LEASE AGREEMENT

between

STAFFORD TOWNSHIP, OCEAN COUNTY, NEW JERSEY
A Municipal Corporation of the State of New Jersey

(Landlord)

and

STAFFORD PARK 1, LLC,
a New Jersey limited liability company

(Tenant)

Dated as of ________________, 2010
LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Lease”) is made and entered into as of __________, 2010 by and between (i) Stafford Township, Ocean County, New Jersey, a municipal corporation of the State of New Jersey with an address of 260 East Bay Avenue, Manahawkin, New Jersey 08050 (“Landlord”), and (ii) STAFFORD PARK 1, LLC, a New Jersey limited liability company, with an address of 100 Centre Boulevard, Suite E, Marlton, New Jersey 08053 (“Tenant”).

ARTICLE I

Definitions

Section 1.1 General Interpretive Principles. For purposes of this Lease, except as otherwise expressly provided or unless the context otherwise requires, (i) the terms defined in this Section have the meanings assigned to them in this Section and include the plural as well as the singular, and the use of any gender herein shall be deemed to include the other genders; (ii) accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; (iii) references herein to “Articles,” “Sections,” “subsections,” “paragraphs” and other subdivisions without reference to a document are to designated Articles, Sections, subsections, paragraphs and other subdivisions of this Lease; (iv) a reference to a subsection without further reference to a Section is a reference to such subsection as contained in the same Section in which the reference appears, and this rule shall also apply to paragraphs and other subdivisions; (v) a reference to an Exhibit without a further reference to the document to which the Exhibit is attached is a reference to an Exhibit to this Lease; (vi) the words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular provision; (vii) a reference to a specified number of days means calendar days; and (viii) the word “including” means “including, but not limited to.”

Section 1.2 Definitions. As used in this Lease the following words and phrases shall have the meanings indicated.

“Additional Rent” means all amounts payable by Tenant under this Lease, except Annual Net Rent.

“Affiliate”, with respect to any Person, means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.
“Alterations” any changes, alterations, installations, improvements, additions, renovations or physical changes to the Leased Premises, including the New Facilities constructed by Tenant pursuant to Section 7.1.

“Annual Net Rent” means the amount payable by Tenant for each Lease Year pursuant to Section 4.1(a).

“Architect” means any registered architect or architectural firm selected by Tenant and approved by Landlord, which approval shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, with respect to any structural, mechanical or electrical work, “Architect” means either the Architect, as above-defined, or a licensed professional engineer approved by Landlord, which approval shall likewise not be unreasonably withheld, delayed or conditioned.


“Business Day” means any day except a Saturday, a Sunday or a day on which national banks in the State of New Jersey are authorized or permitted by law to be closed for the conduct of commercial banking business.

“Casualty” means any damage to or destruction of all or any part of the Improvements caused by a fire or other casualty.

“Casualty Restoration” has the meaning provided in Section 11.2(a).

“Condemnation Restoration” has the meaning provided in Section 12.2(b).

“Construction Work” means any construction work performed under this Lease in connection with the ownership, use, maintenance or operation of the Leased Premises, including repairs, Alterations, a Restoration and demolition.

“Default” means any event which, with the giving of notice or the lapse of time, or both, would constitute an Event of Default.

“Default Interest Rate” means a fluctuating rate per annual equal to the lesser of (i) the sum of (x) the Prime Rate, as the Prime Rate may change from time to time, and (y) two percent (2%) per annum, or (ii) the maximum rate of interest chargeable under applicable law, if any, with respect to the applicable payment.

“Environmental Claims” means any and all administrative, regulatory or judicial actions, causes of action, suits, obligations, liabilities, losses, proceedings, decrees, judgments, penalties, fines, fees, demands, demand letters, orders, directives, claims (including any claims involving liability in tort, strict, absolute or otherwise), Liens, notices of noncompliance or violation, and legal and
consultant fees and costs of investigations or proceedings, relating in any way to any Environmental Law, or arising from the presence or Release (or alleged presence or Release) into the environment of any Hazardous Material (hereinafter “Claims”) including, and regardless of the merit of such Claim, any and all Claims by any governmental or regulatory authority or by any third party or other Person for enforcement, mitigation, cleanup, removal, response, remediation or other actions or damages, contribution, indemnification, cost recovery, compensation or injunctive or declaratory relief pursuant to any Environmental Law or any alleged injury or threat of injury to human health, safety, natural resources or the environment.

“Environmental Laws” means all present and future federal, state and local (i) laws, (ii) statutes, (iii) ordinances, (iv) regulations, (v) codes, (vi) rules, (vii) directives, (viii) orders, (ix) decrees, (x) permits, licenses, approvals, authorizations, covenants, deed restrictions, treaties and conventions applicable to the Leased Premises, and (xi) rules of common law now or hereafter in effect, and in each case as amended, and any judicial or administrative judgment, opinion or interpretation thereof, relating to the regulation or protection of human health, safety, natural resources or the environment (including ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation), including laws and regulations (and all other items recited above) applicable to the Leased Premises relating to the use, treatment, storage, management, handling, manufacture, generation, processing, recycling, distribution, transport, Release or threatened Release of or exposure to any Hazardous Material. Environmental Laws include but are not limited to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Air Act; the Clean Water Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Oil Pollution Act of 1990; the Hazardous Materials Transportation Act; the Emergency Planning and Community Right-to-Know Act; the National Environmental Policy Act; and the Safe Drinking Water Act; each as amended and their state and local counterparts or equivalents.

“Event of Default” means any of the events set forth in Section 14.1 as an Event of Default.

“Expiration Date” means the earlier of (i) the Fixed Expiration Date of (ii) the date on which this Lease is terminated pursuant to its terms.

“Expiration of the Term” means either the Expiration Date or the Fixed Expiration Date, whichever is applicable.

“Extension Term” means a period of ten (10) years, the first Extension Term commencing on the day immediately following the Initial Term and expiring ten years thereafter and the second Extension Term commencing the first
day following the expiration of the first Extension Term and expiring ten (10) years thereafter.

