

FINAL AUTHORIZING RESOLUTION

(GPSDC (New York), Inc. 2014 Facility)

At a meeting of the Dutchess County Industrial Development Agency (the "Agency"), held at 8:00 a.m. at 3 Neptune Road, Poughkeepsie, New York on the 11th day of September, 2014, the following members of the Agency were:

Present: Charles Daniels III, Chairman
Phyllis DiStasi Keenan, Secretary/Treasurer
Edward Summers
Mark Doyle

Absent: Timothy Dean, Vice Chairman
Henry Killian
Angela E. Flesland

Also Present: Donald Cappillino, Esq., IDA Counsel
Catherine A. Maloney, Executive Director

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain industrial development facility (GPSDC (New York), Inc. 2014 Facility) as more particularly described below:

RESOLUTION OF THE DUTCHESS COUNTY INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE IMPROVEMENT, RECONSTRUCTION, REPAIR, REFURBISHING, INSTALLATION, FURNISHING AND EQUIPPING OF A CERTAIN EXISTING FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

RECITALS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York as amended and Chapter 335 of the Laws of 1977 of the State of New York (collectively the "**Act**"), the Dutchess County Industrial Development Agency (the "**Agency**") was created with the authority and power to provide financial assistance for the purpose of, among other things, acquiring, constructing and equipping certain facilities as authorized by the Act; and

WHEREAS, GPSDC (NEW YORK), INC., a Delaware corporation authorized to do business in the State of New York (the "**Company**"), with offices located at Two Folsom Street, San Francisco, California 94105, has requested that the Agency provide financial assistance in connection with the improvement, reconstruction, repair, refurbishing, installation, furnishing and equipping of a certain existing facility (the "**Facility**") consisting of the expansion and modernization of, and installation of equipment in, an approximately 2,300,000 square foot

warehouse distribution center and fulfillment operations located on approximately 193.351 acres of land at 100 Merritt Boulevard and 110 Merritt Boulevard, Fishkill, New York 12524 consisting of the following ten (10) parcels: Tax Map No. 133001-6255-01-138778-0000, 133001-6255-01-117805-0000, 133001-6255-01-140820-0000, 133001-6255-01-146732-0000, 133001-6255-01-160704-0000, 133001-6255-01-196732-0000, 133001-6255-01-205779-0000, 133001-6255-01-225656-0000, 133001-6255-01-263805-0000, and 133001-6255-00-386780-0000, which Facility is currently owned by the Agency and leased to the Company, and the Company anticipates expenditure of approximately Ninety-Six Million and 00/100 Dollars (\$96,000,000) on the Facility; and

WHEREAS, the Facility includes the following, as they relate to the improvement, reconstruction, repair, refurbishing, installation, furnishing, equipping and completion of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the expansion and modernization of and installation of equipment in the Facility; and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the expansion and modernization of and installation of equipment in the Facility and installation of the tools, machinery and equipment; and

WHEREAS, the Agency and the Company entered into a Lease Agreement, dated as of December 1, 1999 (the "**1999 Lease Agreement**"), and a memorandum of which 1999 Lease Agreement was recorded in the Office of the County Clerk of Dutchess County, New York (the "**County Clerk's Office**") on December 10, 1999 as Instrument No. 02199911644 with respect to the 1999 Facility (as defined below); and

WHEREAS, in connection with the execution and delivery of the 1999 Lease Agreement, the Agency and the Company entered into an Environmental Compliance and Indemnification Agreement, dated as of December 1, 1999 (the "**1999 Environmental Compliance and Indemnification Agreement**"), pursuant to which the Company agreed to, among other things, comply with all material environmental laws applicable to the acquisition, construction, equipping and operation of the 1999 Facility; and

WHEREAS, in connection with the execution and delivery of the 1999 Lease Agreement, the Agency and the Company entered into a Payment-In-Lieu-Of-Tax Agreement, dated as of December 1, 1999 (the "**1999 PILOT Agreement**"), which 1999 PILOT Agreement provided for payments-in-lieu-of-taxes by the Company with respect to the Original Facility (as defined below); and

WHEREAS, the 1999 Facility consisted of the acquisition, construction and equipping of approximately 2.3 million square feet of buildings in up to three phases on approximately 189 acres of land located at 100 Merritt Boulevard and 110 Merritt Boulevard, Fishkill, New York 12524 for use by the Company as a warehouse distribution center and fulfillment operations (the "**1999 Facility**"); and

