAL PERFORMANCE AGREEMENT

THIS LOCAL PERFORMANCE AGREEMENT (this "**Agreement**"), made and entered into as of the 1st day of November 2018, by and among **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("**RIFA**"); the **CITY OF DANVILLE, VIRGINIA**, a Virginia municipal corporation (the "**City**"); the **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "**City IDA**"); the **COUNTY OF PITTSYLVANIA, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "**County**"); and **HARLOW FASTECH LLC**, a Virginia limited liability company (the "**Company**");

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. - Recitals. The parties recite the following facts:

- a. To stimulate economic growth and development of the community by creating jobs and infrastructure, each of RIFA, the City, the County and the City IDA provides incentives to new and expanding businesses which conduct industrial activity.
- b. The Company has agreed to locate and to establish a manufacturing operation in approximately five (5) to ten (10) acres of land in RIFA's Cyber Park in Danville, Virginia (the "**Project Site**"). The Project Site shall be (i) a portion of that certain real property commonly known as Lot 10B, Tax Parcel ID 78359 fronting on Slayton Avenue or (ii) some other suitable site in RIFA's Cyber Park that is agreeable to both RIFA and the Company. During the Performance Period described below, the Company plans to make capital equipment investments of at least Eight Million and 00/100 Dollars (\$8,000,000.00) and to create forty-nine (49) full-time jobs with an average yearly base wage of at least Fifty Five Thousand and 00/100 Dollars (\$55,000.00), as set forth in this Agreement.
- c. Each of RIFA, the City, the City IDA and the County is willing to provide those certain incentives to the Company summarized in **Schedule 1(c)**, attached hereto and incorporated herein by this reference, provided that the Company satisfies certain criteria relating to employment projections and capital investment as described below.
- d. Each of RIFA, the City, the County and the City IDA finds that the provisions of this Agreement and the commitments of the Company will promote the expansion of industry by inducing industrial development within the Cyber Park Industrial Park, and that such development will promote the safety, health, welfare, convenience and prosperity of the citizens of Danville, Virginia and Pittsylvania County, Virginia.

Section 2. - Definitions. For the purposes of this Agreement, the following terms shall have the following definitions:

a. **"Agreement"** shall mean this Local Performance Agreement and shall have the same meaning as set forth in the header paragraph.

b. **"Annual License Fee"** shall have the same meaning as that term in Section 7(a) below.

c. **"Building"** shall mean a building containing approximately thirty thousand square feet (30,000 ft.²) of space to be constructed and located on the Project Site.

d. **"Capital Investment"** means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Project Site or at Hawkins (as defined below). A capital expenditure related to a leasehold interest in real property will be considered to be made **"on behalf of the Company"** if a lease between a developer and the Company is a capital lease, or is an operating lease having a term of at least ten (10) years, and the real property would not have been constructed or improved but for the Company's interest in leasing some or all of the real property. Only the capital expenditures allocated to the portion of the real property to be leased by the Company will count as Capital Investment. The purchase or lease of furniture, fixtures, machinery and equipment, including under an operating lease, will qualify as Capital Investment hereunder.

e. **"City"** shall have the same meaning as that term in the header paragraph of this Agreement.

f. **"City Machinery Tax"** shall mean for purposes of Section 7 below, the City tax imposed on machinery and tools used in manufacturing (excluding office equipment, furniture or fixtures), regardless of whether the owner of such machinery or tools is a tax-exempt entity.

g. **"City IDA"** shall have the same meaning as that term in the header paragraph of this Agreement.

h. **"Company"** shall have the same meaning as that term in the header paragraph of this Agreement.

i. **"County"** shall have the same meaning as that term in the header paragraph of this Agreement.

j. **"Danville-Pittsylvania County Industrial Enhancement Grant"** shall have the same meaning as that term in Section 6(b) below.

k. **"Documentation"** shall have the same meaning as that term is used in Section

8(g)(ii) below.

l. **"DRF"** shall mean the Danville Regional Foundation, a Virginia nonstock corporation.

m. **"DRF Grant"** shall have the same meaning as that term is used in Section 6(a) below.

n. **"Event of Default"** shall have the same meaning as that term is used in Section 12 below.

o. **"Event of Force Majeure"** shall mean without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

p. **"Facility"** shall collectively mean the Project Site along with the Building and any other improvements thereon, or during the term of the Hawkins High Bay Lease (as defined below), Facility shall mean the premises to be leased by the Company.

q. **"Gefertec ARC Equipment"** shall mean that certain Gefertec additive manufacturing machine, ARC Model which is the subject matter of the Gefertec Equipment License Agreement (as defined below).

r. **"Gefertec ARC Equipment License Agreement"** shall mean that certain five (5) year equipment license for the use of the Gefertec ARC Equipment, with RIFA as the licensor and the Company as the licensee, as more particularly described in Section 7 below.

s. **"Gefertec ARC Equipment Purchase Price"** shall have the same meaning as that term is used in Section 7(b) below.

t. **"Hawkins"** shall mean the Charles Hawkins Research Center which is leased and operated by IALR and located in RIFA's Cyber Park Industrial Park in Danville, Virginia.

u. **"Hawkins High Bay Lease"** shall mean that certain lease with the Company as tenant and IALR as landlord, of a high bay in Hawkins in which the Company shall operate pending the construction and delivery of the Building for the Company's use under the Project Site Lease (as hereafter defined).

v. **"IALR"** shall mean the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia.

w. **"Government Party" or "Government Parties"** shall mean any one or more of RIFA, the City, the County or the City IDA.

x. **"License Year"**, as use in Section 7(a) below, shall mean each twelve (12) month period beginning on the commencement date under the Gefertec ARC Equipment License Agreement or any anniversary thereof.

y. **"Maintain"**, as it pertains to a New Job, shall mean that the New Job will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company's employment levels (so long as there is active recruitment for open positions), (ii) strikes and (iii) other temporary work stoppages not to exceed sixty (60) days.

z. **"New Job"** shall mean new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an average annual wage of at least Fifty-Five Thousand and 00/100 Dollars (\$55,000.00), excluding standard fringe benefits (e.g., vacation, paid leave, health insurance, retirement, etc.) that the Company in its sole discretion may provide. Each New Job must require a minimum of either (i) thirty-five (35) hours of an employee's time per week for the entire normal year of the Company's operations, which **"normal year"** must consist of at least forty-eight (48) weeks, or (ii) one thousand six hundred eighty (1,680) hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth of Virginia, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs.

aa. **"Offer"** shall have the same meaning as that term is used in Section 8(g) below.

bb. **"Performance Date"** shall mean the date that is five (5) years after the date of this Agreement.

cc. **"Performance Period"** shall mean that period of time commencing on the date of this Agreement and ending on the Performance Date.

dd. **"Project Site"** shall have the same meaning as that term is used in Section 1(b) above.

ee. **"Project Site Lease"** shall mean that certain ten (10) year lease between the Company, as tenant, and the City IDA, as landlord, for the Project Site along with the Building

and any other improvements thereon, as more particularly described in Section 8 below.

ff. **"Recruitment Documents"** shall mean this Agreement and all other documents executed by the Company and any one or more of the Government Parties, as well as the Hawkins High Bay Lease.

gg. **"RIFA"** shall have the same meaning as that term in the header paragraph of this Agreement.

hh. **"ROFR"** or right of first refusal shall have the same meaning as that term is used in Section 8(g) below.

ii. **"ROFR Closing"** shall have the same meaning as that term is used in Section 8(g)(i) below.

jj. **"ROFR Price"** shall have the same meaning as that term is used in Section 8(g) below.

kk. **"ROFR Term"** shall have the same meaning as that term is used in Section 8(f) below.

ll. **"State Grants"** shall mean the Commonwealth Opportunity Fund Grant; the Tobacco Region Opportunity Fund Grant; the Virginia State Enterprise Zone Grant; and the Virginia Jobs Investment Program Grant.

mm. **"TROF Loan"** shall mean that certain interest-free loan in the maximum principal amount of Six Hundred Thirty Thousand and 00/100 Dollars (\$630,000.00) with the Tobacco Commission (as hereafter defined) as lender and RIFA as borrower, for the Company's use and benefit, as more particularly described in Section 6(f)(iii) below. The TROF Loan shall fund RIFA's acquisition of the Gefertec ARC Equipment for license to the Company as set forth in the Gefertec ARC Equipment License Agreement. In addition to the security provided under Section 7 below for repayment of the TROF Loan, the TROF Loan shall be secured by a first position lien on all equipment and machinery of the Company, as well as a second position deed of trust on the Project Site and improvements.

nn. **"Tobacco Commission"** shall mean the Virginia Tobacco Region Revitalization Commission, a political subdivision of the Commonwealth of Virginia, as created in Chapter 31 of Title 3.2 of the Code of Virginia, 1950, as amended.

oo. **"VCC"** shall mean Virginia Community Capital, Inc., a Virginia nonstock corporation and a Community Development Financial Institution, or its affiliates.

pp. **"VCC Loan"** shall mean that certain loan in the maximum principal amount of

Four Million Five Hundred Thousand and 00/100 Dollars (\$4,500,000.00) with VCC as lender and the City IDA as borrower, for construction of the Building upon the Project Site, as more particularly described in Section 8 below. The VCC Loan shall be amortized over twenty-five (25) years with a ten (10) year maturity, to be secured by a moral obligation of the City to be pledged during the construction phase of the Building and a first lien deed of trust on the Project Site and the improvements thereon.

qq. **"VCC Loan Cost"** shall mean the sum of the following: (i) the total amount of the payments of principal and interest under the VCC Loan for the duration of the loan term; (ii) the closing costs paid by the City IDA in connection with the VCC Loan (including without limitation attorneys' fees, recording costs and taxes (if any), appraisals, origination fees and the like); (iii) an amount equal to One Hundred and 00/100 Dollars (\$100.00), representing a monthly administrative servicing fee, then multiplied by the number of months in the loan term of the VCC Loan; and (iv) any other amounts payable or to be deposited in escrow by the City IDA under the VCC Loan.

Section 3. - Entity Domicile in Virginia. Throughout the Performance Period, the Company shall maintain its entity domicile in the Commonwealth of Virginia.

Section 4. - Location of Manufacturing Operations to Hawkins under the Hawkins High Bay Lease. Within sixty (60) days after the date of this Agreement, the Company shall enter into the Hawkins High Bay Lease and shall locate its manufacturing operations in the premises covered under the Hawkins High Bay Lease until the Building is available for occupancy by the Company. The Company hereby authorizes RIFA to obtain from IALR any and all information pertaining to the Hawkins High Bay Lease, including without limitation the Company's performance thereunder. The Company shall not agree to amend or to terminate the Hawkins High Bay Lease without giving RIFA at least thirty (30) days prior written notice. Nothing in this Section shall be deemed or construed to create a guarantor relationship between RIFA.

Section 5. - Capital Investment and Job Creation by the Company.

a. **\$8M Capital Investment.** On or before the Performance Date, the Company shall make Capital Investment in the minimum aggregate amount of Eight Million and 00/100 Dollars (\$8,000,000.00) on or for the Facility, of which (i) Three Million Five Hundred Thousand and 00/100 Dollars (\$3,500,000.00) shall be in furniture, fixtures, machinery and equipment and (ii) Four Million Five Hundred Thousand and 00/100 Dollars (\$4,500,000.00) shall in real property. Notwithstanding the foregoing, it shall not constitute an Event of Default under Section 12 below if the Company shall make a Capital Investment of at least Seven Million Two Hundred Thousand and 00/100 Dollars (\$7,200,000.00) on or before the Performance Date.

b. **49 New Jobs.** The Company shall create and employ forty-nine (49) New Jobs on or before the Performance Date and shall Maintain these New Jobs until at least the Performance Date. On May 1 and November 1 of each year during the Performance Period, the

Company shall produce and deliver to RIFA a New Jobs roster itemizing, at a minimum, each New Job and the base pay (excluding fringe benefits), as described in Section 2(z) above and any other information pertaining to New Jobs as may be reasonably requested by RIFA. The Company shall redact from the New Jobs roster any personally identifiable information of its employees. The Company hereby authorizes each of the City Economic Development Director, the County Economic Development Director and the RIFA Treasurer or his respective designees to obtain and to verify the information contained in the New Jobs roster from the Virginia Employment Commission. Notwithstanding the foregoing, it shall not constitute an Event of Default under Section 12 below if the Company shall create and Maintain at least forty-four (44) New Jobs on or before the Performance Date.

c. Financial Report. On May 1 and November 1 of each year during the Performance Period, the Company shall produce and deliver to RIFA a general financial report on the status of the Company's business since the date of its opening at the Facility.

Section 6. - Funds Extended to or for the Company.

a. \$150,000.00 DRF Grant. RIFA or any one or more of the Government Parties shall apply for a Danville Regional Foundation Grant in the amount of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) (the "**DRF Grant**"). If the application for such grant is approved by DRF, RIFA shall disburse the funds to or for the Company upon the Company's satisfaction or achievement of certain performance metrics as set forth in a performance grant agreement on such terms and conditions as may be agreed upon by DRF, RIFA and the Company. In the event of an Event of Default, the Company shall reimburse to RIFA or other Government Party applicant all or a portion the DRF Grant disbursed to or for the Company as set forth in Sections 13 and/or 14 below.

b. \$500,000.00 Danville-Pittsylvania County Industrial Enhancement Grant. RIFA shall pay to the Company a Danville-Pittsylvania County Industrial Enhancement Grant in the maximum amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) ("**Danville-Pittsylvania County Industrial Enhancement Grant**") to be used for certain Capital Improvements that are approved in advance and in writing by RIFA. To request a disbursement, the Company shall send an email or other writing to the City's Economic Development Director, on behalf of RIFA, for consideration and approval. Within fifteen (15) days after receipt of such request, RIFA, through the City's Economic Development Director, shall respond. In the event that the request is approved by the City's Economic Development Director in accordance with the business plan submitted by the Company and agreed upon by the City's Economic Development Director, the disbursement shall be paid to the Company within thirty (30) days after such approval. As of the date of this Agreement, RIFA has approved those certain Capital Improvements set forth in **Schedule 6(b)**, attached hereto and incorporated herein by this reference. After this grant is disbursed, this grant is subject to recapture by RIFA in the event the Company fails to make the Capital Investment and/or create and Maintain the New Jobs on or before the Performance Date.

c. Up to \$87,500.00 Danville Enterprise Zone Grant. The City acknowledges that under the City's Enterprise Zone program, the Company's Capital Investment and creation of New Jobs as contemplated in this Agreement could qualify for up to Eighty-Seven Thousand Five Hundred and 00/100 Dollars (\$87,500.00) in value in the form of cash payments, commercial building permit fee waivers and development fee waivers. The City shall disburse such grant according to the terms and conditions of its Enterprise Zone program. After this grant is disbursed, this grant is not subject to recapture by the City in the event the Company fails to make the Capital Investment and/or create and Maintain the New Jobs on or before the Performance Date.

d. Up to \$35,000 Reimbursement of Residential Housing Expenses. During the Performance Period, RIFA shall reimburse the Company up to Thirty-Five Thousand and 00/100 Dollars (\$35,000.00) in expenses in connection with purchasing or leasing residential housing, located in the City or the County, for use by personnel of the Company. Such expenses may include the costs of purchasing or renting housing, including but not limited to mortgage payments, rent, hotel/motel fees, utilities and other services reasonably related to housing, real estate taxes on the rental, insurance premiums on the rental or purchased property, and the rental of decorations and furniture, but shall exclude expenses for the purchase of decorations, furniture or food. As a condition to such reimbursement or payment, the Company shall submit invoices, vouchers and any other documentation reasonably requested by RIFA. Within sixty (60) days after a request for reimbursement or payment is received and all supporting documentation is verified by RIFA, RIFA shall make such reimbursement or payment. After this grant is disbursed, this grant is not subject to recapture by RIFA or any other Government Party in the event the Company fails to make the Capital Investment and/or create and Maintain the New Jobs on or before the Performance Date.

e. Up to \$75,000 Payment of Base Rent under the Hawkins High Bay Lease. So long as there is no Event of Default, RIFA shall pay to IALR up to an aggregate Seventy Five Thousand and 00/100 Dollars (\$75,000.00) for the first twelve (12) months of base rent under the Hawkins High Bay Lease. Nothing in this Section 6(e) shall be deemed or construed to create a guaranty relationship or principal-agent relationship between RIFA and the Company. Moreover, in no event shall IALR be deemed or construed to be a third-party beneficiary of this Section 6(e). After these funds is disbursed by RIFA, these funds are not subject to recapture by RIFA in the event the Company fails to make the Capital Investment and/or create and Maintain the New Jobs on or before the Performance Date.

f. State Grant Applications. RIFA or other Government Parties shall apply for and accept State Grants as follows:

- i. \$147,000 Commonwealth Opportunity Fund Grant. As a condition to and as a part of the application for the Commonwealth Opportunity Fund Grant, RIFA and the Company shall enter into a performance grant agreement with the Virginia Economic Development Partnership. If the application for such grant is approved, RIFA shall disburse the funds to

the Company upon the Company's satisfaction or achievement of certain performance metrics as set forth in such performance grant agreement.

- ii. \$315,000 Tobacco Region Opportunity Fund Grant. As a condition to and as a part of the application for the Tobacco Region Opportunity Fund Grant, RIFA and the Company shall enter into a performance grant agreement with the Tobacco Commission. If the application for such grant is approved, RIFA shall disburse the funds to the Company upon the Company's satisfaction or achievement of certain performance metrics as set forth in such performance grant agreement. However, should this grant be advanced to the Company as contemplated in Section 7(c) below prior to the satisfaction or achievement of those performance metrics, this grant is subject to recapture by RIFA or any other Government Party in the event the Company fails to make the Capital Investment and/or create and Maintain the New Jobs on or before the Performance Date.
- iii. \$630,000 Interest-Free TROF Loan. On behalf of the Company, RIFA shall apply for a TROF Loan in the amount of Six Hundred Thirty Thousand and 00/100 Dollars (\$630,000.00), interest free, with a loan repayment term of five (5) years. The first payment under the TROF Loan shall be no sooner than twenty-four (24) months after the first disbursement under the TROF Loan. As a condition to and as a part of the application for such loan, the Company shall be required to execute a promissory note payable to the Tobacco Commission, a security agreement and other loan documents. In the event of an Event of Default, RIFA shall have the right to demand immediate repayment of the outstanding balance of the TROF Loan as set forth in Section 13(f) below.
- iv. \$146,400 job creation and \$100,000 real property improvement: Virginia State Enterprise Zone Grant. The Facility is located in a Virginia Enterprise Zone. RIFA or the City shall apply for a Virginia State Enterprise Zone Grant from the Virginia Department of Housing and Community Development, estimated at up to One Hundred Forty Six Thousand Four Hundred and 00/100 Dollars (\$146,400.00) for job creation and up to One Hundred Thousand and 00/100 Dollars (\$100,000.00) for real property improvements to the Project Site. If such application for such grant is approved, RIFA or the City shall disburse the grant to the Company according to the terms and conditions of the Virginia State Enterprise Zone program.
- v. \$31,500 Virginia Jobs Investment Program Grant. RIFA shall assist the Company in applying for grants under the Virginia Economic Development Partnership's Virginia Jobs Investment Program, estimated at up to Thirty-One Thousand Five Hundred and 00/100 Dollars

(\$31,500.00). If such application for such grant is approved, the Virginia Economic Development Partnership (or if allowed by the program, RIFA) shall disburse the grant to the Company according to the terms and conditions of the Virginia Jobs Investment Program.

The Company shall reasonably cooperate with the Government Parties in connection with the applications for the State Grants, including without limitation providing financial information about the Company, the Company's planned Capital Investments, and the creation schedule of the New Jobs.