“Fee Mortgage” means a Mortgage encumbering the fee simple title in and to the Leased Premises. “Fee Mortgagor” means the holder of the promissory note secured by, or the beneficiary of, a Fee Mortgage.

“Fixed Expiration Date” means the last day of the Initial Term provided, however, that the Fixed Expiration Date shall be extended to the last day of any Extension Term elected by Tenant hereunder.

“Governmental Approvals” means and any all federal, state and local governmental approvals or permits required for the development, construction and use of the Leased Premises for renewable energy facilities SHOULD THIS REFERENCE BE TO the “Improvements” since it is a defined term? as contemplated hereunder, with all applicable appeal periods having expired such that the applicable permits and approvals are irrevocable and unappealable.

“Governmental Authority” means any federal, state, county, municipal, foreign, international, regional or other governmental or regulatory authority, agency, department, board, body, instrumentality, commission, arbiter acting pursuant to any express provision of federal or state law authorizing such arbitration or dispute resolution, court or any political subdivision of any of the foregoing.

“Hazardous Materials” means, collectively, (a) any petroleum or petroleum product, explosive, radioactive material, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls and lead; and (b) any substance, material, product, derivative, compound, mixture, mineral, chemical, waste, medical waste or gas, in each case whether naturally occurring, human-made or the by-product of any process, (i) that is now or hereafter becomes defined or included within the definition of a “hazardous substance,” “hazardous waste,” “hazardous material,” “toxic chemical,” “toxic substance,” “hazardous chemical,” “extremely hazardous substance,” “pollutant,” “contaminant,” or any other words of similar meaning under any Environmental Law, (ii) exposure to which or the presence, use, generation, treatment, Release, transport or storage of which is now or hereafter prohibited, limited, restricted or regulated under any Environmental Law, or (iii) that could support the assertion of any Environmental Claim.

“Improvements” means those certain renewable energy facilities including but not limited to up to two (2) Solar Phases and one (1) Wind Phase, together with (i) all buildings, structures and other appurtenances of every kind and description now located, as of the Lease Commencement Date, or constructed in the future, on the Land (including subsurface structures and foundations), and (ii) all additions, Alterations, Restorations, repairs and replacements of any of the foregoing.
“Initial Term” means a period commencing on the Lease Commencement Date and expiring on the 30th anniversary of the Lease Commencement Date.

“Insurance Premiums” means the premiums payable by Tenant for the policies of insurance required to be obtained and maintained by Tenant pursuant to Article VI.

“Insurance Requirements” means the usual and customary provisions and requirements of all policies of property damage and liability insurance from time to time maintained by Tenant pursuant to Article VI; and all rules and regulations promulgated by any Board of Fire Insurance Underwriters or fire insurance rating organization which are applicable from time to time to the Improvements.

“Land” means the parcel of real property described in Exhibit A, exclusive of the Improvements, including all easements, appurtenances and other rights pertaining to the parcel constituting the Land.

“Land Records” means the land records of Ocean County, New Jersey.

“Landlord” means the landlord named in the first paragraph of this Lease and any subsequent owner, from time to time, of fee simple title in and to the Leased Premises.

“Lease” means this Lease Agreement, as modified, amended or restated from time to time, and all Exhibits thereto.

“Lease Commencement Date” shall have the same meaning as Rent Commercial Date.

“Lease Year” means the period commencing on the Lease Commencement Date and ending on the day which completes twelve (12) full calendar months thereafter, and each twelve (12) month period thereafter commencing on the first day after the end of the immediately preceding Lease Year, except that the last Lease Year shall end on the Expiration of the Term.

“Leased Premises” shall have the meaning provided in Section 2.1.

“Leasehold Estate” means Tenant’s right, title and interest in and to the Leased Premises pursuant to this Lease.

“Leasehold Mortgage” means any mortgage, deed of trust or other security instrument of record creating a Lien on the Leasehold Estate, and any and all renewals, modifications, consolidations or extensions of any such instrument; “Leasehold Mortgagee” means the holder of the promissory note secured by, or the beneficiary of, a Leasehold Mortgage.
“Leasehold Mortgage Loan” means Tenant’s indebtedness for borrowed money which is secured by a Leasehold Mortgage, and any renewal, modification, replacement or restatement thereof.

“Legal Requirements” means all laws, statutes, ordinances, orders, rules, regulations and requirements, of all Governmental Authorities, whether now or hereafter in force, ordinary and extraordinary, foreseen as well as unforeseen, applicable to the manner of use, maintenance, repair or condition of the Leased Premises, or any part thereof, including the Americans with Disabilities Act, as amended from time to time, all applicable Environmental Laws, and all other covenants, conditions and restrictions of record affecting the use and occupancy of the Leased Premises.

“Lending Institution” means (a) a savings bank, savings and loan association, commercial bank or trust company (whether acting individually or in a fiduciary capacity), (b) an insurance company, including without limitation, (c) a real estate investment trust or other similar investment entity which is either (i) listed on the New York or American Stock Exchange (or their respective successors) or (ii) sponsored by a Lending Institution, (d) a religious, educational or eleemosynary institution, (e) a union, (f) a federal, state, municipal or secular employee’s welfare, benefit, pension or retirement fund, or (g) any combination of Lending Institutions.

“Lien” means any security interest, Mortgage, pledge, lien, claim on property, charge or encumbrance (including any conditional sale or other title retention agreement), and the filing of or agreement to give any financing statement under the Uniform Commercial Code of any jurisdiction (other than precautionary filings under Section 9-408 of the Uniform Commercial Code), including liens in favor or persons supplying, or claiming to have supplied, labor or materials to the Leased Premises.

“Mortgage” means any mortgage, deed of trust or other security instrument of record creating an interest in or affecting title to the fee simple title in and to the Leased Premises, or any part thereof, and any and all renewals, modifications, consolidations or extensions of any such instrument.

“Permitted Encumbrances” means the matters listed on Exhibit B.

“Person” means a natural person, an estate, a trust, a partnership, a limited liability company, a corporation, any other form of business or legal association or entity and a Governmental Authority.