WHEREAS, the Agency and the Company previously amended and restated the 1999 PILOT Agreement pursuant to the terms of an Amended and Restated Payment-in-Lieu-of-

Tax Agreement, dated as of December 1, 1999 (the "**Amended and Restated PILOT Agreement**"), to make technical corrections to the 1999 PILOT Agreement and to provide for payments-in-lieu-of-taxes by the Company with respect to the Original Facility; and

WHEREAS, the Agency and the Company previously amended the 1999 Lease Agreement pursuant to an Amendment of Lease Agreement, dated as of November 10, 2000 (the "**2000 Lease Amendment**"; and, together with the 1999 Lease Agreement, the "**Original Lease Agreement**"), ~~in order~~ to reflect that an additional approximately 11 acres of land was conveyed by the Company to the Agency for lease by the Agency to the Company and was included in the definition of "Facility" in the 1999 Lease Agreement (the "**2000 Facility**"; and, together with the 1999 Facility, the "**Original Facility**"), and an Amendment of Memorandum of Lease was recorded in the County Clerk's Office on November 22, 2000 as Document No. 02200010623; and

WHEREAS, the Agency and the Company previously amended the 1999 Environmental Compliance and Indemnification Agreement pursuant to the terms of an Amendment of Environmental Compliance and Indemnification Agreement, dated as of November 10, 2000 (the "**2000 Amendment to Environmental Compliance and Indemnification Agreement**"; and, together with the 1999 Environmental Compliance and Indemnification Agreement, the "**Original Environmental Compliance and Indemnification Agreement**"), to reflect that the definitions of "Land" and "Facility" in the 1999 Environmental Compliance and Indemnification Agreement included the 2000 Facility; and

WHEREAS, the Company has now requested the Agency's assistance in connection with the improvement, reconstruction, repair, refurbishing, installation, furnishing and equipping of the Original Facility consisting of the expansion and modernization of, and installation of equipment in, the Original Facility (the "**2014 Facility**"; and, together with the Original Facility, the "**Facility**"); and

WHEREAS, in connection with the 2014 Facility, the Agency and the Company intend to amend the Original Lease Agreement pursuant to the terms of a certain Second Amendment of Lease Agreement dated as of September 11, 2011, by and between the Agency and the Company (the "**Second Amendment of Lease Agreement**"; and, together with the Original Lease Agreement, the "**Lease Agreement**") to reflect (i) that the definition of "Facility" in the Original Lease Agreement now includes the 2014 Facility, (ii) the extension of the term of the Original Lease Agreement; and (iii) the provision of sales and use tax exemptions with respect to the 2014 Facility; and

WHEREAS, contemporaneously with the execution and delivery of the Second Amendment of Lease Agreement, the Agency and the Company intend to amend the Original Environmental Compliance and Indemnification Agreement pursuant to the terms of a Second Amendment to Environmental Compliance and Indemnification Agreement, dated as of September 11, 2014 (the "**Second Amendment Agreement**"), to reflect that the definition of "Facility" in the Original Environmental Compliance and Indemnification Agreement includes the 2014 Facility; and

WHEREAS, contemporaneously with the execution and delivery of the Second Amendment of Lease Agreement, the Agency and the Company intend to further amend and restate the Amended and Restated PILOT Agreement, pursuant to the terms of a Second Amended and Restated PILOT Agreement, dated as of September 11, 2014 (the “**Second Amended and Restated PILOT Agreement**”) to provide for payments-in-lieu-of-taxes by the Company with respect to the Facility.

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted by the Department of Environmental Conservation of the State of New York (the laws and regulations hereinafter collectively referred to as “SEQRA”), the Agency has determined in its August 26, 2014 Preliminary Resolution in this matter that this project is a Type II action under SEQRA and therefore will not have a significant adverse impact on the environment; and

WHEREAS, in compliance with §859-a of the Act the Agency on September 5, 2014 held a public hearing on the grant of financial assistance as set forth herein following publication in the *Poughkeepsie Journal* on August 26, 2014 of a notice of the public hearing; and

WHEREAS, as a component of the Notice of Public Hearing delivered to the affected tax jurisdictions, the Agency delivered a notice of proposed deviation (the “**Deviation**”) from the Agency’s Uniform Tax Exemption Policy (“**UTEP**”) regarding the proposed Second Amended and Restated PILOT Agreement being considered by the Agency, such Notice having been transmitted to the affected taxing jurisdictions on August 25, 2014; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated herein.