The Government Parties acknowledge that one or more advances of the State Grants could be made by RIFA or other Government Party applying for such grants, provided that the advanced disbursements are adequately secured in the sole and absolute determination of such applicant Government Party, in the event that the Company does not meet the performance metrics or other requirements for such State Grant.

Section 7. - The Gefertec ARC Equipment.

a. Gefertec ARC Equipment License Agreement. In connection with the Company's obligation to make certain Capital Investment and to create New Jobs under this Agreement, RIFA, in accordance with this Section 7, shall purchase, acquire and take title to the Gefertec ARC Equipment for the purpose of granting a five (5) year license to the Company as more particularly set forth in the Gefertec ARC Equipment License Agreement, substantially in the form in **Schedule 7(a)**, attached hereto and incorporated herein by this reference. During the term of the Gefertec ARC Equipment License Agreement, the Company shall pay to RIFA an Annual License Fee equal to (i) the aggregate required payments by RIFA under the TROF Loan for that year plus (ii) an annual administrative fee of Five Hundred and 00/100 Dollars (\$500). The Annual License Fee shall be payable to RIFA in installment amounts that are equal to the installment payment schedule for that year under the TROF Loan plus a pro rata portion of the annual administrative fee. Each installment payment of the Annual License Fee by the Company shall be due on a date that is sixty (60) days prior to the date that a payment is required from RIFA under the TROF Loan. Under the Gefertec ARC Equipment License Agreement, the Company, at its sole cost and expense, shall maintain and repair (including without limitation replacement if necessary) the Gefertec ARC Equipment in good working condition. In addition, the Company shall be responsible for insuring the Gefertec ARC Equipment against damage or other casualty with full replacement value coverage. The Company shall promptly pay when due the City Machinery Tax on the Gefertec ARC Equipment and submit to RIFA evidence of such payment within thirty (30) days thereafter.

b. Option and Obligation to Purchase the Gefertec ARC Equipment. At any time during the Performance Period so long as the Company is not then in default of the Recruitment Documents and all applicable cure periods have expired, the Company shall have the option to purchase the Gefertec ARC Equipment at the Gefertec ARC Equipment Purchase Price (as hereafter defined). "**Gefertec ARC Equipment Purchase Price**" shall mean the sum of (i) the

payoff balance of the TROF Loan and (ii) the unearned portion, if any, of the Tobacco Region Opportunity Fund Grant. However, in the event that the Company is in default of the Recruitment Documents and all applicable cure periods have expired, the Company, within ten (10) days after written demand by RIFA, shall purchase the Gefertec ARC Equipment at a purchase price equal to the sum of (i) the Gefertec ARC Equipment Purchase Price and (ii) the unpaid balance of the Company's obligation to repay certain grants as set forth in Sections 13 and 14 below. As a condition to purchasing the Gefertec ARC Equipment, the Company shall cause Harlow Group Limited to guaranty the Company's obligation to purchase the Gefertec ARC Equipment as set forth in this Section 7(b). The form of such guaranty shall be reasonably agreed upon by legal counsel to the Company and RIFA, respectively. In the event that neither the Company nor Harlow Group Limited purchases the Gefertec ARC Equipment from RIFA as provided in this Section within such ten (10) day period, RIFA may, but shall not be obligated to, sell the Gefertec ARC Equipment and apply the net sales proceeds to offset all unpaid, accrued obligations of the Company to RIFA, next to the Government Parties under this Agreement, and next to Government Parties under the other Recruitment Documents. Such remedy by RIFA shall be in addition to, and not in lieu of, any other remedies available to RIFA or other Government Parties under applicable law or under this Agreement.

c. Source of Funds for the Gefertec ARC Equipment. Subject to availability and receipt by RIFA of grant funds, RIFA shall apply the Tobacco Region Opportunity Fund Grant funds and the TROF Loan proceeds toward the purchase of the Gefertec ARC Equipment. In the event those funds and proceeds are insufficient to pay for the acquisition, delivery and installation of the Gefertec ARC Equipment, the Company shall contribute the remaining balance to RIFA.

Section 8. - Construction of the Facility on the Project Site; Project Site Lease.

a. Generally; \$4.5M Maximum Construction Costs. After the City IDA acquires the Project Site from RIFA, the City IDA, at the expense of the Company, shall cause the construction of the Facility on the Project Site according to the specifications of the Company, applicable restrictive covenants, building code and zoning ordinances, but in no event shall the costs of such construction project exceed Four Million Five-Hundred Thousand and 00/100 Dollars (\$4.5M) without the prior written consent of both the City IDA and the Company, which consent may be withheld in their sole, absolute and respective discretion.

b. Financing of the Construction Costs of the Facility on the Project Site.

i. Application for the VCC Loan. Within ten (10) business days after the acquisition of the Project Site, the City IDA shall apply for the VCC Loan for the construction of the Facility on the Project Site.

ii. Reasonable Cooperation by the Company. The Company shall reasonably cooperate with the City IDA in connection with the application for the VCC Loan, including without limitation providing financial information about the Company and the Facility

on the Project Site. All bank fees, due diligence expenses and closing costs associated with the VCC Loan shall be added to the construction costs of the Facility on the Project Site.

c. Conditions Precedent to the Application of the VCC Loan funds. As a condition precedent to the City IDA's application or use of the VCC Loan funds for construction costs of the Facility on the Project Site, all, but not less than all, of the following events shall have occurred, unless waived in writing by the City IDA:

- i. The VCC Loan shall have been approved and closed; and the loan disbursement conditions and requirements of the VCC Loan have been met, which may include without limitation disbursements in one or more draws;
- ii. RIFA shall have a second position security interest on the Project Site and all the improvements thereon as security for the Company's full performance under this Agreement;
- iii. All Advanced State and Private Grants earmarked for the construction costs of the Facility on the Project Site shall have been applied to construction costs; and
- iv. The Company shall have executed and delivered to the City IDA the Project Site Lease in substantially the for set forth in **Schedule 8(c)(iv)**, attached hereto and incorporated herein by this reference.

d. The Project Site Lease - Generally. During the term of the Project Site Lease, the Company shall locate its United States manufacturing operations in the Facility at the Project Site. Under the Project Site Lease, at any time after the first ten (10) years of the lease term, the Company shall have the right to terminate the Project Site Lease upon giving at least ninety (90) days written notice to the City IDA and to RIFA. Such right of termination by the Company is more particularly described in the Project Site Lease. The Project Site Lease shall be triple net, including payment for an amount equal to real estate taxes imposed upon a land owner that is not tax-exempt. In the event of a conflict between this Section 8(d) and the Project Site Lease, the provisions of the Project Site Lease shall control to the extent necessary to resolve such conflict.

e. The Project Site Lease Payments. The amount of the monthly lease payments payable under the Project Site Lease shall be calculated by amortizing the VCC Loan Cost over the amortization period of the VCC Loan. Should any component of the VCC Loan Cost or amortization change during the term of the Project Site Lease, the monthly lease payments payable by the Company under the Project Site Lease shall be adjusted accordingly.

f. Option to Purchase the Facility at the Project Site. At any time during the lease term of the Project Site Lease after September 1, 2022, or a sooner date that is acceptable to the U.S. Economic Development Administration, so long as the Company is not then in default of

this Agreement, the Project Site Lease or both, during the initial ten (10) year term of the Project Site Lease, the Company shall have the option to purchase the Facility from the City IDA at a price equal to the VCC Loan Cost, plus the outstanding balance of the TROF Loan, plus the unearned portion of the Tobacco Region Opportunity Fund Grant, and less the total amount of base lease payments paid by the Company. In no event shall the purchase price be less than One and 00/100 Dollar (\$1.00); and in no event shall the application of such base lease payment credit result in a refund of any kind to the Company. To exercise such option, the Company must provide written notice to the City IDA and to RIFA on or before the end of the initial term of the Project Site Lease. In the event of a conflict between this Section and the Project Site Lease, the provisions of the Project Site Lease shall control to the extent necessary to resolve such conflict. The purchase price shall be payable in immediately available funds, and the sale will be "**AS IS**", "**WHERE IS**" and "**WITH ALL FAULTS**" and without warranty from the City IDA. If the calculation of the net purchase price as set forth in this paragraph results in a number less than Zero Dollars (\$0.00), then the net purchase price shall be One Dollar (\$1); the City IDA shall not be obligated to pay anything or to apply any credit as a result of such calculation. At the closing of such sale, the City IDA shall execute and deliver a special warranty deed transferring good and marketable title to the Facility at the Project Site to the Company, free and clear of any monetary liens; however, the Facility at the Project Site shall be subject to the right of first refusal by RIFA further described in Section 8(g) below for a period beginning on the date that the Company holds fee simple title to the Project Site and ending on a date that is eleven (11) years after the date of this Agreement (the "**ROFR Term**").

g. Right of First Refusal by RIFA. If the Company receives a bona fide written offer to purchase the Project Site, which offer the Company is willing to accept (the "**Offer**"), the Company shall notify RIFA in writing as to the purchase price ("**ROFR Price**") and other terms of such Offer. Thereafter, RIFA shall have the right to purchase the Project Site at the same purchase price contained in the Offer (the "**ROFR**") if RIFA gives written notice to the Company of RIFA's election to so purchase the Project Site within sixty (60) days after receipt of the Company's notice setting forth the purchase price and other terms of the Offer. The terms of the closing of the ROFR shall be as follows:

- i. Terms of Sale. The closing of the ROFR (the "**ROFR Closing**") shall occur on the date selected by RIFA, which date shall be no earlier than thirty (30) days, but no later than ninety (90) days, after the Company's receipt of RIFA's notice of exercise of the ROFR. The ROFR Closing shall occur at the offices of RIFA's attorney. At such Repurchase Closing, the Company shall convey fee simple title to the Project Site to RIFA in its then current "**AS IS**" condition, by special warranty deed, subject to all matters of survey and title existing as of the Offer, but free and clear of any monetary liens arising during the Company's period of ownership. The Company shall convey the Documentation (as hereafter defined) to RIFA, free and clear of any monetary liens arising during the Company's period of ownership, pursuant to a quitclaim bill of sale with no warranties or representations whatsoever. The Documentation to be conveyed to RIFA

shall not include any confidential or proprietary information related to the Company, which shall be redacted by the Company and excluded from the foregoing conveyances. The Company is obligated to cure or satisfy all monetary liens at or prior to the ROFR Closing, but the Company may use the proceeds of the purchase price at the ROFR Closing for such purpose.

- ii. Delivery of Documentation. At the ROFR Closing, the Company, at its sole expense, shall deliver to RIFA (A) all as-built drawings of the improvement at the Project Site in the Company's possession, (B) a complete list of contractors, subcontractors and principal vendors pertaining to the improvements of the Property, including addresses and telephone numbers, (C) an indexed, loose leaf binder containing complete installation, operation, and maintenance manuals and warranties, including all manufacturers' literature, of all materials and systems installed or partially installed in any structure on the Project Site in the Company's possession, (D) an indexed, loose leaf binder containing all inspection reports, permits, and temporary and final certificates of occupancy (if any) for the occupancy of all structures on the Project Site in the Company's possession, and (E) any environmental reports on the Project Site in the Company's possession (collectively, the "**Documentation**"). The documents delivered under this Section 8(g) shall be without any warranty as to the information contained therein or the completeness thereof.
- iii. Closing Costs. The Company shall pay its own attorney's fees, the cost of preparing the special warranty deed, and the grantor's tax on the deed of the Project Site and all other costs and expenses incurred by the Company in connection with the ROFR Closing. RIFA shall pay the Virginia recordation tax on the deed of the Project Site as applicable, its attorneys' fees, title insurance premiums and expenses and all other costs and expenses incurred by RIFA in connection with the ROFR Closing. Prepaid items shall be prorated among the Company and RIFA at and shall, if applicable, be payable with the proceeds of, the ROFR Closing.
- iv. Other Documents. The Company and RIFA agree to execute and deliver to the other such documents as may be reasonably necessary to carry out the terms of this Section 8(g) and complete the ROFR Closing pursuant to similar commercial real estate transactions, including without limitation IRS 1099 reporting forms, the Virginia affidavit of residence/affidavit of capital gain, and FIRPTA certifications.
- v. Survival. The provisions of this Section 8(g) shall specifically and without limitation survive the Performance Date.

Section 9. - Capital Investment Report and Unaudited Annual Financial Statements.

The Company shall provide a signed report to RIFA annually, beginning May 31, 2019, documenting the Company's progress in Capital Investment and in maintenance of the Capital Investment. The Company further agrees that each of the City's Economic Development Director, the County Economic Development Director and the RIFA Treasurer or his respective designees are authorized to verify all taxable Capital Investment and related information through the Office of the Commissioner of Revenue for the City. Along with the report in this Section, the Company shall provide to RIFA (i) unaudited financial statements covering the previous twelve (12) month period, prepared under generally accepted accounting principles (GAAP) as used in the United States of America and (ii) documentation or other information reasonably satisfactory to RIFA demonstrating the Company's plans to have sufficient working capital to operate its business for at least the next eighteen (18) months and to meet its required Capital Investment as set forth in this Agreement. Such unaudited financial statements and other working capital documentation may be shared with DRF, so long as DRF agrees to keep that information confidential, except as otherwise required by law.

Section 10. - Affiliation with Harlow Group Limited. At all times during the Performance Period, the Company shall maintain its current affiliation with Harlow Group Limited, a private limited company organized under the laws of the United Kingdom. The Company shall give immediate written notice to RIFA in the event of a change in the Company's affiliation with Harlow Group Limited or in the ownership of the Company.

Section 11. - Representations and Warranties of the Company. As of the date of this Agreement and continuing until the Performance Date, the Company hereby represents and warrants to each Government Party the following:

- a. The Company is a limited liability company duly organized, validly existing, and in good standing under the laws of the Commonwealth of Virginia as of the date of this Agreement, and is authorized to transact business in all jurisdictions in which it is required by law.
- b. This Agreement, the transactions contemplated herein, and the other Recruitment Documents to be executed by the Company have been or shall have been approved by all necessary company action by the Company; and the persons executing this Agreement and any of the other Recruitment Documents to be executed by the Company have or shall have full and complete authority to execute and deliver the same for and on behalf of the Company.
- c. The execution, delivery, and performance of this Agreement, the other Recruitment Documents, and the consummation of the transactions contemplated hereby and thereby by the Company will not violate, conflict with, or result in any default under, or cause any acceleration of any obligation under, any (i) Articles of Organization, Operating Agreement, or other organizational documents of the Company; (ii) any existing contract, agreement, note, or other document to which the Company is a party, or by which the Company is bound; or (iii) any orders, decrees, or laws of any jurisdiction applicable to and binding upon the Company.

d. This Agreement and all other Recruitment Documents constitute the legal, binding and enforceable obligations of the Company in accordance with the terms contained herein or therein.

e. There is no pending or threatened litigation or proceeding against the Company or Harlow Group Limited which may materially adversely affect the financial condition, business operations, or business prospects of the Company.

f. Neither the Company nor Harlow Group Limited is in material default with respect to any existing indebtedness incurred by either of them.

g. All financial statements, certificates, resolutions, and other information or documentation furnished to any one or more of the Government Parties prior to the date of this Agreement by the Company or Harlow Group Limited are true, correct, and accurate, and no such information fails to disclose or misrepresents any information which could materially or adversely affect the transactions contemplated in this Agreement; and neither the Company nor Harlow Group Limited has failed to disclose any information which could materially and adversely affect the business or financial condition of the Company.

Section 12. - Event of Default. It shall be an Event of Default upon the occurrence of any one or more of the following events:

a. The occurrence of any material default under this Agreement, or any other Recruitment Document which is not cured within sixty (60) days after written notice to the Company of such default (or if such default cannot reasonably be cured within such sixty (60) day period, then if the Company fails to substantially begin such cure within such sixty (60) day period or fails thereafter to diligently pursue such cure);

b. The Company discontinues business for a period of sixty (60) days or more, or materially changes the nature of the Company's business;

c. The Company (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors which is not dismissed within sixty (60) days of such filing; (ii) is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; or (vi) becomes insolvent, however otherwise evidenced;

d. The controlling owner of the Company (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors which is not dismissed within sixty (60) days of such filing; (ii) is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the

benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; or (vi) becomes insolvent, however otherwise evidenced;

e. The Company is not in good standing with the Virginia State Corporation Commission after having received at least sixty (60) days written notice; or

f. A managing member, member, officer or controlling owner of the Company (i) is convicted of a felony, or (ii) is convicted of any other crime involving lying, cheating, stealing, fraud, misappropriation, or other similar acts of dishonesty.

Section 13. - Upon Occurrence of an Event of Default. In addition to and not in lieu of any other remedies or relief made available to any one or more of the Government Parties under this Agreement, at law or in equity, upon the occurrence of an Event of Default, irrespective of whether any Government Party has terminated this Agreement, each Government Party (as the case may be) may elect any one or more of the following:

a. The Government Party may immediately cease to disburse any further payments to or for the Company under this Agreement or the Recruitment Documents;

b. The Government Party may give written notice to the Company exercising the right to accelerate the Company's obligation to repay its unpaid indebtedness of the Company to that Government Party, declaring the outstanding balance to be immediately due and payable;

c. The Government Party shall have the right to demand the Company to immediately refund the DRF Grant as set forth in Section 6(a) above; however, if the Event of Default is based on the Company's failure to make the Capital Investment and/or to create and Maintain New Jobs as required in this Agreement, the amount of the refund shall be calculated as set forth below in Section 14 below;

d. The Government Party shall have the right to demand the Company to immediately refund the Danville-Pittsylvania County Industrial Enhancement Grant as set forth in Section 6(b) above; however, if the Event of Default is based on the Company's failure to make the Capital Investment and/or to create and Maintain New Jobs as required in this Agreement, the amount of the refund shall be calculated as set forth below in Section 14 below;

e. The Government Party shall have the right to demand the Company to immediately refund the unearned portion of the Tobacco Regional Opportunity Fund Grant as set forth in Section 6(f)(ii) above; however, if the Event of Default is based on the Company's failure to make the Capital Investment and/or to create and Maintain New Jobs as required in this Agreement, the amount of the refund shall be calculated as set forth below in Section 14 below;

f. The Government Party shall have the right to demand the Company to repay, and the Company shall immediately repay in full, the outstanding balance of TROF Loan as set forth in Section 6(f)(iii) above, but only if the Event of Default is not based on the Company's failure

to make the Capital Investment and/or to create and Maintain New Jobs as required in this Agreement;

g. The City IDA shall have the right to deem that the Company is in default of the Project Site Lease if the Company is then in possession of the Building;

h. Upon giving written notice to the Company, the Government Party shall have the right, but not the obligation, to offset any amounts owed by the Government Party against amounts owed or claimed to be owed by the Company; and/or

i. The Government Party may pursue any and all other remedies available to it under this Agreement, any one or more of the Recruitment Documents or applicable law.

Notwithstanding anything to the contrary contained herein, if the Company repays RIFA all amounts due under Section 14 below in full, any Event of Default due to the Company's failure to make Capital Investment and/or to create and Maintain New Jobs shall be deemed cured for the purposes of this Agreement and all other Recruitment Documents and, in such instance, no Government Party shall have the right to exercise its default rights under this Agreement or any of the other Recruitment Documents.