“Phase” means a Solar Phase or the Wind Phase, as applicable.

“Prime Rate” means the prime rate of interest charged by U.S. money center commercial banks as published in The Wall Street Journal. If The Wall Street Journal ceases to publish the prime rate of interest charged by U.S. money
center commercial banks, Landlord shall have the right to substitute the prime rate of interest published by another financial newspaper.

“**Recognized Mortgage**” means the a Leasehold Mortgage recorded among the Land Records not later than sixty (60) days after the date of its execution and delivery (i) that, as of the time of recordation or immediately following an assignment thereof, is held by a Lending Institution, (ii) a photostatic copy of which has been delivered to Landlord, together with a certification by Tenant and the Leasehold Mortgagee confirming that the copy is a true copy of the Leasehold Mortgage and giving the name of the party secured thereby and the address to which notices under this Lease to such Leasehold Mortgagee shall be addressed, and (iii) that obligates the Leasehold Mortgagee to deliver to Landlord, simultaneously with the delivery thereof of to Tenant, copies of any notices of default or nonperformance given to Tenant thereunder. If (i) a Leasehold Mortgage is not recorded among the Land Records within sixty (60) days after the date of its execution and delivery, (ii) the Leasehold Mortgagee otherwise qualifies as a Recognized Mortgage, and (iii) the Leasehold Mortgagee thereafter records such Leasehold Mortgage among the Land Records, such Leasehold Mortgage shall qualify as a Recognized Mortgage from and after the date of recordation.

“**Recognized Mortgagee**” means the Lending Institution secured by a Recognized Mortgage.

“**Redevelopment Agreement**” means that certain Redevelopment Agreement dated as of September 5, 2006 as amended between Stafford Township and Walters Homes, Inc. (“Walters”), an affiliate of Tenant.

“**Release**” means the release, deposit, disposal or leakage of any Hazardous Material at, into, upon or under any land, water or air, or otherwise into the environment, including by means of burial, disposal, discharge, emission, injection, spillage, leakage, seepage, leaching, dumping, pumping, pouring, escaping, emptying, placement and the like.

“**Rent**” shall mean the Annual Net Rent and the Additional Rent.

“**Rent Commencement Date**” means with respect to each Solar Phase, the date on which Tenant has (i) obtained all Governmental Approvals and (ii) completed closing on its Leasehold Mortgage Loan for the applicable Solar Phase or the Wind Phase.

“**Replacement Value**” means the replacement value of the Improvements or other amount used for purposes of maintaining the insurance required by Section 6.1(a).

“**Restoration**” means either a Casualty Restoration or a Condemnation Restoration, or both.
“ Restore” (whether or not capitalized) has the meaning provided in Section 11.2(a).

“ Solar Phase” means those facilities constructed within the Leased Premises sufficient to generate approximately three (3) to three and one-half (3-1/2) megawatts of solar electricity and associated facilities (it is contemplated that there will be two (2) Solar Phases within the Leased Premises).

“ Structural Alteration” means an Alteration that involves structural changes to the Improvements.

“ Subject to Adjustment” has the meaning provided in Section 23.6(a).

“ Sublease” means any lease or occupancy agreement of the entire Leased Premises other than this Lease.

“ Sublessee” means a tenant or other occupant of the Leased Premises pursuant to a Sublease.

“ Substantially Complete(d)” means that the Improvements have been completed substantially and in all material respects, in a good and workmanlike manner, in accordance with the approved plans and specifications applicable thereto and in compliance with all applicable Legal Requirements, and that the applicable Governmental Authorities have issued any certificate of occupancy for the portion of the Improvements affected by the Construction Work.

“ Threshold Amount” means the sum of One Hundred Thousand Dollars ($100,000), Subject to Adjustment.

“ Taking” or “ Taken” means a taking by any Governmental Authority of all or any part of the Leased Premises (whether permanently or temporarily), or any interest therein or right appurtenant or accruing thereto, by condemnation or eminent domain or by action or proceedings, or agreement among Landlord, Tenant and those authorized to exercise this right in lieu thereof, for any public or quasi-public purpose.

“ Tenant” means Tenant named in the first paragraph of this Lease and any permitted assignee under Section 13.2.

“ Term” means the period of time from the Lease Commencement Date through the Expiration of the Initial Term or any Extension Term elected by Tenant.

“ Unavoidable Delays” means delays caused by strikes, acts of God, lockouts, labor difficulties, riots, explosions, sabotage, accidents, shortages or inability to obtain labor or materials, Legal Requirements, governmental restrictions, enemy action, civil commotion, Casualty, a Taking or similar causes beyond the reasonable control of Tenant.
“Wind Phase” means those facilities constructed within the Leased Premises comprised of three (3) to four (4) wind turbines and associated facilities (it is contemplated that there will be one (1) Wind Phase within the Leased Premises).

ARTICLE II

Leased Premises

Section 2.1 Lease Grant. Landlord, for and in consideration of the Rent to be paid by Tenant and the other covenants and agreements to be performed by Tenant, hereby agrees to lease to Tenant, and Tenant hereby agrees to lease from Landlord, the Land,

TOGETHER with all easements, rights of way, air and subsurface rights, and other rights, privileges and appurtenances relating to the Land, and all estate, right, title and interest of Landlord in or to the Land;

TOGETHER with all right, title and interest, if any, of Landlord in an to any land lying in the bed of any street, avenue or alley adjoining the Land to the center line thereof;

SUBJECT, however, to the Permitted Encumbrances.

The Land, together with (a) the easements, appurtenances and estate, (b) the rights, if any, in and to adjoining streets, avenues and alleys, and (c) the Improvements, constitute and are referred to in this Lease as the “Leased Premises.”

Section 2.2 Delivery of Possession. Landlord agrees to deliver possession of the Land to Tenant on the Lease Commencement Date in its “as is” condition.