NOW, THEREFORE, BE IT RESOLVED, by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The public hearing held by the Agency on September 11, 2014, concerning the grant of financial assistance as set forth herein and the nature and location of the Facility was duly held in accordance with the laws of the State of New York, including but not limited to the giving of public notice of the meeting a reasonable time before the meeting and affording a reasonable opportunity for persons with differing views on the location and nature of the Facility to be heard; and

(c) The improvement, reconstruction, repair, refurbishing, installation, furnishing and equipping of the Facility and the leasing of the Facility to the Company will

promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Dutchess County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The improvement, reconstruction, repair, refurbishing, installation, furnishing and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) Based upon representations of the Company, the Original Facility conforms with, and the 2014 Facility will conform with, the local zoning laws and planning regulations of Dutchess County and all regional and local land use plans for the area in which the Facility is located; and

(f) It is desirable and in the public interest for the Agency to approve the requested financial assistance to this Facility; and

(g) The Second Amendment of Lease Agreement is an effective instrument whereby: (i) the Original Lease Agreement is amended to now include the 2014 Facility; and (ii) the term of the Original Facility is extended; and

(h) The Second Amendment Agreement is an effective instrument whereby the Original Environmental Compliance and Indemnification Agreement is amended to include the 2014 Facility; and

(i) The Second Amended and Restated PILOT Agreement is an effective instrument providing for payments-in-lieu-of-taxes by the Company with respect to the Facility.

Section 3. Subject to (i) the Company executing the Second Amendment of Lease Agreement, the Second Amendment Agreement and the Second Amended and Restated PILOT Agreement; and (ii) the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Facility satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the improvement, reconstruction, repair, refurbishing, installation, furnishing and equipping of the Facility and hereby appoints the Company as the true and lawful agent of the Agency.

Section 4. In consequence of the foregoing, the Agency hereby determines to execute, deliver and perform the Second Amendment of Lease Agreement, the Second Amendment Agreement and the Second Amended and Restated PILOT Agreement.

Section 5. The form and substance of the Second Amendment of Lease Agreement, the Second Amendment Agreement and the Second Amended and Restated PILOT Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 6. Pursuant to Section 875(3) of the Act and under the Second Amendment of Lease Agreement, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, any sales and use tax exemption benefits taken or purported to be taken by

the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Facility; and/or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Facility(collectively, items (i) through (iv) hereby defined as a "Recapture Event").

As a condition precedent of receiving sales and use tax exemption benefits and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency.

Section 7. Based upon the representation and warranties made by the Company in its application to the Agency, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Facility in an amount up to \$96,000,000.00 that would otherwise be subject to New York State and local sales and use tax, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$7,800,000.00. The Agency agrees to consider (but it is not required to approve) any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s).

Section 8.

(a) The Chairman, Vice Chairman, any member of the Agency or the Executive Director are hereby authorized, on behalf of the Agency, to execute and deliver the Second Amendment of Lease Agreement, the Second Amendment Agreement and the Second Amended and Restated PILOT Agreement, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, any member of the Agency or the Executive Director shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "Agency Documents"). The execution thereof by the Chairman, Vice Chairman any member of the Agency or the Executive Director of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, any member of the Agency and the Executive Director of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement). The Issuer hereby appoints each Member of the Issuer and the Agency Counsel to serve as an Assistant Secretary of the Issuer for purposes of this transaction.

Section 9. The officers, employees and agents of the Agency are hereby authorized and ~~directed for~~ and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 11. This resolution shall take effect immediately.

The following resolution was duly moved by Phyllis DiStasi Keenan, seconded by Edward Summers, discussed and adopted with the following members voting:

Charles Daniels III, Chairman	VOTING	“Aye”
Timothy Dean, Vice Chairman	Being	ABSENT
Phyllis DiStasi Keenan, Secretary/Treasurer	VOTING	“Aye”
Henry Killian	Being	ABSENT
Angela E. Flesland	Being	ABSENT
Edward Summers	VOTING	“Aye”
Mark Doyle	VOTING	“Aye”

Adopted: September 11, 2014

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


I, the undersigned Secretary of the Dutchess County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Dutchess County Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 11th day of September, 2014, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Second Amendment of Lease Agreement, the Second Amendment Agreement and the Second Amended and Restated PILOT Agreement and contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 11th day of September, 2014.



Phyllis DiStasi Keenan, Secretary

(SEAL)