Section 14. - Repayment of Grants for Failure to make the Capital Investment and/or to create and Maintain New Jobs. In the event the Company fails to make the Capital Investment and/or to create and Maintain New Jobs as required under this Agreement and such failure constitutes an Event of Default, the Company shall repay to RIFA portions of the Tobacco Region Opportunity Fund Grant, Danville-Pittsylvania County Industrial Enhancement Grant, and the DRF Grant as follows:

a. Failure to make the Capital Investment. In the event the Company fails to make the Capital Investment as required under this Agreement and such failure constitutes an Event of Default, the Company shall repay to RIFA an amount equal to the sum of the following:

- i. Repayment of a portion of the Tobacco Region Opportunity Fund Grant. An amount equal to fifty percent (50%) of the total amount of the Tobacco Region Opportunity Fund Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the Capital Investment actually made by the Company as of the Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the Tobacco Region Opportunity Fund Grant actually disbursed as of the Performance Date, and (B) the denominator of which is Seven Million Two Hundred Thousand and 00/100 Dollars (\$7,200,000.00); however, this Section 14(a)(i) shall not apply in the event that the Gefertec ARC Equipment is purchased from RIFA at the Gefertec ARC Equipment Purchase Price by the Company or Harlow Group Limited as set forth in Section 7 above, or by some other third party;

plus

- ii. Repayment of a portion of the Danville-Pittsylvania County Industrial Enhancement Grant. An amount equal to fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the Capital Investment actually made by the Company as of the Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually disbursed as of the Performance Date, and (B) the denominator of which is Seven Million Two Hundred Thousand and 00/100 Dollars (\$7,200,000.00);

plus

- iii. Repayment of a portion of the DRF Grant. An amount equal to fifty percent (50%) of the total amount of the DRF Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the Capital Investment actually made by the Company as of the Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the DRF Grant actually disbursed as of the Performance Date, and (B) the denominator of which is Seven Million Two Hundred Thousand and 00/100 Dollars (\$7,200,000.00).

b. Failure to Create and Maintain New Jobs. In the event the Company fails to create and Maintain New Jobs as required under this Agreement and such failure constitutes an Event of Default, the Company shall repay to RIFA an amount equal to the sum of the following:

- i. Repayment of a portion of the Tobacco Region Opportunity Fund Grant. An amount equal to fifty percent (50%) of the total amount of the Tobacco Region Opportunity Fund Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the New Jobs actually Maintained by the Company as of the Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the Tobacco Region Opportunity Fund Grant actually disbursed as of the Performance Date, and (B) the denominator of which is forty-four (44) New Jobs; however, this Section 14(b)(i) shall not apply in the event that the Gefertec ARC Equipment is purchased from RIFA at the Gefertec ARC Equipment Purchase Price by the Company or Harlow Group Limited as set forth in Section 7 above, or by some other third party;

plus

- ii. Repayment of a portion of the Danville-Pittsylvania County Industrial Enhancement Grant. An amount equal to fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the New Jobs actually Maintained by the Company as of the Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the Danville-Pittsylvania County Industrial Enhancement Grant actually disbursed as of the Performance Date, and (B) the denominator of which is forty-four (44) New Jobs;

plus

- iii. Repayment of a portion of the DRF Grant. An amount equal to fifty percent (50%) of the total amount of the DRF Grant actually disbursed as of the Performance Date, minus the following calculation: an amount equal to the New Jobs actually Maintained by the Company as of the Performance Date multiplied by a fraction, (A) the numerator of which is fifty percent (50%) of the total amount of the DRF Grant actually disbursed as of the Performance Date, and (B) the denominator of which is forty-four (44) New Jobs.

c. The Company shall pay the sums described in this Section 14 no later than sixty (60) days after the date on which the Company is given written notice of such Event(s) of Default described in this Section.

Section 15. - Audit and Guideline Requirements. Upon reasonable prior written request, the Company shall allow each of the City's Economic Development Director, the County Economic Development Director and the RIFA Treasurer (or his respective designees) reasonable access during regular business hours to all records pertaining to the Company's employment and investment at the Facility, and the Company shall cooperate with RIFA in any audit of such records by furnishing all information necessary to verify the Company's performance under this Agreement. In return, each of RIFA, the City, the County and the City IDA agrees to maintain the confidentiality of any and all proprietary, confidential and/or sensitive information, including without limitation personal payroll earnings or similar information that those Government Parties or its designees may receive or access.

Section 16. - Force Majeure. Notwithstanding the foregoing, if the Company does not meet the New Job and Capital Investments requirements because of an Event of Force Majeure, the Performance Date will be extended day-for-day by the delay in meeting the targets caused by the Event of Force Majeure.

Section 17. - Subject to Annual Appropriations. As provided under Virginia law, the obligations of the Government Parties to pay the cost of performing its obligations under this Agreement are subject to and dependent upon annual appropriations being made from time to time by the governing body of such Government Party, for such purpose.

Section 18. - Non-waiver. No waiver of any term or condition of this Agreement by any party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

Section 19. - Attorneys' Fees. Each of the parties shall be solely responsible for their respective attorneys' fees in the negotiating, drafting, and execution of this Agreement and any of the transactions contemplated hereby.

Section 20. - Other Documents. The parties agree that they shall execute, acknowledge, and deliver all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Agreement.

Section 21. - Default. In the event that a party to this Agreement incurs attorneys' fees and/or costs in pursuing or defending an alleged breach of this Agreement, the non-prevailing party, in addition to any other remedy, shall be responsible for the reasonable attorneys' fees and costs incurred by the prevailing party. The parties retain all rights at law and in equity to enforce the provisions of this Agreement in accordance with applicable law.

Section 22. - Entire Agreement. This Agreement and the schedules hereto contain the entire agreement and understanding of the parties to this Agreement with respect to the transactions contemplated hereby; and this Agreement and the schedules hereto supersede all prior understandings and agreements of the parties with respect to the subject matter hereof.

Section 23. - Headings. The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

Section 24. - Notices. Any notice required or contemplated to be given to any of the parties by any other party shall be in writing and shall be given by hand delivery, certified or registered United States mail, or a private courier service which provides evidence of receipt as part of its service, as follows:

If to RIFA:

Danville-Pittsylvania Regional
Industrial Facility Authority
Attn.: Susan M. DeMasi, Secretary
427 Patton Street
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

With a copy to:

Michael C. Guanzon, Esq.
Clement Wheatley
549 Main Street
P.O. Box 8200 (zip code 24543)
Danville, VA 24541

If to the County:

Matthew D. Rowe
Director of Economic Development
1 Center Street
P.O. Box 426
Chatham, VA 24531

With a copy to:

J. Vaden Hunt, Esq.
County Attorney
1 Center Street
P.O. Box 426
Chatham, VA 24531

If to the City or the City IDA:

Telly D. Tucker
Director of Economic Development
427 Patton Street
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

With a copy to:

W. Clarke Whitfield, Jr., Esq.
City Attorney
427 Patton Street, Room 421
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

If to the Company:

Harlow Fastech LLC
Attn.: David Gordon Smith and
Alan Glen Pearce
228 Slayton Avenue
Danville, VA 24541

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change in the manner provided herein. A notice given hereunder shall be deemed given on the date of hand delivery, deposit with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. Copies as set forth in this Section 24 are provided as a courtesy and shall not be required to effectuate notice as provided herein.

Section 25. - Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. The parties hereby submit to the exclusive jurisdiction of the state court located in Danville, Virginia, or the U.S. District Court for the Western District of Virginia (Danville Division), in any action or proceeding arising out of, or related to this Agreement, and the parties hereby agree that all claims in respect of any

action or proceeding shall be heard or determined only in either of these courts. The parties agree that a final judgment in any action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the judgment, or in any other manner provided by applicable law related to the enforcement of judgments. If any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement.

Section 26. - Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

Section 27. - Amendment, Modification and/or Supplement. The parties may amend, modify, and/or supplement this Agreement in such manner as may be agreed upon by the parties, provided such amendments, modifications, and/or supplement are reduced to writing and signed by the parties or their successors in interest.

Section 28. - Gender and Number. Throughout this Agreement, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

Section 29. - Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

Section 30. - Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 31. - Survival. Any termination, cancellation or expiration of this Agreement notwithstanding, provisions which are by their terms intended to survive and continue shall so survive and continue.

Section 32. - No Third-Party Beneficiaries. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

[SIGNATURES ARE ON FOLLOWING PAGES.]

WITNESS our signature to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman

ATTEST:

Susan M. DeMasi
Corporate Secretary
Danville-Pittsylvania Regional Industrial Facility Authority

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____ 2018, by **ROBERT W. WARREN**, in his capacity as Chairman of **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

WITNESS our signature to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

CITY OF DANVILLE, VIRGINIA, a Virginia municipal corporation

By: _____
Kenneth F. Larking
City Manager

ATTEST:

Susan M. DeMasi
City Clerk
City of Danville, Virginia

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **KENNETH F. LARKING**, in his capacity as City Manager of **CITY OF DANVILLE, VIRGINIA**, a Virginia municipal corporation, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

WITNESS our signature to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By: _____
T. Neal Morris, Chairman

ATTEST:

Russell D. Reynolds
Corporate Secretary
Industrial Development Authority of Danville, Virginia

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **T. NEAL MORRIS**, in his capacity as Chairman of **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

WITNESS our signature to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

COUNTY OF PITTSYLVANIA, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman
Board of Supervisors

ATTEST:

David M. Smitherman
Clerk
Pittsylvania County Board of Supervisors

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **ROBERT W. WARREN**, in his capacity as Chairman of the Board of Supervisors of **COUNTY OF PITTSYLVANIA, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

WITNESS our signature to this **LOCAL PERFORMANCE AGREEMENT** as of the date first above written:

HARLOW FASTECH LLC, a Virginia limited liability company

By: _____
David Gordon Smith
Title: _____

By: _____
Alan Glen Pearce
Title: _____

STATE OF _____
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **DAVID GORDON SMITH** and **ALAN GLEN PEARCE**, in their capacity as _____ and _____, respectively, of **HARLOW FASTECH LLC**, a Virginia limited liability company, on behalf of such entity.

My commission expires: _____.

Notary Public
Registration No. _____

List of Schedules

1(c) - Summary of Incentives

6(b) – Approved Capital Improvements - Danville-Pittsylvania County Industrial Enhancement Grant

7(a) – Gefertec ARC Equipment License Agreement

8(c)(iv) – Project Site Lease

Schedule 1(c)
(Summary of Incentives)

Grant / Benefit / Incentive	Value or Max Value
DRF Grant (§6(a))	\$150,000.00
Danville-Pittsylvania County Industrial Enhancement Grant (§6(b))	\$500,000.00
Danville Enterprise Zone Grant (§6(c))	\$87,500.00
Residential Housing Expenses Reimbursement (§6(d))	\$35,000.00
Payment of First 12 Months of Base Rent under the Hawkins High Bay Lease (§6(e))	\$75,000.00
Commonwealth Opportunity Fund Grant (§6(f)(i))	\$147,000.00
Tobacco Region Opportunity Fund (§6(f)(ii))	\$315,000.00
TROF Loan (§6(f)(iii)) – Interest Free	\$630,000.00
Virginia State Enterprise Zone Grant – job creation (§6(f)(iv))	\$146,400.00
Virginia State Enterprise Zone Grant – real property improvements (§6(f)(iv))	\$100,000.00
Virginia Jobs Investment Program Grant (§6(f)(v))	\$31,500.00
Virginia Manufacturing Sales and Use Tax Exemptions (Form ST-11 from the Virginia Department of Taxation), based on the Company's expected expenditure in machinery and Equipment	\$238,500.00
TOTAL	\$2,455,900.00

Schedule 6(b)

(Approved Capital Improvements - Danville-Pittsylvania County Industrial Enhancement Grant)

Approved: grant release of \$165,000 for purchase of:

\$80,000 HAAS Mill to be installed at the Facility

\$60,000 HAAS Turn to be installed at the Facility

\$25,000 Fixture and fittings to be installed at the Facility

\$165,000 Total

Title to these pieces of HAAS equipment (collectively, the “**HAAS Equipment**”) will be immediately transferred to RIFA free and clear of liens, and shall become subject to the Gefertec Equipment License Agreement as additional equipment being licensed by RIFA to the Company, except that the Annual License Fee for the HAAS Equipment shall be equal to Ten and 00/100 Dollars (\$10.00) and except that the Company shall not be obligated to purchase the HAAS Equipment in the same manner as the Gefertec ARC Equipment. Instead, the following provisions shall apply pertaining to the HAAS Equipment:

HAAS Equipment as Security for the Company’s obligations. Within ten (10) days after the Performance Date so long as the Company is not then in default of the Recruitment Documents and all applicable cure periods have expired, RIFA shall convey title to the HAAS Equipment to the Company, free and clear of any monetary liens, for no additional monetary consideration. However, in the event that the Company is in default of the Recruitment Documents and all applicable cure periods have expired, at any time during the license term or the Performance Date, the Company’s license to use the HAAS Equipment shall terminate and RIFA may, but shall not be obligated to, sell the any or all of the HAAS Equipment and apply the net sales proceeds to offset all unpaid, accrued obligations of the Company to RIFA, next to the Government Parties under this Agreement, and next to Government Parties under the other Recruitment Documents. Such remedy by RIFA shall be in addition to, and not in lieu of, any other remedies available to RIFA or other Government Parties under applicable law or under this Agreement.

Schedule 7(a)
(Gefertec ARC Equipment License Agreement)

GEFERTEC ARC EQUIPMENT LICENSE AGREEMENT

THIS GEFERTEC ARC EQUIPMENT LICENSE AGREEMENT (this “**Agreement**”), made and entered into as of the ____ day of _____ 2018, by and between **HARLOW FASTECH LLC**, a Virginia limited liability company (the “**Company**”); and **DANVILLE-PITTSYLVANIA COUNTY REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**RIFA**”);

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. - Recitals. The parties recite the following facts, each of which is incorporated herein and made an integral part of this Agreement:

a. The Company, RIFA and others entered into that certain Local Performance Agreement dated November 1, 2018 (the “**Local Performance Agreement**”), for the location and establishment of the Company’s manufacturing operation on approximately five to ten (10) acres of land, fronting on Slayton Avenue in Danville, Virginia (identified as part of tax PIN 78359), commonly known as Lot 10B, RIFA Cyber Park, Danville, Virginia (the “**Project Site**”).

b. The Company is the owner of that certain Gefertec additive manufacturing machine, ARC model (referred to in the Local Performance Agreement as Gefertec ARC Equipment) as more particularly described in Schedule 1(b), attached hereto and incorporated herein by this reference (the “**Equipment**”).

c. The acquisition of the Equipment by RIFA is being financed in part by utilizing funds received by RIFA as part of the Tobacco Region Opportunity Fund Grant (as defined in the Local Performance Agreement) (the “**Grant**”) and proceeds received by RIFA from the TROF Loan (as defined in the Local Performance Agreement) (the “**Loan**”).

d. The parties enter into this Agreement in connection with Section 7 of the Local Performance Agreement. Unless otherwise provided in this Agreement, the terms used in this Agreement shall have the same meaning given to such term in the Local Performance Agreement.

Section 2. - License. RIFA hereby licenses to the Company, and the Company hereby licenses from RIFA the Equipment for the Company’s use during the Term (as hereafter defined), subject to the terms and conditions set forth herein.

Section 3. - Term.

a. Term. The term of this Agreement shall be for a period of five (5) years

commencing on the date RIFA takes title to the Equipment (the “**Commencement Date**”), unless sooner terminated as provided in this Agreement (the “**Initial Term**”). At the end of the Initial Term, this Agreement shall automatically renew year to year, unless otherwise sooner terminated as provided herein. (The Initial Term and all renewals thereof, if any, shall be collectively referred to as the “**Term**”.)

b. Termination.

- i. Termination by Agreement. In the event RIFA and the Company mutually agree in writing, this Agreement may be terminated without cause on the terms and date stipulated therein.
- ii. Termination for Event of Default under the Local Performance Agreement. In the event of an Event of Default under the Local Performance Agreement, where all applicable cure periods (if any) have expired, RIFA shall have the right, but not the obligation, to terminate this Agreement upon at least thirty (30) days written notice to the Company. Termination under this Section 3(b)(ii) shall be deemed to be without cause.
- iii. Termination for Recurrent Breaches. In the event the Company is in default of any of its obligations under this Agreement on three (3) or more occasions in any calendar year, where RIFA has given written notice thereof, and regardless of whether such defaults have been cured, RIFA shall have the right, but not the obligation, to terminate this Agreement by giving at least thirty (30) days’ notice thereof to the Company. Termination under this Section 3(b)(iii) shall be deemed to be without cause.
- iv. Termination on Notice for Default. In the event either party gives notice to the other that such other party has substantially defaulted in the performance of any other obligation under this Agreement, the defaulting party shall attempt to reasonably cure such default within a period of thirty (30) days following the receipt of such notice. If the defaulting party has not substantially begun or does not diligently thereafter pursue such cure within such period, the party giving such notice shall have the right to immediately terminate this Agreement. Termination under this Section 3(b)(iv) shall be in addition to, and not in lieu of, any other rights and remedies available under this Agreement or under applicable law.
- v. Grant/Loan Default. In the event that either the Grant or Loan, or both, is in default as a result of the Company’s failure to meet its obligations under this Agreement (including without limitation maintenance and repairs of the Equipment, payment of taxes on the Equipment, and the like as provided in this Agreement), the Company shall be deemed to be in material default of this Agreement (and no cure period under Section

3(b)(iv) above shall apply), and RIFA shall have the right to immediately terminate this Agreement by giving written notice to the Company. Termination under this Section 3(b)(vi) shall be in addition to, and not in lieu of, any other rights and remedies available under applicable law.

- vi. Exercise of the Option to Purchase the Equipment. In the event the Company exercises its option to purchase the Equipment as provided in Section 20 below, the Term shall be deemed to have expired as of the closing of such purchase.
- vii. Purchase of the Equipment. In the event the Company purchases the Equipment as provided in Section 21 below, the Term shall be deemed to have expired as of the closing of such purchase.

Section 4. - License Fee. The Company shall pay to RIFA an annual license fee for the license of the Equipment hereunder (the “**Annual License Fee**”), without demand and without offset, equal to (i) the aggregate required payments by RIFA under the TROF Loan (as defined in the Local Performance Agreement) for that year plus (ii) an annual administrative fee of Five Hundred and 00/100 Dollars (\$500). The Annual License Fee shall be payable to RIFA in installment amounts that are equal to the installment payment schedule for that year under the TROF Loan plus a pro rata portion of the annual administrative fee. Each installment payment of the Annual License Fee by the Company shall be due on a date that is sixty (60) days prior to the date that a payment is required from RIFA under the TROF Loan. Annual License Fee payments shall be delivered to the same notice address for RIFA as set forth in Section 29 below.

Section 5. - No Warranties. THE ONLY EXPRESS WARRANTY IS THAT OF THE MANUFACTURER, IF ANY, AND NO ORAL REPRESENTATIONS OR WARRANTIES OF ANY KIND SHALL BE BINDING ON RIFA. THERE IS NO WARRANTY OR REPRESENTATION THAT THE EQUIPMENT IS FIT FOR THE COMPANY’S PARTICULAR USE OR PURPOSE, OR THAT IT IS FREE FROM LATENT DEFECTS. ALL USED EQUIPMENT IS ACCEPTED BY THE COMPANY “**AS IS**”, “**WHERE IS**” AND “**WITH ALL FAULTS**”. THE COMPANY ACCEPTS THE EQUIPMENT IN ITS CURRENT CONDITION, WITH ALL FAULTS, WITHOUT REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED AS TO ITS CONDITION.

Section 6. - Indemnification. The Company agrees to reimburse, indemnify, hold harmless and defend, at the Company’s expense, RIFA and its officers, employees and agents against all losses, liabilities, damage, injuries, penalties, demands, costs, attorney’s fees, fines, claims or settlements, including without limitation, a bodily injury, death, property damage or other damage arising out of a breach of this Agreement, the Company’s violation of any applicable regulations, possession, use, operation, erection, dismantling, servicing or transport involving the Equipment. The obligations under this Section 6 shall specifically and without limitation survive the termination of this Agreement.

Section 7. - Compliance with Law. The Company shall be responsible for complying with all applicable law with regard to the Equipment and its use and operation.