ARTICLE III

Term

Section 3.1 Grant of Term. Tenant shall have and hold the Leased Premises for the Initial Term and for any Extension Term elected by Tenant pursuant to Section 3.2 hereof.
Section 3.2 Extension Term Option. Tenant shall have the right to extend the term of its Lease for up to two consecutive Extension Terms by written notice to Landlord at least 120 days in advance of the expiration of the Initial Term (with respect to the election of the first Extension Term) and 120 days prior to the expiration of the first Extension Term (with respect to the election of the second Extension Term).

ARTICLE IV
Rent

Section 4.1 Annual Net Rent.

(a) Amount. The Annual Net Rent shall be $_______ per month for each Phase, commencing upon the applicable Rent Commencement Date for the applicable Phase. By way of example, on the Rent Commencement Date with respect to the first Solar Phase, the Annual Net Rent shall commence at $_______ per month. Upon the Rent Commencement Date for the second Solar Phase (or the Wind Phase, if the Rent Commencement Date for that Phase occurs next), the Annual Net Rent shall increase to $___ per month. Upon the Rent Commencement Date for the last Phase, the Annual Net Rent shall increase to $___ per month. The monthly rent shall increase by 10% commencing on the first day following the fifth anniversary of the Lease Commencement Date and on the fifth anniversary of each such adjustment date.

(b) Manner of Payment. Tenant shall pay the Annual Net Rent for each Lease Year in equal monthly installments in advance on the applicable Rent Commencement Date and thereafter on the first day of each month (or part of a month) during the Term. If the Rent Commencement Date is not the first day of a month, Annual Net Rent for the month in which the Rent Commencement Date occurs shall be pro-rated on the basis of the number of days in the month on and after the Rent Commencement Date. If the last day of the Term is not the last day of a month, Annual Net Rent for the month in which the last day of the Term occurs shall be pro-rated on the basis of the number of days in the month during which this Lease is in effect.

(c) Form and Place of Payment. The Annual Net Rent shall be paid promptly when due, in lawful money of the United States, without notice or demand and without deduction, diminution, abatement, counterclaim or setoff of any amount or for any reason whatsoever, except as otherwise provided in this Lease, to Landlord at Landlord's Notice Address (as set forth in Section 19.2) or at such other address or to such other Person (including a successor to Landlord's interest in the Leased Premises) as Landlord may from time to time designate by Notice pursuant to Section 19.2.

(d) Adjustment of Annual Net Rent After Taking of Less Than Substantially All of the Leased Premises. The Annual Net Rent payable after a Taking of Less Than Substantially All of the Leased Premises shall be reduced in the manner provided in Section 12.2(c).
Section 4.2 Additional Rent. Tenant shall pay without notice, except as may be expressly required by this Lease, and without abatement, deduction or set-off, as Additional Rent, Insurance Premiums, costs, fees, interest, charges, expenses and other payments which Tenant in any of the provisions of this Lease agrees to pay or which Tenant agrees are to be at the cost or expense of Tenant.

Section 4.3 Late Charges. If any payment of Annual Net Rent is not received by Landlord within ten (10) days after the date on which it first becomes due, a late charge on the sums so overdue, calculated at the Default Interest Rate from the expiration of such ten (10) day period to the date on which actual payment is received by Landlord, shall become due and payable to Landlord for the administrative costs and expenses incurred by Landlord by reason of Tenant’s failure to make prompt payment.

Section 4.4 Net Lease. The Annual Net Rent shall be paid in addition to and over and above all other payments to be made by Tenant pursuant to this Lease, it being the intention and purpose of this Lease that the Annual Net Rent shall be absolutely net to Landlord so that this Lease shall yield net to Landlord the Annual Net Rent, and that all costs, expenses, and obligations of every kind and nature whatsoever relating to the Leased Premises which may arise or become due during the Term (except those allocated to Landlord under this Lease) shall be paid and discharged by Tenant as Additional Rent.

Section 4.5 True Lease. Landlord and Tenant agree that this Lease is a true lease and does not represent a financing arrangement. Landlord and Tenant shall each reflect the transaction represented hereby in all applicable books, records and reports (including income tax filings) in a manner consistent with “true lease” treatment rather than “financing” treatment.

ARTICLE V

Insurance

Section 5.1 Insurance Requirements. At all times during the Term (except as otherwise provided in Section 6.1(e)), Tenant shall carry or cause to be carried the following policies of insurance:

(a) Property Damage Insurance. “Special Causes of Loss” or “Special Perils” insurance on the Improvements (as available from time to time during the Term in the insurance market), to the extent any Recognized Mortgage may from time to time require.

(b) Liability Insurance. Commercial General Liability Insurance (ISO form or equivalent) on an occurrence basis in an amount not less than Five Million Dollars ($5,000,000) combined single limit annual aggregate for bodily injury, death and property damage, designating Tenant as named insured and designating Landlord as an additional insured. Tenant may satisfy its obligations under this subsection by obtaining and maintaining a policy of primary insurance (which affords protection to the limit of not less than One Million Dollars ($1,000,000) combined single limit annual aggregate) and one or more policies of excess liability insurance.
(c) **Workers’ Compensation Insurance.** Workers’ Compensation Insurance as required by the State of New Jersey and in amounts as required by applicable statute, and Employers’ Liability Coverage of One Million Dollars ($1,000,000.00) per occurrence.

(d) **Mortgagees.** A Leasehold Mortgagee may be named under any property damage insurance policy to be carried hereunder, either as an additional insured or under a mortgagee endorsement, and a Leasehold Mortgagee may be a beneficiary thereunder pursuant to a standard mortgagee clause or otherwise.

**Section 5.2 Treatment of Proceeds.**

(a) **Proceeds of Insurance in General.** The proceeds of any insurance required to be maintained by this Article (other than proceeds of the liability insurance, Workers’ Compensation and Employer’s Liability Insurance) shall be payable in accordance with the Leasehold Mortgage.

(b) **Cooperation in Collection of Proceeds.** Tenant and Landlord shall cooperate in connection with the collection of any insurance moneys that may be due in the event of loss, and Tenant and Landlord shall execute and deliver such proofs of loss and other instruments as may be required of Tenant or Landlord, respectively, for the purpose of obtaining the recovery of any such insurance moneys.

