

## PILOT AGREEMENT PARTIAL REINSTATEMENT AND AMENDMENT

THIS PILOT AGREEMENT PARTIAL REINSTATEMENT AND AMENDMENT (hereinafter the "PILOT Agreement Amendment"), dated as of the 13<sup>th</sup> day of July, 2023 by and between NICHOLS DISTRIBUTION, LLC, a limited liability company duly organized and validly existing under the laws of the State of Minnesota, and authorized to transact business in the State of New York, with offices located at 7601 Penn Avenue S., Richfield, Minnesota 55423 (the "Company") and the TIOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly existing under the laws of the State of New York, with offices at 56 Main Street, Owego, New York 13827 (the "Agency").

### WITNESSETH:

WHEREAS, the Agency and the Company entered into a Payment-in-Lieu-of-Tax Agreement (the "PILOT Agreement") on September 1, 2002; and

WHEREAS, the PILOT Agreement was terminated in 2022 pursuant to its terms and a letter from Joseph B. Meagher, Counsel for the Agency dated July 25, 2022; and

WHEREAS, the parties now wish to partially reinstate and amend said PILOT Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter set forth, the parties hereto hereby agree:

1. The PILOT Agreement is hereby reinstated, but only as to the payment of real estate taxes for the land and improvements owned by the Company in the County ("Premises").

2. The effective term of the PILOT Agreement shall herein be extended from March 1, 2023, for an additional two (2) year term, to February 28, 2025. Notwithstanding anything to the contrary in the PILOT Agreement, as amended, the PILOT Agreement shall automatically terminate if (i) the Lease Agreement and the Leaseback Agreement between the Agency and the Company of even date herewith expire or are terminated by either party, and/or (ii) legislation is enacted in the State of New York such that the Real Property Tax cap enacted by the New York State Legislature in 2011 (Chapter 97 of the Laws of 2011) is modified, increased or eliminated (e.g., an IDA PILOT is excluded from the calculation for determining a jurisdiction's Tax Levy Growth Factor).

3. The amount of PILOT payments or tax payments assessed against the Premises and due by the Company for the first year of the PILOT extension (2023) shall be equal to, and shall in no event exceed, the amount of the 2023 town and county tax and the 2023/24 school district tax that would have been otherwise paid by the Company had the Premises been fully assessed on the taxable roll which amount is estimated to be approximately \$509,539.19.

As of the date of this PILOT Agreement Amendment, the Company has already paid \$184,690.13 as set forth in the attached Exhibit "A". The Company will continue to remit 100%

of the PILOT payments or Tax payments through the Agency. The Company's PILOT obligation for 2024 shall be calculated and paid in the same manner as 2023.

4. The assessed value of the premises covered by the PILOT Agreement which are currently under the Section 8 tax-exempt roll of the Town of Nichols shall be reduced by twenty percent (20%) commencing March 1, 2023 with said twenty percent (20%) being returned to the Section 1 taxable roll of the Town of Nichols. Thereafter, each subsequent year this PILOT Agreement Amendment is in effect, through, and including, March 1, 2024, twenty percent (20%) of the assessed value of the premises covered by the PILOT Agreement shall be returned to the Section 1 taxable roll of the Town of Nichols until, if this PILOT Agreement Amendment is extended by the mutual agreement of the parties, the full assessed value of said premises have been transferred from Section 8 of the tax-exempt roll to Section 1 of the tax roll for the Town of Nichols.

5. In no event shall the amount of PILOT payments or tax payments assessed against the Premises during any given year exceed the amount that would have otherwise been paid by the Company had the Premises been fully assessed on the taxable roll.

6. This PILOT Agreement Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document. In addition, the parties may transmit signed copies of this Lease Agreement by e-mail and/or PDF and both parties intend to be bound by the signatures on any document which is transmitted by e-mail and/or PDF. Each party is aware that the other party will rely on the e-mail and/or PDF transmitted signatures, and both parties hereby waive any defenses to the enforcement of the terms of this PILOT Agreement Amendment based on the form of signature.

IN WITNESS WHEREOF, the Company and the Agency have caused this PILOT Agreement Amendment to be executed in their respective names, all as of the date first above written.

NICHOLS DISTRIBUTION, LLC

By: 

Name: Cara Helper

Title: Authorized Signatory

TIOGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

Jenny Ceccherelli, Chairperson

of the PILOT payments or Tax payments through the Agency. The Company's PILOT obligation for 2024 shall be calculated and paid in the same manner as 2023.

4. The assessed value of the premises covered by the PILOT Agreement which are currently under the Section 8 tax-exempt roll of the Town of Nichols shall be reduced by twenty percent (20%) commencing March 1, 2023 with said twenty percent (20%) being returned to the Section 1 taxable roll of the Town of Nichols. Thereafter, each subsequent year this PILOT Agreement Amendment is in effect, through, and including, March 1, 2024, twenty percent (20%) of the assessed value of the premises covered by the PILOT Agreement shall be returned to the Section 1 taxable roll of the Town of Nichols until, if this PILOT Agreement Amendment is extended by the mutual agreement of the parties, the full assessed value of said premises have been transferred from Section 8 of the tax-exempt roll to Section 1 of the tax roll for the Town of Nichols.

5. In no event shall the amount of PILOT payments or tax payments assessed against the Premises during any given year exceed the amount that would have otherwise been paid by the Company had the Premises been fully assessed on the taxable roll.

6. This PILOT Agreement Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document. In addition, the parties may transmit signed copies of this Lease Agreement by e-mail and/or PDF and both parties intend to be bound by the signatures on any document which is transmitted by e-mail and/or PDF. Each party is aware that the other party will rely on the e-mail and/or PDF transmitted signatures, and both parties hereby waive any defenses to the enforcement of the terms of this PILOT Agreement Amendment based on the form of signature.

IN WITNESS WHEREOF, the Company and the Agency have caused this PILOT Agreement Amendment to be executed in their respective names, all as of the date first above written.

NICHOLS DISTRIBUTION, LLC

By: \_\_\_\_\_  
Name: Buddy Davenport  
Title: VP Real Estate

TIOGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:  \_\_\_\_\_  
Jenny Ceccherelli, Chairperson

EXHIBIT "A"

2023 REAL ESTATE TAXES

2023 Town of Nichols	\$ 35,864.42 (actual)
2023 County of Tioga	\$148,825.71 (actual)
2023/24 Owego Apalachin Central School District	<u>\$324,849.06</u> (estimated)
TOTAL	\$509,539.19