Section 8. - Risk of Loss. The execution of this Agreement by the Company constitutes a transfer of all risk of loss to the Company for all damages to the Equipment, in transit or otherwise. The Company is solely responsible for and agrees to pay to RIFA the full repair or replacement value, from any cause whatsoever, including Acts of God, and further agrees to pay all impound fees, claim administration fees, diminishment in value, towing, storage or other costs incurred by RIFA to recover the Equipment. Use of the Equipment by the Company, its Authorized Operators (as hereafter defined) or persons other than the Company shall be at the sole risk of the Company.

Section 9. - Title to the Equipment; Security Interest. RIFA shall retain the title to the Equipment. The parties acknowledge and agree that in the event the Equipment is purchased as set forth in Section 20 or Section 21 below, from the closing of such purchase until such time as the Company has fully performed under the Local Performance Agreement, RIFA shall reserve a security interest in the Equipment, any replacements or substitutions thereof and all proceeds therefrom, and shall have a first position lien security interest in the same. RIFA may take all steps necessary to perfect and evidence such security interest, including the filing of financing statements and other documents in the appropriate jurisdictions, and the Company hereby agrees to cooperate fully with RIFA and execute and deliver any further instruments or documents required in connection therewith.

Section 10. - Insurance.

a. For the Equipment. The Company, at its sole expense, shall insure the Equipment for its full replacement value against any and all loss and damage. The Company represents and warrants to RIFA that the Company is not a party to any agreement that shall interfere with RIFA's interest in the Equipment, or result in a lien or security interest in or on the Equipment. The Company shall provide proof of insurance, naming the RIFA as a loss payee and/or additional insured on a certificate of insurance evidencing coverage for physical damage to the Equipment. Such insurance shall include replacement value of the Equipment.

b. CGL Policy. In addition to the foregoing physical damage insurance for the Equipment, the Company shall, at the Company's expense, and at all times during the Term, maintain in full force and effect a commercial general liability insurance policy covering bodily injury and/or property damage liability on the Equipment in an amount of not less than Three Million Dollars (\$3,000,000), combined single limit. Such third party liability coverage shall be primary, and not excess or on a contributory basis, and shall provide coverage for liability for injuries and/or damages sustained by any person or persons, agents or employees of the Company, and the Company's indemnity obligations herein.

c. No Waiver of Rights. RIFA does not waive any claims or rights hereunder. The insurance obligation of the Company in this Section 10 shall in no way limit the Company's ultimate liability hereunder. The Company agrees to submit a claim to its insurance carrier for any such loss and expenses and if insurance does not cover any such loss and expenses, the Company agrees to pay RIFA for any such loss and expenses.

d. Compliance and Cooperation. The Company shall comply with all requirements of the insurance policies required in this Section 10. In the event of a loss, the Company, its agents and employees shall cooperate fully with RIFA's and the Company's insurer in the investigation, prosecution and/or defense of any claim or suit arising therefrom and shall do nothing to impair or invalidate the applicable insurance coverage.

Section 11. - Notice of Damage, Loss or Accident. The Company shall immediately report accidents, loss, theft, damage, or failure of the Equipment to RIFA by telephone, facsimile transmission, e-mail or by hand delivery or first class mail, postage prepaid. If notice is by telephone, a written notice shall be sent to RIFA within twenty-four (24) hours of the initial report. Notice of accident, theft, or other offense shall be promptly reported to the appropriate governmental authorities. The Company and/or its agents, employees and Authorized Operators (as hereafter defined) shall provide RIFA and all appropriate governmental authorities with complete information and assistance in the investigation and prosecution of any matter arising from such accident, loss, theft, or damage. The Company shall immediately inform RIFA in writing of the delivery of every process, pleading or paper relating to any claims, suits and proceedings and shall cooperate with RIFA in all manners connected with any claims or suits. A copy of any such process, pleading, or other document relating to any claims, suits, or proceedings shall be attached to any notice required hereunder.

Section 12. - Ownership; Operation. The Company acknowledges that the Equipment is the property of RIFA. The Company agrees that only its employees and agents, herein referred to as "**Authorized Operators**", may use or operate the Equipment. The Company shall cause all Authorized Operators to be at least the age of majority by law, to be properly trained and qualified to operate the Equipment, and to have a valid operator's license (if required by applicable law) to operate the Equipment and be in compliance with the law. For purposes of this Section 12, any person operating the Equipment shall be conclusively deemed to be an Authorized Operator.

Section 13. - Delivery of Equipment. In no event shall RIFA be liable for any damages arising out of delays in the delivery and installation of the Equipment from any cause whatsoever. At the termination of this Agreement, the Company, at its sole expense, shall deliver or cause to be delivered the Equipment to RIFA at a location in Danville, Virginia, designated by RIFA; RIFA shall not be responsible for the Equipment until the Equipment is returned to RIFA's property or premises.

Section 14. - Assignment. Without the prior written consent of RIFA, which consent may be withheld in its sole and absolute discretion, the Company shall not sublicense, assign, alter or dispose of the Equipment or any part thereof.

Section 15. - Use of the Equipment. The Company hereby assumes full responsibility for any damage to, destruction, or loss of property used in association with the Equipment. Use of the Equipment by the Company shall be: (1) only within the Project Site; (2) outside of any contaminated area or exposure (the use around and/or with any hazardous materials or substances and/or toxic materials in violation of applicable law is strictly prohibited); and (3) only in accordance with the manufacturer's rated capacity and operating instructions. Upon the

termination of this Agreement, the Company shall return the Equipment to RIFA as set forth in Section 13 above in the same good and clean condition as received, ordinary wear and tear excepted.

Section 16. - Taxes. Unless otherwise provided in the Recruitment Documents (as defined in the Local Performance Agreement), during the Term, the Company shall pay promptly when due all state, county and local taxes, including the City Machinery Tax (as defined in the Local Performance Agreement), imposed on the Equipment, including without limitation any sales, use, rental and personal property taxes, which amounts shall be deemed to be additional rent hereunder, and shall submit evidence of such payments to RIFA within thirty (30) days thereafter.

Section 17. - Maintenance; Repairs. RIFA shall provide the Equipment in “AS IS” condition. The Company shall provide, at its sole costs and expense, all repair and maintenance as if the Company were the owner of the Equipment, including without limitation: (1) all preventative and/or necessary maintenance, replacement parts and repair necessitated by ordinary wear and tear to maintain the Equipment in good repair and operating condition; (2) necessary oil and lubrication; (3) periodic cleaning and maintenance inspection set forth in the manuals for this Equipment; and (4) any emergency service, repairs and replacement associated with the breakdown or disabling of the Equipment. The Company shall record and without demand by RIFA, supply RIFA with the repair and maintenance records upon the termination of this Agreement, except where the Company purchases the Equipment as provided in Section 20 or 21 below.

Section 18. - Default.

a. Late Fee. If payment due hereunder remains overdue and unpaid for five (5) calendar days, the Company shall pay, as additional rent, pay a late fee equal to the lesser of ten percent (10%) applied to the payment overdue and the maximum amount permitted by applicable law. If any payment due hereunder remains overdue and unpaid for a period of fifteen (15) days, RIFA may, at its option, at any time during such default, declare this Agreement terminated by giving written notice to the Company and take possession of the Equipment.

b. Default Event. Without limiting the provisions of Section 3(b) above, each of the following shall be deemed a material default hereunder: (1) the Company fails to pay any license fee or taxes within fifteen (15) days after a due date; (2) the Company fails to perform any of its other obligations under this Agreement, and such failure continues for a period of thirty (30) days after RIFA has given written notice of such failure to the Company; (3) the Company is dissolved or terminated; (4) the Company assigns its assets for the benefit of creditors, or enters, voluntarily or involuntarily, into any bankruptcy or reorganization proceeding, or becomes insolvent; (5) a default occurs as set forth in Section 3(b)(iv) above; (6) the Equipment is deliberately damaged by any Authorized Operator at the direction of the Company; and/or (7) the Company misrepresents the facts to RIFA pertaining to the use or operation of the Equipment (collectively and individually, a “**Default Event**”). Should a Default Event occur, RIFA shall have the right to declare this Agreement to be terminated upon giving written notice to the Company, to take possession of the Equipment, and in addition, to

exercise all rights and remedies available to RIFA under this Agreement, under applicable law or both.

Section 19. - Remedies. In addition to remedies set forth in this Agreement and those under applicable law, if a Default Event occurs, RIFA may do one or more of the following: (1) RIFA may unilaterally terminate this Agreement upon giving written notice to the Company and without prejudice to any other claims RIFA may have against the Company; (2) RIFA may require the Company to immediately pay RIFA, as liquidated damages and not as a penalty, a sum equal to the present value of all unpaid Annual License Fee payments for the remainder of the unexpired portion of the Initial Term as set forth herein; (3) RIFA may require the Company, at the Company's expense, to deliver the Equipment to RIFA at a location in Danville, Virginia, designed by RIFA; (4) RIFA or its agent may peacefully repossess the Equipment without court order and the Company shall not make any claims against RIFA for damages or trespass or for any other reason in any court; and (5) RIFA may exercise any other right or remedy available to it at law or in equity. The Company shall pay all of RIFA's costs in enforcing RIFA's rights against the Company, including without limitation reasonable attorneys' fees. RIFA's remedies provided for herein are not exclusive, but rather are cumulative to all other remedies existing at law, in equity and/or under this Agreement.

Section 20. - Option to Purchase.

a. Generally. Provided the Company is not then in default of this Agreement or the Local Performance Agreement and all applicable cure periods (if any) have expired, the Company shall have the option at any time during the Performance Period to purchase the Equipment (including additions/replacements/substitutions thereof) (the "**Option**") at a purchase price to be calculated under Section 20(b) below (the "**Option Purchase Price**"). To exercise the Option, the Company shall give timely written notice to RIFA. The provisions of this Section 20 shall specifically and without limitation survive the termination or expiration of this Agreement.

b. The Option Purchase Price. The Option Purchase Price shall mean the sum of (i) the payoff balance of the TROF Loan and (ii) the unearned portion, if any, of the Grant. If the calculation of the Option Purchase Price as set forth in this paragraph results in a number less than Zero Dollars (\$0.00), then the Option Purchase Price shall be One Dollar (\$1); RIFA shall not be obligated to pay anything or to apply any credit as a result of such calculation.

c. Option Closing. Within thirty (30) days after the last to occur of (i) the timely exercise of the Option as herein provided and (ii) the determination of the Option Purchase Price is made as provided in Section 20(b) above, the purchase and sale of the Equipment shall be completed (the "**Option Closing**") upon a date and location in Danville, Virginia, selected by the Company with at least ten (10) business days' notice to RIFA, or at such other date and/or location as the Company and RIFA may then agree.

d. Funds and Closing Costs. At the Option Closing, the Company shall deliver to RIFA the Option Purchase Price in immediately available funds. Except as otherwise provided in the Local Performance Agreement, ad valorem taxes on the Equipment for the then current

fiscal year, prepaid rent and additional rent shall be prorated between the parties as of the date of the Option Closing. RIFA shall pay the cost of preparation of the bill of sale conveying title to the Equipment. All other costs, recording taxes and fees arising out of the purchase and sale shall be incurred and be borne solely by the Company.

e. Bill of Sale. Title to the Equipment, along with any manufacturer/supplier/vendor warranty on the same to the extent transferrable, shall be conveyed by bill of sale at the Option Closing “**AS IS**”, “**WHERE IS**” and “**WITH ALL FAULTS**”, free and clear of any liens. In the event that there are liens, other than those liens securing the TROF Loan as of the Option Closing, the settlement agent shall withhold sufficient funds from the Option Purchase Price to satisfy any such liens and shall pay off such liens at the Option Closing.

f. Guaranty. As a condition to RIFA purchasing the Equipment, the Company shall cause Harlow Group Limited to guaranty the Company’s obligation to purchase the Equipment. The form of such guaranty shall be reasonably agreed upon by legal counsel to the Company and RIFA, respectively.

Section 21. - Obligation to Purchase the Equipment.

a. Generally. The Company shall purchase, or shall cause one or more of its affiliates to purchase, from RIFA the Equipment (including additions/replacements/substitutions thereof) (the “**Required Purchase**”), within ten (10) days after written demand by RIFA upon the occurrence of one or more of the following events (the “**Required Purchase Period**”):

- i. The occurrence of the Performance Date (as defined in the Local Performance Agreement);
- ii. The acceleration of repayment of the TROF Loan by the Tobacco Commission (as defined in the Local Performance Agreement) or successor lender;
- iii. The default of the Company of the Local Performance Agreement, where all applicable cure periods, if any, have expired;
- iv. The default of the Company under the Project Site Lease (as defined in the Local Performance Agreement), where all applicable cure periods, if any, have expired;
- v. The existence of an agreement for the sale and purchase of substantially all of the assets of the Company, and RIFA has not given its written consent to the assignment of this Agreement at least sixty (60) days prior to the closing of such sale and purchase; or
- vi. The default of the Company under this Agreement, where all applicable cure periods, if any, have expired.

b. The Required Purchase Price. The purchase price of the Required Purchase (the “**Required Purchase Price**”) shall be equal to the sum of (i) the Option Purchase Price and (ii) the unpaid balance of the Company’s obligation repay certain grants as set forth in Sections 13 and 14 of the Local Performance Agreement. If the calculation of the Required Purchase Price as set forth in this paragraph results in a number less than Zero Dollars (\$0.00), then the Required Purchase Price shall be One Dollar (\$1); RIFA shall not be obligated to pay anything or to apply any credit as a result of such calculation.

c. Closing on the Required Purchase. Within thirty (30) days after the determination of the Required Purchase Price is made as provided in Section 21(b) above, the purchase and sale of the Equipment shall be completed (the “**Required Purchase Closing**”) upon a date and location in Danville, Virginia, designated by RIFA with at least ten (10) business days’ notice to the Company, or at such other date and/or location as the Company and RIFA may then agree.

d. Funds and Closing Costs. At the Required Purchase Closing, the Company shall deliver to RIFA the Required Purchase Price in immediately available funds. Except as otherwise provided in the Local Performance Agreement, ad valorem taxes on the Equipment for the then current fiscal year, prepaid rent and additional rent shall be prorated between the parties as of the date of the Required Purchase Closing. RIFA shall pay the cost of preparation of the bill of sale conveying title to the Equipment. All other costs, recording taxes and fees arising out of the purchase and sale shall be incurred and be borne solely by the Company.

e. Bill of Sale. Title to the Equipment, along with any manufacturer/supplier/vendor warranty on the same to the extent transferrable, shall be conveyed by bill of sale at the Required Purchase Closing “**AS IS**”, “**WHERE IS**” and “**WITH ALL FAULTS**”, free and clear of any liens. In the event that there are liens, other than those liens securing the TROF Loan as of the Required Purchase Closing, the settlement agent shall withhold sufficient funds from the Required Purchase Price to satisfy any such liens and shall pay off such liens at the Required Purchase Closing.

f. Guaranty. As a condition to RIFA acquiring the Equipment, the Company shall cause Harlow Group Limited to guaranty the Company’s obligation to purchase the Equipment. The form of such guaranty shall be reasonably agreed upon by legal counsel to the Company and RIFA, respectively.

g. Failure to Purchase. In the event that neither the Company nor Harlow Group Limited purchases the Equipment as provided in this Section 21 within the Required Purchase Period, RIFA may, but shall not be obligated to sell, the Equipment and apply the net sales proceeds to offset all unpaid, accrued obligations of the Company to RIFA, next to the Government Parties (as defined in the Local Performance Agreement) under the Local Performance Agreement, and next to the Government Parties (as defined in the Local Performance Agreement) under the other Recruitment Documents (as defined in the Local Performance Agreement).

h. Survival. The provisions of this Section 21 shall specifically and without limitation survive the termination or expiration of this Agreement.

Section 22. - Due Authorization. Each party represents, warrants and agrees that the execution and performance of this Agreement have been duly approved by all necessary entity action and are not in violation of any other agreement such party has with any third parties; and that this Agreement is a valid binding, legal obligation of each party, enforceable in accordance with its terms.

Section 23. - Non-waiver. No waiver of any term or condition of this Agreement by any party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

Section 24. - Attorneys' Fees. Each of the parties shall be solely responsible for their respective attorneys' fees in the negotiating, drafting, and execution of this Agreement and any of the transactions contemplated hereby.

Section 25. - Other Documents. The parties agree that they shall execute, acknowledge, and deliver all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Agreement.

Section 26. - Default. In the event that a party to this Agreement incurs legal fees and/or costs in pursuing or defending an alleged breach of this Agreement, the non-prevailing party, in addition to any other remedy, shall be responsible for the reasonable legal fees and costs incurred by the prevailing party. The parties retain all rights at law and in equity to enforce the provisions of this Agreement in accordance with applicable law.

Section 27. - Entire Agreement. This Agreement and the schedule hereto contain the entire agreement and understanding of the parties to this Agreement with respect to the transactions contemplated hereby; and this Agreement and the schedule hereto supersede all prior understandings and agreements of the parties with respect to the subject matter hereof.

Section 28. - Headings. The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

Section 29. - Notices. Any notice required or contemplated to be given to a party by the other party shall be in writing and shall be given by hand delivery, certified or registered United States mail, or a private courier service which provides evidence of receipt as part of its service, as follows:

If to RIFA:

Danville-Pittsylvania Regional
Industrial Development Authority
Attn: Susan M. DeMasi, Secretary
427 Patton Street
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

With a copy to:

Michael C. Guanzon, Esq.
Clement Wheatley
549 Main Street
P.O. Box 8200 (zip code 24543)
Danville, VA 24541

If to the Company:

Harlow Fastech LLC
Attn.: David Gordon Smith and
Alan Glen Pearce
228 Slayton Avenue
Danville, VA 24541

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change in the manner provided herein. A notice given hereunder shall be deemed given on the date of hand delivery, deposit with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. A courtesy copy shall not be required to effectuate notice as provided herein.

Section 30. - Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. The parties have participated jointly in the negotiation and drafting of this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement.

Section 31. - Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

Section 32. - Amendment, Modification and/or Supplement. The parties may amend, modify, and/or supplement this Agreement in such manner as may be agreed upon by the parties, provided such amendments, modifications, and/or supplement are reduced to writing and signed by the parties or their successors in interest.

Section 33. - Gender and Number. Throughout this Agreement, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

Section 34. - Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

Section 35. - Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 36. - Survival. Any termination, cancellation or expiration of this Agreement notwithstanding, provisions which are by their terms intended to survive and continue shall so survive and continue.

Section 37. - No Third-Party Beneficiaries. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

[SIGNATURES ON FOLLOWING PAGES.]

WITNESS our signature to this **GEFERTEC ARC EQUIPMENT LICENSE AGREEMENT** as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: **DO NOT SIGN - SCHEDULE ONLY**
Robert W. Warren, Chairman

ATTEST:

DO NOT SIGN - SCHEDULE ONLY

Susan M. DeMasi
Corporate Secretary
Danville-Pittsylvania Regional Industrial Facility Authority

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **ROBERT W. WARREN**, in his capacity as Chairman of **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

DO NOT SIGN - SCHEDULE ONLY
Notary Public
Registration No. _____

WITNESS our signature to this **GEFERTEC ARC EQUIPMENT LICENSE AGREEMENT** as of the date first above written:

HARLOW FASTECH LLC, a Virginia limited liability company

By: ****DO NOT SIGN - SCHEDULE ONLY****
David Gordon Smith
Title: _____

By: ****DO NOT SIGN - SCHEDULE ONLY****
Alan Glen Pearce
Title: _____

STATE OF _____
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 2018, by **DAVID GORDON SMITH** and **ALAN GLEN PEARCE**, in their capacity as _____ and _____, respectively, of **HARLOW FASTECH LLC**, a Virginia limited liability company, on behalf of such entity.

My commission expires: _____.