**Section 5.3 General Requirements Applicable to Policies.**

(a) **Required Certificates.** Certificates of insurance or other documents or instruments reasonably satisfactory to Landlord evidencing the issuance of all insurance policies required by this Article, describing the coverage and guaranteeing (i) at least ten (10) days prior notice to Landlord of cancellation or non-renewal, not later than (x) ten (10) days before the expiration dates of any expiring policy (if no notice of cancellation or non-renewal with respect to such expiring policy has been sent by the insurance company issuing such policy), or (y) twenty (20) days before the expiration date of any expiring policy (if a notice of cancellation or non-renewal with respect to such expiring policy has been sent by the insurance company issuing such policy). The certificates of insurance or other documents or instruments shall be issued by the insurance company or an authorized agent thereof and signed by an officer having the authority to issue the certificate or other documents or instruments. The insurance company or agent issuing the insurance shall also deliver to Landlord, together with the certificates, proof reasonably satisfactory to Landlord that the premiums for at least the first year of the term of each policy (or installment payments then required to have been paid on account of such premiums) have been paid. In the event that Tenant fails to deliver a required certificate of insurance within the time periods set forth herein, such failure shall not constitute a Default so long as there is no lapse in the insurance required to be maintained by Tenant hereunder. Notwithstanding the foregoing, in the event of any such failure, Landlord may (but shall be under no obligation to) procure the required insurance for the account of Tenant but without any liability to Tenant therefor, and any insurance premiums or other sums incurred by Landlord in procuring the required insurance shall
constitute Additional Rent (not subject to any offset of any nature by Tenant hereunder) and shall be payable by Tenant to Landlord upon demand.

(b) **Required Insurance Policy Clauses.** Each policy of insurance required to be carried pursuant to the provisions of this Article shall contain (i) a provision that no act or omission of Tenant or Landlord shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained (other than acts intended to cause the damage insured against and except insofar as the loss is caused by an uninsurable risk) and (ii) if the insurer would otherwise have a right to subrogation, a written acknowledgment by the insurance company that its right to subrogation has been waived with respect to all of the named insureds and additional insureds and any Recognized Mortgagees named in such policy.

**Section 5.4 Blanket and/or Master Policies.** The insurance required to be carried by Tenant pursuant to the provisions of this Article VI may, at Tenant’s option, be effected by so-called “blanket”, “wrap-up” and/or “master” policies issued to Tenant and/or its Affiliates covering the Leased Premises and other properties owned or leased by Tenant or its Affiliates, provided such policies (a) otherwise comply with the provisions of this Lease, and (b) by endorsement, allocate to the Leased Premises the specified coverage for all insureds required to be named as insureds hereunder.

**ARTICLE VI**

*Alterations and New Construction*

**Section 6.1 New Facilities.** Tenant shall have the right, at Tenant’s sole cost and expense and without the necessity of obtaining the prior consent of Landlord, to construct the Improvements.

**Section 6.2 Title to Improvements.** Title to all Improvements on the Leased Premises on the Lease Commencement Date or constructed by Tenant after the Lease Commencement Date shall be and remain in Tenant. Within 60 days following the Expiration Date (subject to delays qualified whether or other matters beyond Tenant’s reasonable control), Tenant shall remove the Improvements down to the surface of any existing base, foundation or other ground level cover.

**Section 6.3 Alterations.** Tenant shall have the right, at any time and from time to time during the Term, to make Alterations in, to or of the Improvements, subject, however, in all cases, to the following:

(i) No Alteration shall be undertaken until Tenant shall have procured and paid for, so far as the same may be required from time to time, all licenses, permits and authorizations required by all applicable Governmental Authorities.

(ii) The Leased Premises shall at all times be free from all Liens, other than a Recognized Mortgage.
ARTICLE VII

Repairs, Maintenance and Operation of the Leased Premises

Section 7.1 Tenant’s Obligation to Repair. Tenant shall, throughout the Term, at its sole cost and expense, take good care of the Leased Premises and keep and maintain the Leased Premises in good repair, order and condition, reasonable wear and tear excepted, and promptly at no cost or expense to Landlord shall make, or cause to be made, all necessary repairs, interior and exterior, structural and nonstructural, foreseen as well as unforeseen, necessary to keep the Leased Premises in good and safe order and condition, however the necessity or desirability therefore may occur. When used in this Article, the term “repairs” includes all necessary replacements, renewals and alterations. Tenant, at its sole cost and expense, shall maintain and keep the Leased Premises in a clean, neat and orderly condition and shall remove all rubbish, snow and ice therefrom. All repairs (other than tenant improvements) made by Tenant shall be made in compliance with all applicable Legal Requirements.

Section 7.2 Landfill. Landowner and Tenant acknowledge that the Leased Premises is subject to the Redevelopment Agreement and that pursuant to the Redevelopment Agreement, Walters has numerous post closure obligations with respect to the Landfill (as defined in the Redevelopment Agreement) and Landlord has certain obligations with respect to the Landfill. Nothing in this Lease shall be deemed to alter the terms of the Redevelopment Agreement, nor any of the rights or obligations of Landlord, Tenant or Walters thereunder. Notwithstanding the foregoing, in undertaking the Improvements or otherwise exercising its rights under this Lease, Tenant shall be solely responsible for any damage to the Landfill cap or other disturbance to the Landfill and Tenant shall indemnify, defend and hold harmless Landlord from against any claim, damage, loss, cost or expense, including reasonable attorneys fees, arising from construction of the Improvements or otherwise as a result of Tenant’s use of the Leased Premises.

Section 7.3 Operation of Leased Premises. Except as otherwise expressly provided in this Lease, Tenant shall pay all expenses related to the operation, management, development, use, occupancy, maintenance and repair of the Leased Premises, including the costs of utilities utilized to operate the Improvements, and Insurance Premiums, which arise or become due or payable during or after (but attributable to a period falling within) the Term. Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Leased Premises throughout the Term. Landlord shall not be required to furnish any services or facilities or to make any repairs or Alterations in or to the Leased Premises.