****DO NOT SIGN - SCHEDULE ONLY****

Notary Public
Registration No. _____

Schedule 1(b)
(The Equipment)

- Gefertec additive manufacturing machine, ARC model

- HAAS Mill to be installed at the Project Site
- HAAS Turn to be installed at the Project Site

Title to these pieces of HAAS equipment (collectively, the “**HAAS Equipment**”) will be immediately transferred to RIFA free and clear of liens, and shall become subject to this Agreement as additional equipment being licensed by RIFA to the Company, except that the Annual License Fee for the HAAS Equipment shall be equal to Ten and 00/100 Dollars (\$10.00) and except that the Company shall not be obligated to purchase the HAAS Equipment in the same manner as the Gefertec ARC Equipment. Instead, the following provisions shall apply pertaining to the HAAS Equipment:

HAAS Equipment as Security for the Company’s obligations. Within ten (10) days after the Performance Date (as defined in the Local Performance Agreement) so long as the Company is not then in default of the Recruitment Documents (as defined in the Local Performance Agreement) and all applicable cure periods have expired, RIFA shall convey title to the HAAS Equipment to the Company, free and clear of any monetary liens, for no additional monetary consideration. However, in the event that the Company is in default of the Recruitment Documents and all applicable cure periods have expired, at any time during the Term or the Performance Date, the Company’s license to use the HAAS Equipment shall terminate and RIFA may, but shall not be obligated to, sell the any or all of the HAAS Equipment and apply the net sales proceeds to offset all unpaid, accrued obligations of the Company to RIFA whether under this Agreement or otherwise, next to the Government Parties (as defined in the Local Performance Agreement) under the Local Performance Agreement or other Recruitment Documents. Such remedy by RIFA shall be in addition to, and not in lieu of, any other remedies available to RIFA under applicable law or under this Agreement.

Schedule 8(c)(iv)
(Project Site Lease)

PROJECT SITE LEASE

THIS PROJECT SITE LEASE (this “**Lease**”), made and entered into as of the _____ day of _____ 2018, by and between the **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (“**Landlord**”); and **HARLOW FASTECH LLC**, a Virginia limited liability company (“**Tenant**”);

W I T N E S S E T H :

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. - Recitals. The parties recite the following facts, each of which is incorporated herein by this reference and made an integral part of this Lease:

a. Tenant, Landlord, the Danville-Pittsylvania Regional Industrial Facility Authority, a political subdivision of the Commonwealth of Virginia (“**RIFA**”) and others entered into that certain Local Performance Agreement dated November 1, 2018 (the “**Local Performance Agreement**”), under which Tenant has agreed to locate and establish a manufacturing operation on approximately five to ten (10) acres of land, fronting on Slayton Avenue in Danville, Virginia (identified as part of tax PIN 78359), commonly known as Lot 10B, RIFA Cyber Park, Danville, Virginia, as more particularly described on Schedule 1(a), attached hereto and made a part hereof by this reference (the “**Demised Premises**”).

b. Landlord has applied or will apply for financing from Virginia Community Capital, Inc., a Virginia nonstock corporation and a Community Development Financial Institution, or its affiliates (“**Lender**” or “**VCC**”), for the construction of the Building (as defined in the Local Performance Agreement) upon the Demised Premises (the “**VCC Loan**”).

c. Subject to the terms and conditions set forth herein, Landlord shall cause, at the expense of Tenant, the construction upon the Demised Premises of the Facility (as defined in the Local Performance Agreement and being comprised of the Demised Premises along with the Building and any other improvements thereon), pursuant to the specifications of Tenant, applicable restrictive covenants, building code and zoning ordinances (the “**Construction**”).

Section 2. - Lease of the Demised Premises. Landlord hereby leases to Tenant, and Tenant hereby leases and accepts from Landlord, the Demised Premises on and subject to the terms and conditions of this Lease.

Section 3. - Term.

a. 10-Year Term. This Lease shall be for an initial term of ten (10) years, beginning on the Commencement Date (as hereafter defined) (the “**Initial Term**”), unless sooner terminated as provided for herein. At the end of the Initial Term if not sooner terminated as

provided for herein, this Lease shall automatically be extended for additional periods of one (1) year each (each, an “**Extension Term**”) unless Tenant gives Landlord a written notice of nonrenewal of not less than ninety (90) days prior to the end of the Initial Term or the then applicable Extension Term. (The Initial Term and the Extension Term, if any, shall be collectively referred to as the “**Term**”).

b. Commencement Date; Contingency. “**Commencement Date**” shall mean the date specified by Landlord in a written notice to Tenant that Landlord holds title to the Demised Premises and the construction of the Facility has commenced. Within five (5) days after the Commencement Date occurs, the parties shall execute and deliver to each other a Commencement Date Memorandum substantially in form set forth in Schedule 3(b), attached hereto and incorporated herein by this reference.

c. Option to Purchase the Demised Premises. At any time during the Initial Term after September 1, 2022, or a sooner date that is acceptable to the U.S. Economic Development Administration, so long as Tenant is not then in default of this Lease, the Local Performance Agreement or both, Tenant shall have the option to purchase the Demised Premises from Landlord (the “**Option**”) at the price equal to the VCC Loan Cost (as defined in the Local Performance Agreement), plus the outstanding balance of the TROF Loan (as defined in the Local Performance Agreement), plus the unearned portion of the Tobacco Region Opportunity Fund Grant (as defined in the Local Performance Agreement), and less the total amount of Monthly Base Rent (as defined below) payments paid by Tenant hereunder (the “**Option Purchase Price**”). In no event shall the purchase price be less than One and 00/100 Dollars (\$1.00); and in no event shall the application of such base lease payments credit result in a refund of any kind to Tenant. If the calculation of the net Option Purchase Price as set forth in this subsection results in a number less than Zero Dollars (\$0.00), then the net Option Purchase Price shall be One Dollar (\$1); Landlord shall not be obligated to pay anything or to apply any credit as a result of such calculation. To exercise the Option, Tenant must give written notice to Landlord and RIFA on or before the expiration of the Initial Term (the “**Option Exercise Notice**”).

i. Settlement Date. After the Option Exercise Notice is duly given to Landlord, settlement on the purchase under the Option (the “**Settlement**”) shall take place on or before a date selected by Tenant that is not a Saturday, Sunday or holiday for employees of the City of Danville, Virginia and that is within ninety (90) days, but not sooner than forty-five (45) days, after the date of the Option Exercise Notice. The place of Settlement shall be at the Office of the City Attorney for Danville, Virginia, or other location designated by Tenant in Danville, Virginia.

ii. Expenses and Prorations. Landlord agrees to pay the expense of preparing the Deed (as defined in Section 3(c)(iii) below), the recordation tax applicable to grantors and its own attorneys’ fees. Except as otherwise agreed herein, all other expenses incurred by Tenant in connection with the purchase, including without limitation title examination, insurance premiums, survey costs, recording costs, loan document preparation costs, and fees of Tenant’s attorney, shall be borne solely by Tenant. All taxes and assessments shall be prorated as of the Settlement.

iii. Title. At the Settlement, Landlord shall convey to Tenant good and marketable fee simple title to the Demised Premises in its “**AS IS**” condition and “**WITH ALL FAULTS**”, by special warranty deed (the “**Deed**”), free of all monetary liens from third parties, and subject only (A) to such restrictions and easements of record as of the date of the Option Exercise Notice and (B) to a right of first refusal by RIFA for a period beginning on the date that Tenant holds fee simple title to the Demised Premises and ending on a date that is eleven (11) years after the date of the Local Performance Agreement, as more particularly described and subject to the terms and conditions set forth in Section 8(g) of the Local Performance Agreement. The settlement agent for the Settlement may withhold from the net sales proceeds in order to satisfy any and all monetary liens on the Demised Premises.

iv. No Commissions. Upon giving the Option Exercise Notice, Tenant shall be deemed to have represented to Landlord that no commissions are due and owed to any real estate broker or salesperson employed or otherwise engaged by Tenant in connection with the Settlement. Tenant shall indemnify, save and hold harmless Landlord from and against any claim for any real estate or sales commission or similar fee, which claim results from an allegation that Tenant engaged or otherwise employed such broker or agent or agreed to compensate such broker or agent in connection with the Settlement or the Option.

Section 4. - Rent.

a. Monthly Base Rent; Additional Rent. Beginning on the Commencement Date, Tenant shall pay to Landlord or to its designee “**Monthly Base Rent**” equal to the VCC Loan Cost (as defined in the Local Performance Agreement) amortized on a monthly basis over the same amortization period of the VCC Loan. Monthly Base Rent shall be payable in advance and in equal consecutive monthly installments. Should any component of the VCC Loan Cost or amortization change during the Term, the amount of Monthly Base Rent shall be adjusted accordingly upon Landlord giving written notice to Tenant. In addition to Monthly Base Rent, Tenant shall pay to Landlord or to its designee all sums of money, if any, payable by Tenant under this Lease other than Monthly Base Rent (“**Additional Rent**”). Landlord shall have the same remedies available for Tenant’s failure to pay Additional Rent as Landlord has for Tenant’s failure to pay Monthly Base Rent.

b. Due Date and Delivery of Rent.

i. Rent shall be payable in advance on the first (1st) day of each calendar month during the Term. Rent for any period of less than one (1) month shall be apportioned based on the number of days in that month. Any references to rent, Monthly Base Rent and Additional Rent shall be referred to collectively as “**Rent**”. Tenant shall pay Rent to Landlord at its address set forth below or to such other person or at such other place as Landlord may designate in writing.

ii. If Rent is not paid by the fifth (5th) day of each calendar month, Tenant shall pay to Landlord, as Additional Rent, a late payment fee equal to five percent (5%) of the

amount due plus interest accruing on the delinquent amount owed until paid, at the rate of the lesser of ten percent (10%) per annum or the maximum interest rate permitted by law.

c. Holdover. Any holding over after the expiration of the Term or earlier termination of this Lease with the prior written consent of Landlord, shall be construed to be a tenancy from month to month on the same conditions. However, any holding over after the expiration of the Term or earlier termination of this Lease without the prior written consent of Landlord shall be construed to be a tenancy from month to month on the same conditions, except that Rent to be paid shall be one hundred fifty percent (150%) of the Rent paid for the last full month of this Lease prior to expiration or termination. Either party may terminate such holdover tenancy upon giving at least thirty (30) days written notice to the other party.

d. Security Deposit. On or before the Commencement Date, Tenant shall pay to Landlord a security deposit for the Rent and the full performance by Tenant of the covenants and conditions of this Lease in the amount equal to one (1) month of Monthly Base Rent (the “**Security Deposit**”). In the event of any default, the Security Deposit shall be retained by Landlord and may be applied toward damages arising from such default and shall not be construed as liquidated damages. Upon surrendering the Demised Premises at the expiration or termination of this Lease, and provided no default has occurred, the Security Deposit shall be returned to Tenant. No interest shall be payable on the Security Deposit. It is understood that Landlord shall always have the right to apply the Security Deposit or portion thereof, to the curing of any default that may exist. Should Landlord convey its interest under this Lease, the Security Deposit, or the part or portion thereof not previously applied, shall be turned over to Landlord’s grantees or assignees; and Tenant hereby releases Landlord from any liability with respect to the Security Deposit as then constituted, and Tenant agrees to look solely to such grantee or assignee. Tenant agrees Tenant shall not assign, pledge, mortgage or otherwise hypothecate its interest in the Security Deposit. It is agreed that the sum is not made in payment of rent but is paid solely as security by Tenant for the full and faithful performance of the obligations and terms of this Lease. Should the Security Deposit, or any portion thereof, be appropriated and applied by Landlord for the payment of overdue rent or other sums due and payable to Landlord by Tenant, then Tenant shall, upon written demand by Landlord, remit to Landlord a sufficient amount in cash to restore the Security Deposit to its original sum, and Tenant’s failure to do so within five (5) days after receipt of such demand shall constitute a default by Tenant of this Lease.

e. Ad Valorem Taxes. Tenant shall pay to or on behalf of Landlord, at Landlord’s direction, all *ad valorem* taxes (if any) imposed upon the Demised Premises, including any such taxes imposed upon Tenant’s leasehold interest in the Demised Premises pursuant to Section 58.1-3203 of the Code of Virginia, 1950, as amended (or any successor provision). Landlord agrees Tenant shall not be responsible for any unreasonable charges or fees or charges or fees caused by Landlord’s negligence or willful misconduct. Tenant shall promptly pay all imposition of taxes as a result of Tenant’s use of the Demised Premises or the operation of its business.

Section 5. - Use of the Demised Premises. Tenant shall not use, occupy or operate in the whole or any part of the Demised Premises for any purpose other than the Permitted Use (as

defined below) nor shall Tenant permit the same to be used for any other purpose without Landlord's prior written consent, which consent may be withheld in its sole and absolute discretion. "**Permitted Use**" shall mean the use of the Demised Premises only for Tenant's manufacturing operation, the sales and marketing of its products and the training on the use and maintenance of its products and equipment, and reasonably related and incidental purposes. Tenant shall comply with all applicable governmental rules, regulations and laws concerning use and occupancy of the Demised Premises. Tenant shall not use or occupy the Demised Premises in violation of any law, ordinance, regulation or other directives of any governmental authority having jurisdiction thereof, nor permit a nuisance to be created or maintained therein.

Section 6. - Condition of the Demised Premises and the Facility.

a. Landlord shall deliver the Demised Premises to Tenant in its "**AS IS**" condition as of the Commencement Date and "**WITH ALL FAULTS**". Tenant acknowledges (i) that Landlord has not made and does not hereby make any representations regarding the physical condition of the Demised Premises or the suitability of the Demised Premises for any particular use or purpose; and (ii) that there are no warranties, either expressed or implied regarding the condition of the Demised Premises. Any such warranties which may exist are hereby expressly released and waived.

b. When the construction of the Facility is completed, the Facility shall be made available to Tenant in its "**AS IS**" condition and "**WITH ALL FAULTS**". Tenant acknowledges (i) that Tenant's specifications of the Facility were made solely at Tenant's direction, with Landlord's consent; (ii) that Tenant, in its discretion and on terms satisfactory to Tenant, selected the contractor for the Construction; (iii) that Landlord has not made and does not hereby make any representations or warranties regarding the physical condition of the Facility or the suitability of the Facility for any particular use or purpose; (iv) that Landlord has not made and does not hereby make any representations or warranties on the conformity of the Facilities with the requirements of applicable governmental authorities; and (v) that there are no warranties, either expressed or implied regarding the condition of the Facility whatsoever. Any such warranties which may exist are hereby expressly released and waived. Upon the completion of the Facility's construction, Landlord shall assign all builder and manufacturer's warranties, to the extent assignable, to Tenant. In the event that this Lease is terminated or expires, and Tenant (or its affiliate) has not then purchased the Demised Premises from Landlord, Tenant shall promptly assign such warranties back to Landlord.

Section 7. - The Construction; Subsequent Improvements.

a. The Construction – Generally. Landlord, at Tenant's expense, shall, in good faith and with due diligence, substantially complete the Construction, as shown or described on **Schedule 7(a)**, attached hereto and incorporated herein; provided, however, in no event shall the costs of the Construction exceed Four Million Five Hundred Thousand and 00/100 Dollars (\$4,500,000.00) without the prior written consent of both Landlord and Tenant, which consent may be withheld in their sole, absolute and respective discretion. Landlord agrees to perform or cause to be performed the Construction in a good workmanlike manner, free from material defects in materials or labor and in compliance with the requirements of applicable laws.

b. Subsequent Improvements. It is understood and agreed that after the completion of the Construction, Tenant shall have the right at its cost from time to time during its tenancy hereunder to make such alterations, additions or improvements to the Demised Premises with Landlord's written consent, which consent shall not be unreasonably withheld, delayed or conditioned. All such alterations, additions or improvements shall be done (i) in compliance with any deed of trust on the Demised Premises securing the VCC Loan (the "VCC DOT") and any deed of trust on the Demised Premises securing Tenant's obligations to RIFA (the "RIFA DOT") and Tenant's performance under the Local Performance Agreement, and any requirements or conditions of the VCC Loan; and (ii) in a good and workmanlike manner using first class building materials in accordance with the applicable building laws, rules and regulations of governmental authorities having jurisdiction thereof, as well as any and all protective covenants of record affecting the Demised Premises and the terms of conditions of any grants affecting the Demised Premises. Tenant shall be under no obligation to restore or remove any such changes at the expiration hereof, all permanent improvements so constructed by Tenant shall belong to Landlord and shall become part of the Demised Premises free of any liens placed thereon by Tenant or otherwise caused by Tenant.

Section 8. - Maintenance and Utilities.

a. Utilities. Landlord shall have no obligation to maintain or to provide utilities at the Demised Premises. Tenant shall obtain in its own name and shall be liable for all utilities necessary or desired to serve the Demised Premises, including without limitation electricity, water, sewer, natural gas, and trash disposal. Tenant agrees to abide by all laws, rules, and regulations established by any governmental entity with regard to waste disposal. Neither Tenant nor its agents or invitees shall permit any environmentally adverse condition to occur upon the Demised Premises, and shall not dispose of litter, rubbish, waste or any other substance upon or adjacent to the Demised Premises. Should Tenant violate such prohibition, in addition to and not in lieu of, other remedies available at law or in equity, Landlord shall be entitled to terminate this Lease and recover the cost of cleanup as well as any diminution in value of the Demised Premises and all other charges. Failure of Tenant to pay for any utilities for the Demised Premises shall be deemed a default under the terms of this Lease.

b. Repairs. Tenant shall promptly repair (including without limitation replacement if necessary), at Tenant's sole expense, any damage done to the Demised Premises arising from Tenant's use or occupancy thereof, or any action or inaction of Tenant's agents, employees, or invitees. All repairs done by or on behalf of Tenant shall be done by a qualified and licensed contractor, plumber, or electrician. With respect to such work, Tenant shall keep the Demised Premises free and clear from all mechanics', materialmen's and/or laborers' liens. All repairs, restorations, alterations, additions or payments which are obligations of Tenant hereunder shall be completed or made within reasonable time; should Tenant neglect or refuse to make such repairs, restorations, alterations, additions or payments after written notice, Landlord may, but shall not be required to, make such repairs, restorations, alterations, additions or payments and charge to Tenant the cost thereof as Additional Rent.

c. Roof. Tenant, its agents, employees, licensees, and invitees shall not cause accumulation of any debris or extraneous matter on the roof of the Demised Premises, shall not in any manner cut or drive nails into or otherwise mutilate the roof of the Demised Premises. Tenant shall be responsible for any damage caused to the roof by any acts of Tenant, its agents, servants, employees or contractors of any type or nature.

d. Maintenance. Tenant shall keep and maintain the (i) foundation, (ii) exterior walls, (iii) roof (including gutters and downspouts and the reasonable and periodic removal of debris there from) of the Building Complex which is part of the Demised Premises and the structural portions of the Demised Premises, inclusive of doors, door frames, door checks, windows, including plate glass windows, and window frames located in exterior building walls, in good repair. Landlord shall not be called upon to make any improvements or repairs of any kind upon the Demised Premises and appurtenances. Tenant shall be solely responsible for all maintenance and repairs of any heating, ventilation and air conditioning (HVAC) system serving the Demised Premises, including without limitation changing the filters as required by the manufacturer of the HVAC system, but in no event less than four (4) times each year. Tenant shall keep the Demised Premises reasonably clean from debris, and Tenant shall, as soon as reasonably practicable, cause the reasonable removal of snow and ice from the parking areas and sidewalks of the Demised Premises.

e. No Obligation of Landlord to Maintain, to Repair or to Insure the Demised Premises or any Part Thereof. Without limiting the foregoing provisions in this Section 8, the parties acknowledge and agree that after the Construction has been completed, Landlord shall have no obligation whatsoever under this Lease to maintain, to repair or to insure the Demised Premises or any part thereof.

Section 9. - Obligations under VCC DOT and RIFA DOT. Tenant agrees to assume and shall be responsible for the obligations of Landlord, as owner of the Demised Premises, under the VCC DOT and the RIFA DOT with respect to maintenance, repair (including without limitation replacement), insurance, use and compliance with protective covenants affecting the Demised Premises. Without limiting the preceding sentence, Tenant, at its sole expense, shall cause the VCC DOT and the RIFA DOT to be compliant with its terms and conditions; however, for purposes of this Section 9 only, Tenant shall not be responsible for Landlord's making timely payments under the VCC Loan to VCC.

Section 10. - Inspections. Landlord has the right to enter the Demised Premises periodically, at any reasonable time, with reasonable advance written notice, to inspect the Demised Premises.

Section 11. - Memorandum of Lease; Estoppel Certificate. Each party, upon request of the other party, shall join in the execution of a memorandum of this Lease for the purpose of recordation. Such memorandum shall describe the parties, the Demised Premises, and the Term, and shall incorporate this Lease by reference and include such other portions which the requesting party deems appropriate to effectuate the purpose of such recordation. Such memorandum shall be in such form as will be sufficient for recordation and as may be reasonably required by the Lender, which memorandum may be recorded at the election of either

party. The costs and taxes of recording such memorandum shall be borne by the party requesting or seeking such recordation. In addition, within thirty (30) days after written request by Landlord, Tenant shall execute and deliver estoppel certificates in the form required by the Lender, on information or facts including without limitation any modifications of this Lease, the information contained in the Lease Commencement Date Memorandum, that this Lease is in full force and effect and that Landlord is not in default of any terms hereof.

Section 12. - Destruction of Premises. If the Construction is complete and the Demised Premises shall be then damaged by fire, casualty or other causes, the Demised Premises shall be restored by Tenant, at Tenant's sole expense, without an abatement or reduction of the Rent. Unless otherwise agreed in writing by Landlord and Tenant or unless otherwise required under the VCC DOT, the VCC Loan and/or the RIFA DOT, all available insurance proceeds shall be applied to the costs of such restoration.

Section 13. - Indemnification and Insurance.

a. Landlord shall not be liable for any damage to or occurring upon the Demised Premises caused by fire or other hazard regardless of the cause thereof and Tenant does hereby expressly release Landlord of and from all liability for such damages. Tenant shall protect its personal property, and if Tenant chooses, to insure such property.

b. Tenant agrees to indemnify and hold harmless Landlord, its successors and assigns from and against damage to Landlord, the Demised Premises, and to Landlord's successors, and assigns, from and against all liabilities, losses, damages and expenses, including without limitation court costs and reasonable attorneys' fees incurred or suffered by Landlord as a result of the failure of Tenant, its agents or employees, to perform any covenant hereunder, or for any accident, injury or damage to person or property occurring on or in the Demised Premises or its appurtenances, or resulting from Tenant's use or occupancy of the Demised Premises.

c. Tenant agrees to obtain, pay for and maintain throughout the Term a policy of public liability insurance, naming Landlord and Tenant as the insured parties, in a form satisfactory to Landlord, with coverage of not less than One Million and 00/100 Dollars (\$1,000,000.00) for one person and Three Million and 00/100 Dollars (\$3,000,000.00) for one accident and property damage in the amount of One Million and 00/100 Dollars (\$1,000,000.00) for each accident, and to provide written evidence thereof with Landlord.

d. Tenant shall obtain at Tenant's expense, a policy or policies of insurance for the mutual benefit of Landlord and Tenant, with the Lender included as a loss payee or as an additional insured party, against loss or damage to the Demised Premises in the amount of the full replacement cost thereof, against any perils included within the classifications of fire, vandalism, explosion, malicious mischief, special extended perils ("**all risk**") and any risk covered by the so-called Extended Coverage Endorsement (including leasehold improvements). Tenant shall pay such insurance at least thirty (30) days prior to the due date thereof and shall give written notice to Landlord and the Lender within ten (10) days of payment by Tenant. In

the event of any claim, the proceeds of such claim shall be used to restore the Demised Premises or to repay the VCC Loan in the Lender's sole discretion.

e. Tenant shall procure and maintain on behalf of Landlord and the Lender business interruption insurance in an amount sufficient to pay the principal, interest, costs, and fees (but not penalties unless caused by Tenant), associated with the VCC Loan as and when such becomes due and payable.

f. Tenant shall upon demand procure any and all other insurance required by Landlord or the Lender at any time during the term of the VCC Loan with insurance companies acceptable to both Landlord and the Lender. In addition, in the event the Lender requires an increase in the amount of any coverage required hereunder, Tenant shall immediately procure such additional coverage. All costs and premiums associated with such additional coverage or increased coverage shall be borne by Tenant.

g. Insurance required hereunder shall be underwritten by companies duly licensed to transact business in the Commonwealth of Virginia. Those insurance companies shall maintain during the policy term a "**General Policyholders Rating**" of at least "**A-**" (Excellent), as set forth in the most current issues of "**Best's Insurance Guide**", unless the insurance required hereunder is procured by Landlord through the Virginia Municipal League. Tenant shall authorize any and all insurance companies to speak directly with either Landlord or the Lender anytime. The parties hereto shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Section 13. The insuring party shall cause to be delivered to the other certified copies of or certificates evidencing the existence and amounts of, the insurance, and with the additional insureds, required under this Section 13. No such policy shall be cancelable or subject to modification except after thirty (30) days prior written notice to Landlord and the Lender.

h. In the event Tenant shall fail to obtain any insurance policy required hereunder, Landlord shall have the right, but not the obligation, to procure such coverage, and Tenant shall immediately pay, as Additional Rent, the cost thereof to Landlord, with interest thereon at a rate of ten percent (10%) per annum (or if less, the maximum interest permitted by law), upon written demand by Landlord.

Section 14. - Condemnation. In the event the Demised Premises are taken in condemnation proceedings, the parties agree that any award or other sum payable in respect of condemnation proceedings shall be applied to the VCC Loan, with the remainder of such award (if any) to be paid to Tenant.

Section 15. - Peaceful Possession; Quiet Enjoyment. Landlord agrees that, if the Rent is being paid in the manner and at the time prescribed and the covenants and obligations of Tenant are being all and singularly kept, fulfilled and performed, Tenant shall lawfully and peaceably have, hold, possess, use and occupy and enjoy the Demised Premises so long as this Lease remains in force, without hindrance disturbance or molestation from Landlord, subject to the provisions of this Lease.

Section 16. - Assignment and Subletting. Tenant may not sublet or assign the Demised Premises, in whole or in part, without Landlord's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. However, without Landlord's prior written consent, Tenant may assign this Lease to Tenant's Affiliate (as hereafter defined), so long as Tenant remains primarily responsible under this Lease. Tenant shall give prompt written notice to Landlord of any assignment of this Lease. Any withholding of consent by Landlord or imposition of conditions must be predicated upon a commercially reasonable basis including without limitation (i) the adequacy of the proposed sublessee/assignee's financial resources to meet the obligations of Tenant under this Lease; and (ii) whether the purpose of the Local Performance Agreement would be materially frustrated or impaired by such proposed sublease or assignment. In no event shall any subletting or assignment relieve Tenant of its responsibilities hereunder. For purposes of this Section 16, "**Tenant's Affiliate**" shall mean any firm or entity which is owned by Tenant or owned or controlled by any entity which owns or controls Tenant. For the purposes herein, an entity shall be deemed to own or control another entity if it owns more than fifty percent (50%) of the outstanding common stock of the entity (if the entity is a stock corporation), or otherwise owns more than fifty percent (50%) of the beneficial interest therein, or can direct one or more actions by the entity or is required to consent to one or more actions by such entity.

Section 17. - Default.

a. Generally. It is agreed and understood that Tenant shall pay the Rent in the manner set forth herein, without a demand therefor, and in the event of (i) failure of Tenant to pay the Rent within ten (10) days after its due, (ii) in the event of any other default under the terms of this Lease, (iii) Tenant being adjudicated bankrupt or the appointment of a receiver or trustee of Tenant's property, or (iv) the abandonment or vacation of the Demised Premises by Tenant, then in such event upon thirty (30) days' notice in writing to Tenant, the total Rent herein provided for, whether accrued or not, shall at the option of Landlord, immediately become due and payable, and Landlord shall have the right to enter the Demised Premises at once, by force or otherwise, and to remove any property therein without liability for damage to Tenant, and without obligation to store, such property, and without being liable to any prosecution therefor, and to distrain for rent, and also to re-rent the Demised Premises as agent for Tenant for the unexpired portion of the Term and receive the rent and apply the same, after deduction of appropriate expenses, to the payment of the Rent payable hereunder, Tenant remaining liable for any deficiency; or Landlord may, at its option, immediately terminate this Lease, in which event Tenant shall quit and surrender the Demised Premises to Landlord, providing that neither terminating this Lease under this clause nor recovering possession of the Demised Premises shall deprive Landlord of any other action or remedy against Tenant for possession, for Rent, or for damages. All of Landlord's rights shall be cumulative and shall not preclude Landlord from exercising all other right and remedies provided by law.

b. Cross-Default. Notwithstanding anything to the contrary contained in this Lease, a breach or default by Tenant of any covenant or other term or condition contained in the Local Performance Agreement or any other agreement, certificate or instrument executed by Tenant in connection with the Local Performance Agreement, after the passage of all applicable notice and cure or grace periods, shall, at the option of Landlord, be considered a material default under this

Lease, in which event Landlord shall be entitled (but in no event required) to apply all rights and remedies of Landlord under the terms of this Lease or applicable law.

Section 18. - Environmental. As used in this Section 18, “**Environmental Law**” means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. §§ 9601 *et seq.*), all other federal, state and local laws, regulations, ordinances, court orders, concerning the public health, safety, welfare, environment or a hazardous substance; and “**Hazardous Substance**” means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes without limitation any substances defined as “**hazardous material**,” “**toxic substance**,” “**hazardous waste**,” “**hazardous substance**,” or “**regulated substance**” under any Environmental Law.

Tenant represents and warrants to Landlord and agrees that after the Construction is complete:

a. Except as previously disclosed and acknowledged in writing to Landlord, no Hazardous Substance will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Demised Premises, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

b. Except as previously disclosed and acknowledged in writing to Landlord and agreed by Landlord in writing, Tenant has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Demised Premises or a migration of any Hazardous Substance from the Demised Premises.

c. Tenant will immediately notify Landlord and the Lender on Landlord’s behalf, in writing, if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Demised Premises or migrates or threatens to migrate to or from nearby property; or (2) there is a violation of any Environmental Law concerning the Demised Premises. In such an event, Tenant shall promptly take all necessary remedial action in accordance with Environmental Law.

d. Except as previously disclosed and acknowledged in writing to Landlord, Tenant has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Demised Premises; or (2) any violation by Tenant or any permitted sublessee of any Environmental Law. Tenant shall immediately notify Landlord and the Lender on Landlord’s behalf, in writing as soon as Tenant has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Landlord has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

e. Except as previously disclosed and acknowledged in writing to Landlord, Tenant and every permitted sublessee have been, are and shall remain in full compliance with any and all applicable Environmental Law.

f. Tenant shall regularly inspect the Demised Premises, monitor the activities and operations on the Demised Premises, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and in compliance.

g. Tenant shall allow, or cause any permitted sublessee to allow, Landlord, the Lender or their agents to enter and inspect the Demised Premises and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Demised Premises; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about or migrated to the Demised Premises; or (3) whether or not Tenant and any permitted sublessee are in compliance with applicable Environmental Law.

h. Upon the request of the Lender and at any time, Tenant agrees, at Tenant's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Demised Premises and to submit the results of such audit to Landlord and the Lender. The choice of the environmental engineer who will perform such audit is subject to the Lender's approval.

i. Each of Landlord or the Lender has the right, but not the obligation, to perform any of Tenant's obligations under this Section 18 at Tenant's expense.

j. As a consequence of any breach of any representation, warranty or covenant made in this Section 18, Tenant shall indemnify and hold harmless Landlord and its successors or assigns from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and reasonable attorneys' fees, which Landlord and its successors or assigns may sustain.

Section 19. - Regulations. Tenant shall comply with all federal, state, and local laws and ordinances, and all rules, orders, directives, and regulations of any duly constituted authority affecting or respecting the Demised Premises, or the use or occupancy of same, including the business at any time thereon transacted by Tenant, or any permitted assignee or sublessee of Tenant.

Section 20. - Signs. All signs and other advertising devices shall be subject to compliance with applicable zoning laws and any and all protective covenants of record governing the Demised Premises.

Section 21. - Mechanics', Materialmen's and/or Laborers' Liens. All work performed by or on behalf of Tenant shall be performed in a good and workmanlike manner in conformity with all applicable laws, codes and regulations including without limitation the Americans with Disabilities Act and regulations therefrom, and free from mechanics', materialmen's and/or laborers' liens.

a. If Tenant makes any alterations or improvements in the Demised Premises, Tenant must pay for the same when made. Nothing in this Lease shall be construed to authorize

Tenant or any person dealing with or under Tenant, to charge the rents of the Demised Premises, or the property of which the Demised Premises form a part, or the interest of Landlord in the estate of the Demised Premises, or any person under and through whom Landlord has acquired its interest in the estate of the Demised Premises, with a mechanics', materialmen's and/or laborers' lien or other encumbrance of any kind. Under no circumstances shall Tenant be construed to be the agent, employee or representative of Landlord in the making of any such alterations or improvements to the Demised Premises, irrespective of whether Landlord has given its written consent to such alterations or improvements.

b. In the event a mechanics', materialmen's and/or laborers' lien shall be filed against the Demised Premises or Tenant's interest therein as a result of any work undertaken by Tenant, Tenant shall, within thirty (30) days of receiving notice of such lien, discharge the same either by payment of the indebtedness due to the lien claimant or by filing a bond for the benefit of Landlord as security for such lien. The amount of the bond shall be one and one-half (1.5) times the amount of the claimed lien, and such bond shall be executed by a solvent insurance carrier acceptable to Landlord. In the event Tenant shall fail to discharge such lien, Landlord shall have the right, but not the obligation, to procure such discharge, and Tenant shall immediately pay, as Additional Rent, the cost of discharging such lien to Landlord, with interest thereon at a rate of ten percent (10%) per annum (or if less, the maximum interest allowed by law), upon written demand by Landlord. Such cost of discharging the lien shall include without limitation the cost of a bond which Landlord shall procure, any amounts paid to the lien claimant and attorneys' fees.

c. Tenant agrees to indemnify and save harmless Landlord from and against all loss, claims, damages, costs or expenses suffered by Landlord by reason of any repairs, installations or improvement, made by Tenant.

Section 22. - Notices. Any notice required or contemplated to be given to a party by the other party shall be in writing and shall be given by hand delivery, certified or registered United States mail, or a private courier service which provides evidence of receipt as part of its service, as follows:

If to Landlord:

Telly D. Tucker
Director of Economic Development
427 Patton Street
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

With a copy to:

W. Clarke Whitfield, Jr., Esq.
City Attorney
427 Patton Street, Room 421
P.O. Box 3300 (zip code 24543)
Danville, VA 24541

If to Tenant:

Harlow Fastech LLC
Attn: David Gordon Smith and
Alan Glen Pearce
228 Slayton Avenue
Danville, VA 24541

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change in the manner provided herein. A notice given hereunder shall be deemed given on the date of hand delivery, deposit with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. Copies hereunder are provided as a matter of courtesy and shall not constitute notice themselves.

Section 23. - Waiver.

a. Generally. Time shall be of the essence of this Lease with regard to all provisions herein stipulating a date or number of days within which the parties are required to perform the stated act. No delay or failure of either party to exercise any right hereunder, or to insist upon the strict compliance with the terms and provisions hereof, shall constitute a waiver of any right hereunder or a waiver of the right thereafter to insist upon strict compliance with the terms and provisions thereof.

b. Waiver by Landlord. Waiver by Landlord of any default, breach or failure of Tenant under this Lease shall not be construed as a waiver of any subsequent or different default, breach or failure. In case of a breach by Tenant of any of the obligations of Tenant, Landlord nevertheless may accept from Tenant any payment or payments hereunder without in any way waiving Landlord's right to exercise the right of re-entry hereinbefore provided for by reason of any other breach or lapse which was in existence at the time such payment or payments were accepted by Landlord.

Section 24. - Security Interest and Removal of Tenant's Property.

a. Landlord shall have a lien upon all furniture, fixtures, equipment and other personal property of Tenant that is installed, located or placed on the Demised Premises to secure Landlord against any and all loss or damage it may sustain as a result of any breach of this Lease, including without limitation the payment of all Rent and other charges provided for under this Lease. Tenant hereby grants to Landlord a security interest in all furniture, fixtures, equipment and other personal property of Tenant that is installed, located or placed on the Demised Premises during the Term. Tenant hereby authorizes Landlord to file on Tenant's behalf customary Form UCC-1's to evidence and perfect Landlord's lien in such personal property, and this Lease shall be deemed to be a security agreement for purposes of the UCC. Notwithstanding the foregoing, Tenant, upon written request from Landlord, shall execute a Security Agreement which contains such terms and conditions reasonably satisfactory to Landlord in order to evidence and to perfect Landlord's security interests as described in this Section 24(a).

b. Tenant shall have a right, however, to remove any of Tenant's property so long as Tenant is not in default of any covenant or agreement herein contained. Tenant shall promptly repair, at its own expense, any damage to Demised Premises occasioned by such removal. It is understood that Landlord's lien shall be in addition to any and all other rights and security interests granted to Landlord by law or under this Lease. Any personal property remaining on the Demised Premises on the date on which this Lease terminates shall be deemed abandoned for

all purposes and shall become the property of Landlord. Landlord may retain or dispose of the property without liability of any type or nature to Tenant.

Section 25. - Subordination. Upon request of Landlord, Tenant shall subordinate Tenant's rights hereunder to the lien of mortgage or mortgages, or the lien resulting from any other method of financing or refinancing now or hereafter in force against the real property and/or buildings of which the Demised Premises are a part against any buildings hereafter placed upon real property of which the Demised Premises are a part, provided that the holder of such mortgage or lien executes, along with Tenant, an attornment and non-disturbance agreement which permits Tenant to remain in possession of the Demised Premises for the Term so long as Tenant pays the Rent and other charges due performance during the Term of all of the terms, covenants, and provisions of this Lease to be performed by Tenant. In no event after the assumption of this Lease shall any then-existing default remain uncured for a period in excess of the earlier of thirty (30) days or the time period set forth herein. Adequate assurance of Tenant's performance of this Lease shall include without limitation (i) adequate assurance of the source of rent or payments required under all agreements referred to herein, and (ii) adequate assurance that the assumption of this Lease will not breach any provision hereunder. In the event of a filing of a petition under the Bankruptcy Code by Tenant, Landlord shall have no obligation to provide Tenant with any services herein required, unless Tenant shall have paid and be current in all payments of operating costs, utilities, or other charges therefor.