ARTICLE VIII

Use of Leased Premises; Compliance with Orders

Section 8.1 Permitted Uses. Tenant shall have the right to use the Leased Premises for the operation of the Improvements and related use.

Section 8.2 Compliance with Legal Requirements. Tenant shall, throughout the Term, promptly comply with all Legal Requirements, ordinary and extraordinary, foreseen or
unforeseen, now or hereafter applicable to the Leased Premises or to the adjoining public ways, as to the manner of use or the maintenance, repair or condition of the Leased Premises or of such adjoining public ways.

**Section 8.3 No Waste.** Tenant shall neither commit nor suffer, and shall use all reasonable precaution to prevent, waste, damage or injury to the Leased Premises.

**ARTICLE IX**

*Work Performed on Leased Premises or Improvements*

**Section 9.1 Licenses and Permits.** Tenant shall not do or permit others to do any Construction Work unless Tenant shall have first procured and paid for all permits and authorizations required by all applicable Governmental Authorities. All Construction Work shall be done in a good and workmanlike manner and in compliance with all applicable Legal Requirements and Insurance Requirements.

**Section 9.2 Mechanics’ Liens.** If any lien shall be filed against the interest of Landlord or Tenant in the Leased Premises or asserted against any Rent by reason of any work, labor, services or materials supplied or claimed to have been supplied on or to the Leased Premises, Tenant shall within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof against the Leased Premises or such rents, by contest, payment, deposit, bond, order of court or otherwise. Nothing contained in this Lease shall be construed as constituting the express or implied consent or permission of Landlord for the performance of any labor or services for, or the furnishing of any materials to, Tenant that would give rise to any such lien against Landlord’s interest in the Leased Premises, and Landlord shall not be liable for any labor or materials furnished or to be furnished to Tenant upon credit.

**ARTICLE X**

*Damage, Destruction and Restoration*

**Section 10.1 Notice to Landlord.** Tenant shall notify Landlord, promptly upon obtaining actual knowledge thereof, if all or any portion of the Improvements is damaged or destroyed in whole or in part by Casualty, other than de minimis damage not rendering any portion of the Improvements untenantable.

**Section 10.2 Casualty Restoration.**

(a) **Obligation to Restore.** If all or any portion of the Improvements is damaged or destroyed by Casualty, ordinary or extraordinary, foreseen or unforeseen, so long as insurance proceeds are available and applied to restoration by the Recognized Mortgagee, Tenant shall, in accordance with the provisions of this Article and Article X, restore and/or replace (hereinafter “restore”) the Improvements (as hereinafter described, a “Casualty Restoration”) to the extent of the quality and utility and as nearly as practicable to the character of the Improvements as they existed immediately before the Casualty, in substantial conformity with the plans and specifications pursuant to which
the Improvements were constructed, except to the extent, if any, that such compliance is impracticable because of changes in law, the obsolescence or unavailability of equipment or materials used in the construction of the Improvements, or the availability at lesser cost of equipment or materials at least equal in performance, quality, function and character to the equipment or materials used in the construction of the Improvements, provided that Landlord shall be given notice of any proposed non-conformity. Any insurance proceeds not applied to restore the Improvements shall be paid to Tenant. Landlord shall recognize any full or partial assignment by Tenant to a Recognized Mortgagee of the portion of such proceeds payable to Tenant.

**Section 10.3 Effect of Casualty on this Lease.** This Lease shall neither terminate, be forfeited nor be affected in any manner, nor shall there be a reduction or abatement of Rent by reason of damage to, or total, substantial or partial destruction of, the Improvements, or by reason of the untenantability of the Improvements or any part thereof, nor for any reason or cause whatsoever, except pursuant to the express provisions of this Lease. Except as so provided, Tenant’s obligations hereunder, including the payment of Rent, shall continue as though the Improvements had not been damaged or destroyed and shall continue without abatement, suspension, diminution or reduction whatsoever. Notwithstanding anything to the contrary contained in this Lease, if (i) the estimated cost of the Construction Work in connection with any Casualty Restoration to be performed in the last ten (10) years of the Term shall exceed twenty percent (20%) of the Replacement Value or (ii) the damage or destruction occurs during the last seven (7) years of the Term or (iii) the Recognized Mortgagee does not make insurance proceeds available for restoration, then Tenant, at its option, with the consent, in writing, of all Recognized Mortgagees, may cancel this Lease upon ten (10) days notice to Landlord. In such event (a) the Term shall end on the date set forth in such notice as if such date were the Fixed Expiration Date, and (b) Tenant shall have no obligation to perform such Casualty Restoration, but at Landlord’s option, Tenant shall demolish the improvements on the site and make the site safe and free from conditions hazardous to life and property, shall be paid to Tenant. Landlord shall recognize any full or partial assignment by Tenant to a Recognized Mortgagee of any portion of the insurance proceeds otherwise payable to Tenant pursuant to this Section, but no such assignment shall limit Tenant’s obligations under this Section to, inter alia, demolish the improvements on the site and make the site safe.

**ARTICLE XI**

**Condemnation**

**Section 11.1 Substantial Taking.**

(a) **Termination of Lease for Substantial Taking.** If all or Substantially All of the Leased Premises is Taken (excluding a Taking of the fee interest in the Land if, after such Taking, Tenant’s rights under this Lease are not affected), this Lease shall terminate on the Date of Taking (defined below) and the Annual Net Rent payable by Tenant hereunder shall be apportioned and paid to the Date of Taking.
(b) **Disbursement of Award.** If all or Substantially All of the Leased Premises is Taken as provided in Section 12.1(a), the entire award paid in connection with such Taking (net of reimbursement to Landlord and Tenant) shall be divided between Landlord and Tenant so that, as nearly as possible, Landlord and Tenant shall each receive the value of its interest in the Leased Premises, determined according to law and equity on all relevant facts existing at the time of the Taking, without regard to the fact that the Term expired on the Date of Taking and on the assumption that the then-existing Improvements constitute the highest and best use to which the Land could be put; but if, at the time of the Taking, the Leasehold Estate is encumbered by a Leasehold Mortgage, Tenant’s share of the award shall not be less than the unpaid principal balance of, and accrued interest on, the Leasehold Mortgage Loan. Landlord shall recognize any full or partial assignment by Tenant to a Recognized Mortgagee of any portion of the award payable to Tenant pursuant to clause (i) of this Section 12.1(b).