Section 26. - Landlord's Remedies. In addition to and not in lieu of any other remedies or relief made available to Landlord under this Lease, at law or in equity, upon the occurrence of a default as defined in Section 17 above or otherwise in this Lease, irrespective of whether Landlord has terminated this Lease, Landlord may elect any one or more of the following:

a. Non-Acceleration of Rents. Landlord may terminate Tenant's right of possession of the Demised Premises, in which event Landlord may, but shall not be obligated to, relet the Demised Premises, or any part thereof, for the account of Tenant, for such rent and term and upon such other conditions as are acceptable to Landlord. Tenant shall pay to Landlord, as Additional Rent, all expenses of reletting the Demised Premises (including without limitation repairs, alterations, improvements, legal fees and brokerage commissions) upon giving written notice to Tenant. In any event, Tenant remains obligated to pay all rent and other charges due to Landlord as provided in this Lease for the balance of the Term. Credited against such rent and charges due to Landlord (including all of Landlord's expenses of reletting the Demised Premises) shall be the rents actually received by Landlord from reletting the Demised Premises. Tenant agrees that Landlord may file suit to recover any sums due Landlord under this subsection from time to time and that such suit or recovery of any amount due Landlord shall not be any defense to any subsequent action brought for any amount not previously reduced to judgment in favor of Landlord.

b. Acceleration of Rents. At any time after a default by Tenant prior to the expiration of the Term and regardless of whether Landlord has exercised Landlord's remedy described in Section 26(a) above, Landlord may accelerate all payments of Rent due under this Lease for the balance of the Term upon written notice to Tenant.

c. Cease the Construction; Re-entry and Repossession. Landlord may cease the Construction, and Tenant shall remain responsible for the costs of the Construction. In addition, Landlord may re-enter and repossess the Demised Premises and remove all persons and effects therefrom, by summary proceeding, ejectment or other legal action or by using such force as may be necessary. Landlord shall have no liability by reason of any such re-entry, repossession or removal.

d. Recoupment of Concessions. Landlord may recover from Tenant, to the extent permitted under Virginia law, the value and/or cost of all concessions to Tenant under this Lease.

e. Put Option. Landlord, upon giving written notice to Tenant, shall have the right to obligate Tenant to exercise the Option, and Tenant shall purchase the Demised Premises at the Option Purchase Price as set forth in Section 3(c) above.

f. Legal Remedies. The parties agree that the remedies provided for in this Lease in the event of default on the part of Tenant are in addition to and not in lieu of any other remedies or relief made available to Tenant under Virginia law, which latter remedies or relief shall be likewise available to Landlord in the event of a breach of any of the terms of this Lease.

Section 27. - Limit of Landlord's Liability. The liability of Landlord (and of any successor landlord) shall be limited to the interest of Landlord in the Demised Premises (including rental income, sales and insurance proceeds therefrom). Tenant shall look solely to Landlord's interest in the Demised Premises for the recovery of any judgment or award against Landlord. Landlord shall not be liable for any judgment or deficiency, and in no event shall Landlord be liable to Tenant for any lost profit, damage to or loss of business or any form of special, indirect or consequential damages. Before filing suit for an alleged default by Landlord, Tenant shall give Landlord, written notice and reasonable time to cure the alleged default. The provisions of this Section 27 shall not be deemed to be a waiver by Landlord or a limitation of Landlord's sovereign immunity.

Section 28. - Binding Effect. The provisions of this Lease shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

Section 29. - Enforceability. If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 30. - Entire Agreement. This Lease, the schedules hereto, the Local Performance Agreement and the other Recruitment Documents (as defined in the Local Performance Agreement) contain the entire agreement and understanding of the parties to this Lease with respect to the transactions contemplated hereby; and this Lease, the schedules hereto, the Local Performance Agreement and the other Recruitment Documents (as defined in the Local Performance Agreement) supersede all prior understandings and agreements of the parties with

respect to the subject matter hereof. In the event of a conflict between this Lease and the Local Performance Agreement with respect to the Demised Premises, the provisions of the Facility Lease shall control to the extent necessary to resolve such conflict.

Section 31. - Gender and Number. Throughout this Lease, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

Section 32. - Headings. The descriptive headings in this Lease are inserted for convenience only and do not constitute a part of this Lease.

Section 33. - Other Documents. The parties agree that they shall execute, acknowledge, and deliver all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Lease.

Section 34. - No Third-Party Beneficiaries. Nothing in this Lease is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Lease.

Section 35. - Attorneys' Fees. Each of the parties shall be solely responsible for their respective attorneys' fees in the negotiating, drafting, and execution of this Lease and any of the transactions contemplated hereby.

Section 36. - Brokers. The parties each represent and acknowledge that there were no real estate brokers involved in this lease transaction or the negotiations leading up to this Lease. Each of Landlord, to the extent permitted by law, and Tenant shall indemnify and hold harmless the other from and against any loss, cost, damage or liability resulting from or arising out of any claim by any broker or agent for commission or other compensation on account of any agreement allegedly made with the indemnifying party with respect to, or services allegedly rendered to the indemnifying party as the procuring cause of this Lease, the VCC Loan, or the transaction which they embody.

Section 37. - Force Majeure. Notwithstanding the foregoing, neither party will be liable for any delay in performance due to an Event of Force Majeure (as defined herein). **“Event of Force Majeure”** means without limitation any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth of Virginia or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or cables not caused by the party in question; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the party in question.

Section 38. - Governing Law. This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. The parties hereby submit to the

exclusive jurisdiction of the state court located in Danville, Virginia, or the U.S. District Court for the Western District of Virginia (Danville Division), in any action or proceeding arising out of, or related to this Lease, and the parties hereby agree that all claims in respect of any action or proceeding shall be heard or determined only in either of these courts. The parties agree that a final judgment in any action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the judgment, or in any other manner provided by applicable law related to the enforcement of judgments. If any ambiguity or question of intent or interpretation arises, this Lease shall be construed as if drafted jointly by the parties and no presumptions or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Lease.

Section 39. - Subject to Annual Appropriations. As provided under Virginia law, the obligations of Landlord to pay the cost of performing Landlord's obligations under this Lease are subject to and dependent upon annual appropriations being made from time to time by the governing body of Landlord, for such purpose.

[SIGNATURES ON FOLLOWING PAGES]

WITNESS our signature to this **FACILITY LEASE** as of the date first above written:

**INDUSTRIAL DEVELOPMENT AUTHORITY
OF DANVILLE, VIRGINIA**, a political
subdivision of the Commonwealth of Virginia

By: **DO NOT SIGN - SCHEDULE ONLY**
T. Neal Morris, Chairman

ATTEST:

DO NOT SIGN - SCHEDULE ONLY

Russell D. Reynolds
Corporate Secretary
Industrial Development Authority of Danville, Virginia

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of
_____ 20____, by **T. NEAL MORRIS**, in his capacity as Chairman of
INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political
subdivision of the Commonwealth of Virginia, on behalf of such entity.

My commission expires: _____.

DO NOT SIGN - SCHEDULE ONLY
Notary Public
Registration No. _____

WITNESS our signature to this **FACILITY LEASE** as of the date first above written:

HARLOW FASTECH LLC, a Virginia limited liability company

By: **DO NOT SIGN - SCHEDULE ONLY**
David Gordon Smith
Title: _____

By: **DO NOT SIGN - SCHEDULE ONLY**
Alan Glen Pearce
Title: _____

STATE OF _____
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____ 20____, by **DAVID GORDON SMITH** and **ALAN GLEN PEARCE**, in their capacity as _____ and _____, respectively, of **HARLOW FASTECH LLC**, a Virginia limited liability company, on behalf of such entity.

My commission expires: _____.

DO NOT SIGN - SCHEDULE ONLY
Notary Public
Registration No. _____

List of Schedules

- 1(a) - The Demised Premises
- 3(b) - Commencement Date Memorandum
- 7(a) – The Construction

Schedule 1(a)
(The Demised Premises)

ALL of that certain lot, tract, or parcel of land, together with improvements thereon and appurtenances thereunto belonging, situate in Danville, Virginia, and more particularly described as follows:

**[APPROXIMATELY FIVE TO TEN ACRES IN RIFA'S CYBER PARK
TO BE DETERMINED BY AGREEMENT OF TENANT AND LANDLORD]**

This property is made subject to all easements, conditions, restrictions and agreements of record affecting the real estate hereby described or any part thereof.

Schedule 3(b)

COMMENCEMENT DATE MEMORANDUM

With respect to that certain Project Site Lease dated _____, 2018 (the “Lease”), between **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (“Landlord”); and **HARLOW FASTECH LLC**, a Virginia limited liability company, whereby Landlord leased to Tenant and Tenant leased from Landlord space commonly known as Lot ____ RIFA Cyber Park in the City of Danville, Virginia (the “Demised Premises”). Tenant and Landlord hereby acknowledge as follows:

1. The Term commenced on _____, 20____, which shall be the Commencement Date under the Lease.
2. On the Commencement Date, Tenant accepted possession of the Demised Premises “AS IS” and “WITH ALL FAULTS”.
3. The Initial Term ends at 11:59 p.m., EST, on _____, 20____.
4. Tenant shall commence payment of Monthly Base Rent and Additional Rent on _____, 20____.
5. To give timely notice to Landlord of Tenant’s intention to exercise the Option, Tenant must give written notice to Landlord on or before _____, 20____.
6. Tenant has deposited with Landlord the Security Deposit in the amount of \$ _____.

All capitalized terms herein not otherwise defined herein shall have the meaning assigned in the Lease.

WITNESS our signatures to this **COMMENCEMENT DATE MEMORANDUM** as of the dates set forth below.

LANDLORD:
**INDUSTRIAL DEVELOPMENT
AUTHORITY OF DANVILLE, VIRGINIA**, a
political subdivision of the Commonwealth of
Virginia

TENANT:
HARLOW FASTECH LLC, a Virginia limited
liability company

By: ****DO NOT SIGN - SCHEDULE ONLY****
Printed name: _____
Title: _____
Date: ____/____/20____

By: ****DO NOT SIGN - SCHEDULE ONLY****
Printed name: _____
Title: _____
Date: ____/____/20____

Schedule 7(a)
(The Construction)

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.: Item 5D

Meeting Date: 11/13/2018

Subject: Resolution 2018-11-13-5D, approving a cooperation agreement with the IDA of Danville, Virginia.

From: Telly D. Tucker, Director of Economic Development
City of Danville and Michael C. Guanzon, Esq., Clement Wheatley

SUMMARY

The Board will be asked to approve Resolution 2018-11-13-5D approving that certain Cooperation Agreement with the IDA.

ATTACHMENTS

Resolution 2018-11-13-5D
Exhibit A

Resolution No. 2018-11-13-5D

A RESOLUTION APPROVING THAT CERTAIN COOPERATION AGREEMENT WITH INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA (THE "CITY IDA"), UNDER WHICH THE AUTHORITY SHALL DONATE APPROXIMATELY 10.17 ACRES OR OTHER LAND LOCATED IN THE AUTHORITY'S CYBER PARK PROJECT IN DANVILLE, VIRGINIA, IN SUPPORT OF RESOLUTION NO. 2018-11-13-5C; SUCH COOPERATION AGREEMENT SHALL INCLUDE AMONG OTHER THINGS, THE OBLIGATION OF THE CITY IDA TO RECORD A DEED OF TRUST TO SECURE PERFORMANCE BY HARLOW FASTECH LLC, A VIRGINIA LIMITED LIABILITY COMPANY, UNDER A LOCAL PERFORMANCE AGREEMENT

WHEREAS, the Danville-Pittsylvania Regional Industrial Facility Authority (the "**Authority**") is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act, as amended; and

WHEREAS, the Authority pursuant to Resolution No. 2018-11-13-5C, the Industrial Development Authority of Danville, Virginia, a political subdivision of the Commonwealth of Virginia (the "**City IDA**"), Harlow Fastech LLC, a Virginia limited liability company ("**Recruit**"), and others entered or shall enter into that certain Local Performance Agreement (the "**LPA**"), for the location of Recruit into the Authority's Cyber Park project located in Danville, Virginia; and

WHEREAS, under the terms of the LPA, the City IDA has agreed to cause the construction of a new manufacturing facility for lease to Recruit, to be located onto Lot 10-B, Tax Parcel No. 78359, containing approximately 10.17 acres, fronting on Slayton Avenue, in Danville, Virginia, or such other suitable site in the Authority's Cyber Park in Danville, Virginia, that is agreeable to both the Authority and Recruit (the "**Land**"); and

WHEREAS, in support of and in connection with Resolution No. 2018-11-13-5C, the Authority desires to donate the Land to the City IDA under the terms and conditions set forth in that certain Cooperation Agreement between the Authority and the City IDA (the "**Cooperation Agreement**"), attached hereto and **Exhibit A**, incorporated herein by this reference; and

WHEREAS, under the Cooperation Agreement, upon the closing of the construction financing for the new manufacturing facility, the City IDA would execute and record a deed of trust covering the Land and improvements with the Authority as the beneficiary, to secure Recruit's performance under the LPA; and

WHEREAS, in the event the City IDA intends to give, sell, transfer or otherwise convey the Land to Recruit (or its designee), the City IDA, as set forth in the Cooperation Agreement, would give the Authority at least fifteen (15) days prior written notice, and the City IDA would make such conveyance subject to a right of first refusal for the Authority's benefit, consistent with the LPA; and

Resolution No. 2018-11-13-5D

WHEREAS, the Authority has determined that it is in the best interests of the Authority and the citizens of Pittsylvania County and the City of Danville, that for the improvement of the Authority's Cyber Park project and that in support of and in connection with Resolution No. 2018-11-13-5C, the Authority should execute and deliver the Cooperation Agreement.

NOW, THEREFORE, BE IT RESOLVED, that

1. The Authority hereby approves the Cooperation Agreement as set forth in **Exhibit A** and as reviewed at this meeting, together with such amendments, deletions or additions thereto as may be approved by the Chairman or Vice Chairman of the Authority, either of whom may act independently of the other, and hereby authorizes the Chairman or Vice Chairman of the Authority, either of whom may act independently of the other, to execute and deliver the Cooperation Agreement on behalf of the Authority, such execution of the Cooperation Agreement by the Chairman and/or Vice Chairman, as the case may be, to conclusively establish his approval of any amendments, deletions or additions thereto.

2. The Authority hereby authorizes and directs staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things as are contemplated by the Cooperation Agreement, or as they in their discretion deem necessary or appropriate in order to carry out the intent and purposes of these resolutions.

3. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, its agents and representatives, in respect to the Cooperation Agreement and the matters contemplated therein.

4. This Resolution shall take effect immediately upon its adoption.

- # -

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a regular meeting duly called and held on November 13, 2018, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority this 13th day of November 2018.

SUSAN M. DeMASI, Secretary
Danville-Pittsylvania Regional Industrial Facility
Authority

(SEAL)

Resolution No. 2018-11-13-5D

Exhibit A
(Cooperation Agreement)

THIS COOPERATION AGREEMENT (this "**Agreement**"), made and entered into as of the _____ day of _____ 2018, by and between **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("**RIFA**"); and **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "**City IDA**");

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. - Recitals. The parties recite the following facts:

a. RIFA, the City of Danville, Virginia, the County of Pittsylvania, Virginia, the City IDA and Harlow Fastech LLC, a Virginia limited liability company ("**Recruit**"), entered or shall enter into that certain Local Performance Agreement dated November 1, 2018 (the "**Performance Agreement**"), for the relocation of Recruit into RIFA's Cyber Park in Danville, Virginia, onto Lot 10-B, Tax Parcel No. 78359, containing approximately 10.17 acres, fronting on Slayton Avenue or such other suitable site in RIFA's Cyber Park that is agreeable to both RIFA and Recruit (the "**Land**"). The Land is currently owned by RIFA.

b. Under the Performance Agreement, the City IDA shall cause the construction of the Facility (as defined in the Performance Agreement) on the Project Site (as defined in the Performance Agreement) for lease to Recruit. Moreover, the construction costs shall be financed by Virginia Community Capital, Inc., or its affiliates ("**VCC**") through a loan to the City IDA (the "**VCC Loan**"). The VCC Loan shall be secured in part by a first lien deed of trust on the Land and improvements.

c. The Performance Agreement also provides that as part of the security for Recruit's performance under the Performance Agreement, RIFA shall have a second position security interest on the Land and improvements thereon.

d. RIFA and the City IDA enter into this Agreement in connection with, and in furtherance of, the Performance Agreement.

Section 2. - Conveyance of the Land to the City IDA.

a. Generally. The City IDA shall notify RIFA in writing of the commencement date of the construction of the Building (as defined in the Performance Agreement) upon the Land, and RIFA shall have thirty (30) days thereafter to give, transfer and convey the Land to the City IDA for no any monetary consideration, "**AS IS**", "**WHERE IS**" and "**WITH ALL FAULTS**", but free and clear of any monetary liens. All closing costs shall be paid by RIFA as grantor and

the City IDA as grantee as is customary in the Commonwealth of Virginia. The deed conveying the Land from RIFA to the City IDA shall be with general warranty, in the form reasonably acceptable to legal counsel to RIFA and the City IDA.

b. Closing of the VCC Loan; RIFA DOT. Contemporaneously with the closing of the VCC Loan, the City IDA will execute and record in the Clerk's Office of the Circuit Court of Danville, Virginia (the "**Clerk's Office**"), a deed of trust covering the Land and improvements, with RIFA as the beneficiary (the "**RIFA DOT**"). The RIFA DOT shall be subordinate to the deed of trust securing the VCC Loan. The RIFA DOT shall be consistent with the provisions of the Local Performance Agreement, and shall be in a form reasonably agreed upon by legal counsel to RIFA and the City IDA. The cost of recordation and any recordation taxes associated with the RIFA DOT shall be the responsibility of RIFA.

c. Conveyance to Recruit. In the event the City IDA intends to give, sell, transfer or otherwise convey the Land to Recruit (or its designee), whether pursuant to the Performance Agreement or otherwise, the City IDA shall give RIFA at least fifteen (15) days prior written notice, and the City IDA shall make such conveyance subject to a right of first refusal for RIFA's benefit (the "**ROFR**"), consistent with Section 8(g) of the Local Performance Agreement. The ROFR shall be in the form reasonably acceptable to legal counsel to RIFA and shall be recorded in the Clerk's Office. The cost of recordation and any recordation taxes associated with the ROFR shall be the responsibility of RIFA.

Section 3. - Due Authorization. Each party represents, warrants and agrees that the execution and performance of this Agreement have been duly approved by all necessary board action and are not in violation of any other agreement such party has with any third parties; and that this Agreement is a valid binding, legal obligation of each party, enforceable in accordance with its terms.

Section 4. - Non-waiver. No waiver of any term or condition of this Agreement by any party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

Section 5. - Other Documents. The parties agree that they shall execute, acknowledge, and deliver all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Agreement.

Section 6. - Headings. The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

Section 7. - Covenants Not Running with the Land; Binding Effect. The terms of this Agreement shall not run with the land but shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

Section 8. - Amendment, Modification and/or Supplement. The parties may amend,

modify, and/or supplement this Agreement in such manner as may be agreed upon by the parties, provided such amendments, modifications, and/or supplement are reduced to writing and signed by the parties or their successors in interest.

Section 9. - Gender and Number. Throughout this Agreement, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

Section 10. - Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

Section 11. - Severability; Interpretation. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. If any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement.

Section 12. - No Third-Party Beneficiaries. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

Section 13. - Relationship of Parties. Nothing in this Agreement shall be construed so as to create a relationship of agency, employment, joint venture or partnership. Neither party to this Agreement shall make any representations to third parties tending to create apparent agency, employment, joint venture or partnership. Neither party to this Agreement will have authority to act for the other in any manner to create obligations or debts binding on the other, and neither party will be responsible for any obligations or expenses whatsoever of the other.

Section 14. - Survival. Any termination, cancellation or expiration of this Agreement notwithstanding, provisions which are by their terms intended to survive and continue shall so survive and continue.

[SIGNATURES ON FOLLOWING PAGES.]

WITNESS the following signatures to this **COOPERATION AGREEMENT** as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Robert W. Warren, Chairman

COMMONWEALTH OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of _____ 2018, by **ROBERT W. WARREN** in his capacity as chairman of **DANVILLE PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia.

My commission expires _____.

Notary Public
Registration No. _____

WITNESS the following signatures to this **COOPERATION AGREEMENT** as of the date first above written:

**INDUSTRIAL DEVELOPMENT AUTHORITY
OF DANVILLE, VIRGINIA**, a political
subdivision of the Commonwealth of Virginia

By: _____
T. Neal Morris, Chairman

COMMONWEALTH OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of _____ 2018, by **T. NEAL MORRIS** in his capacity as chairman of **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia.

My commission expires _____.

Notary Public
Registration No. _____

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.:	Item 5E
Meeting Date:	November 12, 2018
Subject:	Financial Status Reports – October 31, 2018
From:	Michael L. Adkins, Authority Treasurer

SUMMARY

A review of the financial status reports through October 31, 2018 will be provided at the meeting. The financial status reports as of October 31, 2018 are attached for the DPRIFA Board's review.

RECOMMENDATION

Staff recommends approving the financial status reports as of October 31, 2018 as presented.

ATTACHMENTS

Financial Status Reports

Financial Status

Table of Contents

- A. \$7.3 Million Bonds - Cane Creek Centre
- B. General Expenditures for FY2019
- C. SVMS at Berry Hill – Funding Other than Bond Funds
- D. SVMS at Berry Hill – Lot 4 Site Development
- E. SVMS at Berry Hill – Lot 8 Site Development
- F. SVMS at Berry Hill – Water & Sewer
- G. Rent, Interest, and Other Income Realized
- H. Unaudited Financial Statements

Danville-Pittsylvania Regional Industrial Facility Authority

\$7,300,000 Bonds for Cane Creek Centre - Issued in August 2005 ⁷

As of October 31, 2018

<u>Funding</u>	<u>Funding</u>	<u>Budget / Contract Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funds from bond issuance	\$7,300,000.00				
Issuance cost	(155,401.33)				
Refunding cost ⁷	(52,500.00)				
Bank fees	(98.25)				
Interest earned to date	486,581.70				
Cane Creek Parkway ³		\$3,804,576.00	\$3,724,241.16	\$	-
Swedwood Drive ²		69,414.00	69,414.00		-
Cane Creek Centre entrance ³		72,335.00	53,878.70		-
Financial Advisory Services		9,900.00	9,900.00		-
Dewberry contracts ¹		69,582.50	69,582.50		-
Dewberry contracts not paid by 1.7 grant ^{4,5}		71,881.00	30,636.62	41,244.38	
Land		-	2,792,945.57		-
Demolition services		71,261.62	71,261.62		-
Legal fees		-	133,967.88		-
CCC - Lots 3 & 9 project - RIFA Local Share ⁶		142,190.00	112,464.98		-
Other expenditures		-	345,194.30		-
Total	\$ 7,578,582.12	\$ 4,311,140.12	\$ 7,413,487.33	\$ 41,244.38	\$ <u>123,850.41</u>

notes:

¹ Dewberry Contracts consist of wetland, engineering, surveying and site preparation

² Funds being used to cover City and County matching contributions for a VDOT grant for Swedwood Drive

³ Project completed under budget

⁴ In September 2008 the outstanding principal balance of \$6,965,000 on the Series 2005 Cane Creek Project Revenue Bonds was tendered and not remarketed. These bonds were converted to bank bonds and are now subject to the Credit and Reimbursement agreement the Authority has with Wachovia Bank. The remarketing agent will continue its attempt to remarket these bonds in order to convert them back to Variable Rate Revenue Bonds. As a result, it is likely that the City and County will have to contribute additional funds in order to make future interest payments on the letter of credit attached to these bonds.

⁴ These contracts were originally to be paid by the \$1.7M Special Projects Grant, this grant has expired and the TIC did not issue an extension. The remaining amounts of the contract will be paid using bond funds.

⁵ The budget amount decreased \$71,279.61 from the 9/30/2010 reports. This amount represented the remaining budget amount carried from the \$1.7 SP grant upon its expiration for the following contracts: Wetland Delineation, Wetland Bank Plan Rev., Stream Concept Plan, & Stream Attribute Plan. Per Shawn Harden of Dewberry, these contracts are complete and finished under budget. The only contract that remains open is for Wetland Monitoring and the budget, expended, and encumbered amounts included here are only for this contract.

⁶ This line item represents the amount of expenditures on the "CCC - Lots 3 & 9" budget sheet that is covered by bond funds. RIFA's local share of 5% of these project costs is being covered by these bond funds. Project finished under original budget.

⁷ The \$7.3 million bonds were refunded on 8/1/2013 with the issuance of refunding bonds in the amount of \$5,595,000.

Road Summary-Cane Creek Parkway:	
English Contract-Construction	\$ 5,363,927.00
Change Orders	165,484.50
Expenditures over contract amount	3,579.50
(Less) County's Portion of Contract	(935,207.00)
(Less) Mobilization Allocated to County	(9,718.00)
Portion of English Contract Allocated to RIFA	4,588,066.00
Dewberry Contract-Engineering	683,850.00
Total Road Contract Allocated to RIFA	\$ 5,271,916.00

Funding Summary - Cane Creek Parkway	
VDOT	\$ 1,467,340.00
Bonds	3,804,576.00
	\$ 5,271,916.00

Danville-Pittsylvania Regional Industrial Facility Authority

General Expenditures for Fiscal Year 2019

As of October 31, 2018

	<u>Funding</u>	<u>Budget</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funding					
City Contribution	\$ 75,000.00				
County Contribution	75,000.00				
Carryforward from FY2018	37,099.21				
Contingency					
Miscellaneous contingency items		\$ 53,022.94	\$ 1,440.00	\$ -	\$ 51,582.94
Southern Virginia Mega Site at Berry Hill helipad		\$ 4,351.27	4,351.27	-	-
Total Contingency Budget		<u>57,374.21</u>	<u>5,791.27</u>	<u>-</u>	<u>51,582.94</u>
Legal		100,000.00		-	100,000.00
Accounting		21,525.00	7,000.00	-	14,525.00
Annual Bank Fees		600.00		-	600.00
Postage & Shipping		100.00		-	100.00
Meals		4,000.00	792.40	-	3,207.60
Utilities		500.00	61.40	-	438.60
Insurance		3,000.00		-	3,000.00
Total	<u>\$ 187,099.21</u>	<u>\$ 187,099.21</u>	<u>\$ 13,645.07</u>	<u>\$ -</u>	<u><u>\$ 173,454.14</u></u>

Danville-Pittsylvania Regional Industrial Facility Authority
Southern Virginia Mega Site at Berry Hill - Funding Other than Bond Funds
As of October 31, 2018

Funding	Funding	Budget / Contract Amount	Expenditures	Encumbered	Unexpended / Unencumbered
City contribution	\$ 134,482.50				
County contribution	134,482.50				
City advance for Klutz, Canter, & Shoffner property ^{1,4}	10,340,983.83				
Tobacco Commission FY09 SSED Allocation	3,370,726.00				
Tobacco Commission FY10 SSED Allocation - Engineering Portion	407,725.00				
Tobacco Comm. FY10 SSED Allocation - Eng. Portion Deobligated	(244,797.00)				
Local Match for TIC FY10 SSED Allocation - Engineering Portion ⁵	76,067.61				
Additional funds allocated by RIFA Board on 1/14/2013 ⁶	11,854.39				
Contingency funds allocated per Resolution 2017-08-14-5C ⁹	20,000.00				
TIC #2264 - Phase II Land and Engineering	1,659,500.00				
Land					
Klutz property		\$ 8,394,553.50	\$ 8,394,553.50	\$ -	
Canter property ²		1,200,000.00	1,200,000.00	-	
Adams property		37,308.00	37,308.00	-	
Carter property		5,843.00	5,843.00	-	
Jane Hairston property		1,384,961.08	1,384,961.08	-	
Bill Hairston property		201,148.00	201,148.00	-	
Shoffner Property		1,872,896.25	1,872,896.25	-	
Other					
Dewberry & Davis		28,965.00	28,965.00	-	
Dewberry & Davis ³		990,850.00	987,879.29	2,970.71	
Consulting Services - McCallum Sweeney ⁷		115,000.00	103,796.85	-	
Dewberry Engineers (related to #2264)		4,500.00	-	4,500.00	
Appalachian Power Company		1,655,000.00	180,000.00	1,475,000.00	
Transfer available funds to "Berry Hill Mega Park - Lot 4 Site Development" Project ⁸		-	11,203.15	-	
Transfer from General Funds contingency ⁹		20,000.00		20,000.00	
Total	\$ 15,911,024.83	\$ 15,911,024.83	\$ 14,408,554.12	\$ 1,502,470.71	\$ -

¹ This figure does not include the interest the City lost from the uninvested funds, which was paid to the City 1/3/2012 and totaled \$144,150.41.

² Settlement fees were drawn from bonds issued for the Berry Hill project 12/1/2011.

³ This contract was originally for \$814,500, but has been amended to include a traffic impact analysis, and a cemetery survey. \$740,000 was covered by the FY09 Tobacco Allocation. \$162,928 was covered by the FY10 Tobacco Allocation. \$87,922 will be covered with RIFA Funds.

⁴ RIFA paid the City back for all advances on 1/3/2012.

⁵ The RIFA Board approved to utilize the remaining funds from the Mega Park bond funds and approximately \$65,000 of the 'Funds Available for Appropriation' towards the local match for the engineering portion of Tobacco Commission grant #1916 for the Berry Hill Mega Park.

⁶ Due to the expiration of the Tobacco Commission FY10 SSED Allocation, the RIFA Board approved on 1/14/2013 to utilize \$11,854.39 of the 'Funds Available for Appropriation' to cover the funding shortfall for the budgeted Dewberry & Davis contract.

⁷ Unencumbered the remaining \$11,203.15 due to termination of contract.

⁸ As approved by RIFA Board on 10/16/2014

⁹ As approved by RIFA Board on 8/14/2017

Danville-Pittsylvania Regional Industrial Facility Authority
Southern Virginia Mega Site at Berry Hill - Lot 4 Site Development
As of October 31, 2018

	<u>Funding</u>	<u>Budget / Contract Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funding					
Tobacco Commission FY12 Megasite Allocation	\$ 6,208,153.00				
Local Match for TIC FY12 Megasite Allocation - County Portion ¹	750,000.00				
Local Match for TIC FY12 Megasite Allocation - City Portion ¹	750,000.00				
Local Match for TIC FY12 Megasite Allocation - RIFA Portion ²	181,000.00				
Transfer in from "Mega Park - Funding Other than Bond Funds" Budget ³	11,203.15				
Expenditures					
Dewberry Engineers Inc.		1,688,062.81	1,500,562.81	187,500.00	
Jones Lang LaSalle		95,000.00	95,000.00	-	
Jones Lang LaSalle - Economic Analysis		12,000.00	12,000.00	-	
VA Water Protection Permit Fee		57,840.00	57,840.00	-	
Wetlands Studies and Solutions, Inc.		77,027.64	77,027.64	-	
Banister Bend Farm, LLC - Wetland and Stream Credits		122,968.00	122,968.00	-	
DEQ - Construction Activity General Permit		11,000.00	11,000.00	-	
Haymes Brothers, Inc. - Construction on Phase 1 Graded Pad		4,250,475.11	4,159,043.41	91,431.70	
Haymes Brothers, Inc. - Phase 1 Pad A Extension/Expansion		-	-	-	
Transfers to "General Expenditures Fiscal Year 2015" Contingency ³					
Dewberry Engineers Inc.		(108,603.35)	(108,603.35)	-	
Jones Lang LaSalle - Market Analysis Study		(95,000.00)	(95,000.00)	-	
Jones Lang LaSalle - Economic Analysis		(12,000.00)	(12,000.00)	-	
Total	\$ 7,900,356.15	\$ 6,098,770.21	\$ 5,819,838.51	\$ 278,931.70	<u>\$ 1,801,585.94</u>

¹ \$300,000 of this was received from each locality 6-2014. \$450,000 received 8-2014. \$450,000 received 9-2014.

² The RIFA Board approved on 2/11/2013 to transfer the remaining funds of \$175,316.17 from the "Funds Available for Appropriation" budget sheet and funds of \$5,683.83 from the "Rent, Interest, and Other Income Realized" budget sheet to use for the RIFA local match to Tobacco Commission grant #2491 for Berry Hill Mega Park Lot 4 Site Development.

³ As approved by RIFA Board on 10/16/2014

Danville-Pittsylvania Regional Industrial Facility Authority

Southern Virginia Mega Site at Berry Hill - Lot 8 Site Development

As of October 31, 2018

	<u>Funding</u>	<u>Budget / Contract</u> <u>Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended /</u> <u>Unencumbered</u>
Funding					
TIC #3358 Site Improvements for Project Lignum					
Tobacco Commission Grant	\$ 2,624,800.00				
State Match for Property & Improvements	500,000.00				
County Match for Contractual Services	261,800.00				
County Match for Property & Improvements	800,600.00				
City Match for Contractual Services	261,800.00				
City Match for Property & Improvements	800,600.00				
Expenditures					
Dewberry Engineers Inc.		89,300.00	82,800.00	6,500.00	
Total	\$ 5,249,600.00	\$ 89,300.00	\$ 82,800.00	\$ 6,500.00	<u><u>\$ 5,160,300.00</u></u>

Danville-Pittsylvania Regional Industrial Facility Authority

Southern Virginia Mega Site at Berry Hill - Water & Sewer

As of October 31, 2018

	<u>Funding</u>	<u>Budget / Contract Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funding					
TIC #2641 Phase I Sanitary Sewer					
Tobacco Commission Grant 2641	\$ 4,908,240.00				
Local Match for Contractual Services	282,400.00				
Local Match for Property & Improvements	262,960.00				
TIC #3011 Water System Improvements Phase II					
Tobacco Commission Grant 3011	2,241,567.00				
Local Match for Property & Improvements	224,160.00				
Expenditures					
Dewberry Engineers Inc.		398,284.00	67,598.40	330,685.60	
Haymes Brothers, Inc. - Phase I Sanitary Sewer Project		4,856,169.75	352,287.56	4,503,882.19	
Norfolk Southern Railway Company		21,300.00	21,300.00	-	
Pittsylvania County Service Authority		1,475.00	1,475.00	-	
Treasurer of Virginia		5,200.00	5,200.00	-	
AECOM		5,000.00	5,000.00	-	
BH Media Group, Inc.		296.00	296.00	-	
Total	\$ 7,919,327.00	\$ 5,287,724.75	\$ 453,156.96	\$ 4,834,567.79	<u>\$ 2,631,602.25</u>

Danville-Pittsylvania Regional Industrial Facility Authority
Rent, Interest, and Other Income Realized for Fiscal Year 2019
As of October 31, 2018

<i>Source of Funds</i>	<u>Funding</u>		<u>Expenditures</u> <u>FY2019</u>	<u>Unexpended /</u> <u>Unencumbered</u>
	<u>Carryforward</u> <u>from FY2018</u>	<u>Receipts</u> <u>Current</u> <u>Month</u>		
<u>Carryforward</u>	\$ 738,132.03			
<u>Current Lessees</u>				
Institute for Advanced Learning and Research (IALR) ¹				
<u>Park</u> Cyberpark		\$ 27,271.86	\$ 59,296.18	
<u>Total Rent</u>		\$ 27,271.86	\$ 59,296.18	
<u>Interest Received</u> ²		\$ 425.36	\$ 1,303.71	
<u>Miscellaneous Income</u>			\$ 973,000.00	
<u>Expenditures</u>				
Hawkins Research Bldg. Property Mgmt. Fee			\$ 45,660.25	
Disbursement to Unision Tube (Enhancement Grant and DRF Grant)			\$ 764,137.50	
<u>Totals</u>	\$ 738,132.03	\$ 27,697.22	\$ 1,033,599.89	\$ 809,797.75
			Restricted¹	\$ 327,330.99
			Unrestricted	\$ 634,603.18

¹ Please note that rent proceeds must be used in accordance with the U.S. Economic Development Administration's (EDA) Standard Terms and Conditions

² Please note that this is only interest received on RIFA's general money market account.

Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Net Position^{1,2}
October 31, 2018*

	Unaudited FY 2019
Assets	
<i>Current assets</i>	
Cash - checking	\$ 834,335
Cash - money market	796,611
Accounts receivable	205,647
<i>Total current assets</i>	1,836,593
<i>Noncurrent assets</i>	
Restricted cash - project fund CCC bonds	171,595
Restricted cash - debt service fund CCC bonds	449,081
Restricted cash - debt service fund Berry Hill bonds	36
Restricted cash - debt service reserve fund Berry Hill bonds	1,005,376
Capital assets not being depreciated	24,781,371
Capital assets being depreciated, net	22,987,025
Construction in progress	9,827,751
<i>Total noncurrent assets</i>	59,222,235
Total assets	61,058,828
Liabilities	
<i>Current liabilities</i>	
Unearned income	208,863
Bonds payable - current portion	1,753,450
<i>Total current liabilities</i>	1,962,313
<i>Noncurrent liabilities</i>	
Bonds payable - less current portion	2,119,740
<i>Total noncurrent liabilities</i>	2,119,740
Total liabilities	4,082,053
Net Position	
Net investment in capital assets	53,894,552
Restricted - debt reserves	1,454,493
Unrestricted	1,627,730
Total net position	\$ 56,976,775

¹ Please note this balance sheet does not include the Due to/Due from between the County and the City since it nets out and only changes at fiscal year-end.

² Please note this balance sheet does not include all general accounts receivable or accounts payable at the month-end date. This is because information regarding accrued receivables/payables is not available at the time of statement preparation.

*Please note these statements are for the period ended October 31, 2018 as of October 31, 2018, the date of preparation. Due to statement preparation occurring in close proximity to month-end, these statements may not include some pending adjustments for the period.

Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Revenues and Expenses and Changes in Fund Net Position
October 31, 2018*

	Unaudited FY 2019
Operating revenues	
Rental income	62,571
Other Income	764,137
Total operating revenues	826,708
Operating expenses ⁴	
Mega Park expenses ³	181,271
Cane Creek Centre expenses ³	764,137
Cyber Park expenses ³	45,660
Professional fees	7,000
Other operating expenses	7,609
Total operating expenses	1,005,677
Operating income (loss)	(178,969)
Non-operating revenues (expenses)	
Interest income	9,914
Interest expense	(30,701)
Total non-operating expenses, net	(20,787)
Net income (loss) before capital contributions	(199,756)
Capital contributions	
Contribution - City of Danville	308,684
Contribution - Pittsylvania County	320,764
Total capital contributions	629,448
Change in net position	429,692
Net position at July 1, 2018	56,547,083
Net position at October 31, 2018	\$ 56,976,775

³ A portion or all of these expenses may be capitalized at fiscal year-end.

⁴ Please note that most non-cash items, such as depreciation and amortization, are not included here until year-end entries are made.

Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Cash Flows
October 31, 2018*

	Unaudited FY 2019
Operating activities	
Receipts from leases	\$ 79,950
Other receipts	973,000
Payments to suppliers for goods and services	(1,114,633)
Net cash used by operating activities	(61,683)
Capital and related financing activities	
Capital contributions	395,763
Interest paid on bonds	(64,201)
Principal repayments on bonds	(885,000)
Net cash provided by capital and related financing activities	(553,438)
Investing activities	
Interest received	9,914
Net cash provided by investing activities	9,914
Net increase (decrease) in cash and cash equivalents	(605,207)
Cash and cash equivalents - beginning of year (including restricted cash)	3,862,241
Cash and cash equivalents - through October 31, 2018 (including restricted cash)	\$ 3,257,034
Reconciliation of operating loss before capital contributions to net cash used by operating activities:	
Operating income (loss)	\$ (178,969)
Adjustments to reconcile operating loss to net cash used by operating activities:	
Non-cash operating in-kind expenses	-
Changes in assets and liabilities:	
Change in prepaids	2,425
Change in other receivables	20,654
Change in accounts payable	(111,381)
Change in unearned income	205,588
Net cash used by operating activities	\$ (61,683)

Components of cash and cash equivalents at October 31, 2018:	
American National - Checking	\$ 834,335
American National - General money market	796,611
Wells Fargo - \$7.3M Bonds CCC Debt service fund	449,081
Wells Fargo - \$7.3M Bonds CCC Project fund	171,595
US Bank - \$11.25M Bonds Berry Hill Debt service fund	36
US Bank - \$11.25M Bonds Berry Hill Debt service reserve fund	1,005,376
	\$ 3,257,034