(c) **Definitions.**

(i) “**Substantially All of the Leased Premises**” means such portion of the Leased Premises as, when so Taken, would leave a balance of the Leased Premises that, due either to the area so Taken or the location of the part so Taken in relation to the part not so Taken, would not, under economic conditions, zoning laws and building regulations then existing, and after performance by Tenant of all covenants, agreements, terms and provisions contained herein or by law required to be observed by Tenant, readily accommodate new or reconstructed Improvements of a type and size generally similar to the Improvements existing at the Date of Taking. Pending resolution of any dispute over whether “Substantially All of the Leased Premises” has been Taken, (x) Tenant shall have no obligation to perform any Condemnation Restoration with respect to such Taking, and (y) the Annual Net Rent shall be reduced as provided in Section 12.2.

(ii) “**Date of Taking**” means the earlier of (a) the date on which title to the whole or Substantially All of the Leased Premises, or any part thereof, has vested in any lawful power or authority pursuant to the provisions of applicable law, or (b) the date on which actual possession of the whole or Substantially All of the Leased Premises, or a part thereof, as the case may be, is acquired by any Governmental Authority pursuant to the provisions of the applicable federal or New Jersey law.

**Section 11.2 Less Than a Substantial Taking.**

(a) **Taking of Less Than Substantially All of the Leased Premises.** If less than Substantially All of the Leased Premises is Taken, this Lease shall continue for the remainder of the Term without abatement of Rent or diminution of any of Tenant’s obligations hereunder except as provided in Section 12.2(c). Notwithstanding anything to the contrary contained in this Lease, if (i) the estimated cost of the Construction Work in connection with any Condemnation Restoration to be performed in the last 10 years of the Term shall exceed twenty percent (20%) of the Replacement Value or (ii) the Taking occurs during the last seven (7) years of the Term or (iii) the Recognized Mortgagee does
not make the condemnation proceeds available for restoration, then Tenant, at its option, with the consent, in writing, of all Recognized Mortgagees, may cancel this Lease upon ten (10) days notice to Landlord. In such event (a) the Term shall end on the date set forth in such notice as if such date were the Fixed Expiration Date, and (b) Tenant shall have no obligation to perform such Condemnation Restoration, but at Landlord’s option, Tenant shall demolish the improvements on the site and make the site safe and free from conditions hazardous to life and property. In the event of the termination of this Lease pursuant to this Section 12.2(a), all proceeds of condemnation shall be applied in accordance with the provisions of Section 12.1(b) above.

(b) Obligation to Restore the Leased Premises. If less than Substantially All of the Leased Premises is Taken or this Lease is not otherwise terminated pursuant to Section 12.2(a), Tenant shall restore the remaining portion of the Improvements not so Taken (as hereinafter described, a “Condemnation Restoration”).

d) Reduction of Annual Net Rent. Effective upon the Date of Taking, the Annual Net Rent shall be reduced by an amount equal to the product derived by multiplying the Annual Net Rent then payable by a fraction, the numerator of which is the amount of square feet in the Leased Premises Taken and not rebuilt and the denominator of which is the amount of usable square feet in the Leased Premises immediately before the Date of Taking.

d) Distribution of Balance of Award. If any portion of the award remains after the completion of the Construction Work in connection with the Condemnation Restoration, such remaining portion of the award shall be allocated between Landlord and Tenant so that, as nearly as possible, Landlord and Tenant shall each receive the value of its interest in the part of the Leased Premises Taken, determined according to law and equity on all relevant facts existing at the time of the Taking, and on the assumption that the then-existing Improvements constitute the highest and best use to which the Land could be put. Landlord shall recognize any full or partial assignment by Tenant to a Recognized Mortgagee any portion of the award payable to Tenant pursuant to this Section 12.2(d).

ARTICLE XII

Mortgages, Assignments and Subleases of Tenant’s Interest

Section 12.1 Tenant’s Right to Mortgage Leasehold Estate. Tenant shall have the right from time to time during the Term, without the prior consent of Landlord, to grant and create a Lien on and otherwise to encumber the Leasehold Estate, as security for borrowed money, by means of a Leasehold Mortgage which constitutes a first lien on the Leasehold Estate. Tenant shall not have the right to grant or create a Lien on Landlord’s fee simple title in and to the Leased Premises.

Section 12.2 Tenant’s Right to Assign Leasehold Estate. Tenant shall have the right, without the prior consent of Landlord, to sell, assign, transfer or otherwise dispose of the Leasehold Estate. In the event of an assignment pursuant to this Section, all liabilities and
obligations of the assignor (including a Leasehold Mortgagee which acquires the Leasehold Estate pursuant to a foreclosure and sale) accruing after such assignment shall terminate and be released and discharged, provided the assignee shall have assumed each and every one of the terms, covenants and provisions contained in this Lease, but only during the period of the assignee’s ownership of the Leasehold Estate.

Section 12.3 Leasehold Mortgage Protections. Landlord consents to a provision in any Leasehold Mortgage obtained by Tenant, at the option of the Leasehold Mortgagee, (i) for a conditional assignment to the Leasehold Mortgagee of subrents due or to become due, (ii) for an assignment to the Leasehold Mortgagee of Tenant’s share of the net proceeds from any award or other compensation resulting from a Taking as set forth in Article XII, (iii) for an assignment and conveyance to the Leasehold Mortgagee of Tenant’s right, title and interest in and to the Leasehold Estate, subject to the rights of Landlord under this Lease upon expiration or earlier termination of this Lease, (iv) for the entry by the Leasehold Mortgagee upon the Leased Premises during business hours, without notice to Landlord or Tenant, to view the state of the Leased Premises, (v) that a Default by Tenant under this Lease shall constitute a default under the Leasehold Mortgage, (vi) for an assignment to the Leasehold Mortgagee of Tenant’s right, if any, to terminate, cancel, modify, change, supplement, alter or amend this Lease, (vii) for an assignment to the Leasehold Mortgagee of Tenant’s right, if the Landlord becomes a debtor under the Bankruptcy Code, to elect to accept or reject Landlord’s rejection of this Lease pursuant to Section 365(h)(1) of the Bankruptcy Code; and (viii) effective upon any default in any such Leasehold Mortgage, (A) for the foreclosure of the Leasehold Mortgage pursuant to a power of sale, by judicial proceedings or other lawful means and the subsequent sale of the Leasehold Estate to the purchaser at the foreclosure sale and a sale by such purchaser and/or a sale by any subsequent purchaser, (B) for the appointment of a receiver, irrespective of whether the Leasehold Mortgagee accelerates the maturity of the Leasehold Mortgage Loan, (C) for the right of the Leasehold Mortgagee or the receiver to enter and take possession of the Leased Premises, to manage and operate the same and to collect the subrentals, issues and profits therefrom and to cure any default under the Leasehold Mortgage or any Default by Tenant under this Lease, and (D) for an assignment of Tenant’s right, title and interest in and to any deposit of cash, securities or other property which may be held to secure the performance of any of its covenants, conditions and agreements contained in this Lease, the premiums for or dividends upon any insurance provided for the benefit of any Leasehold Mortgagee or required by the terms of this Lease, or other charges against the Leased Premises, whether paid or to be paid. No Leasehold Mortgage shall be binding upon Landlord in the enforcement of its rights and remedies herein and by law provided, unless the Leasehold Mortgage is a Recognized Mortgage, notwithstanding any other form of notice, actual or constructive.

Section 12.4 Leasehold Mortgagee’s Right to Notice of Default. Landlord shall send by personal delivery or by certified or registered mail to the Leasehold Mortgagee that is a Recognized Mortgagee a copy of each notice of Default at the same time as and whenever any such notice of Default shall thereafter be given by Landlord to Tenant, addressed to such Leasehold Mortgagee at the address last furnished to Landlord. No notice of Default by Landlord shall be deemed to have been given to Tenant unless and until a copy thereof shall have been so given to such Leasehold Mortgagee. Tenant irrevocably directs that Landlord accept, and Landlord agrees to accept, performance and compliance by any such Leasehold Mortgagee of and with any term, covenant or condition on Tenant’s part to be kept, observed or performed
under this Lease with the same force and effect as though kept, observed or performed by Tenant; but Landlord shall not be obliged to accept such performance and compliance if, at any such time, Landlord shall not be furnished with evidence reasonably satisfactory to Landlord of the interest claimed by the Person tendering such performance and compliance.

Section 12.5 New Lease. If this Lease is terminated by reason of the occurrence of an Event of Default or as a result of Tenant’s becoming a debtor under the Bankruptcy Code, Landlord shall give notice thereof to the Leasehold Mortgagee (if it is a Recognized Mortgagee), which notice shall be sent by personal delivery or by registered or certified mail to such Leasehold Mortgagee at the address last furnished by such Leasehold Mortgagee to Landlord. If, within thirty (30) days after receipt of such notice, such Leasehold Mortgagee shall pay, or arrange to the reasonable satisfaction of Landlord for the payment of, a sum of money equal to all Annual Net Rent and all Additional Rent due and payable by Tenant under this Lease immediately prior to the date of such termination, in addition to all expenses, costs and fees, including reasonable counsel fees, incurred by Landlord in terminating this Lease and in acquiring possession of the Leased Premises, together with a sum of money equal to the amount which, but for such termination, would have become due and payable under this Lease from such termination date up to and including a period of sixty (60) days after the date of the mailing of such notice (which total amount shall be specified by Landlord in the aforesaid written notice delivered by Landlord to such Leasehold Mortgagee), Landlord shall, upon the written request of such Leasehold Mortgagee made any time within the first thirty (30) days of such sixty (60) day period, join with the Leasehold Mortgagee, or its nominee, in executing and delivering within the last thirty (30) days of such sixty (60) day period a new lease of the Leased Premises to such Leasehold Mortgagee, or its nominee, for the remainder of the Term, and with priority equal to this Lease, including priority over any Mortgage encumbering Landlord’s fee simple interest in and to the Leased Premises, at the Annual Net Rent and Additional Rent and upon the terms, covenants and conditions contained in this Lease, including such additional terms, covenants and conditions as Landlord shall deem necessary to secure the timely discharge of all liabilities and the timely performance of all obligations of the immediately preceding Tenant which shall have accrued as well as those which shall have originated prior to the execution and delivery of such new lease. The Leasehold Mortgagee’s right to enter into such new Lease shall be subject to the condition that such Leasehold Mortgagee shall have paid to Landlord, without duplication, a sum of money equal to all Annual Net Rent. All Additional Rent and all other amounts which, but for such termination, would have become due and payable under this Lease up to and including the date of the commencement of the term of such new lease, together with all expenses, including reasonable attorney’s fees, incident to the preparation, execution, delivery and recording of such new lease.

Section 12.6 Leasehold Mortgagee’s Right to Assign. Any Person, including a Leasehold Mortgagee or the nominee of a Leasehold Mortgagee, who becomes the owner of or acquires any interest in the Leasehold Estate pursuant to foreclosure and sale, or by assignment in lieu thereof, or who enters into a new lease pursuant to the provisions of Section 13.5, as the case may be, may sell, assign, transfer or otherwise dispose of the Leasehold Estate (or the leasehold estate under such new lease) without the necessity of obtaining the prior consent of Landlord. The Person so assigning shall be released from any and all liabilities and obligations as Tenant under this Lease or as lessee under such new lease, as the case may be, accruing after
such assignment, but such Person shall not be released from any liability or obligation which shall have accrued prior to the effective date of any such assignment.

Section 12.7 Additional Covenants to Protect Leasehold Mortgagee. For the benefit of any Leasehold Mortgagee that is a Recognized Mortgagee, as long as its Leasehold Mortgage remains a lien on the Leasehold Estate:

(i) Landlord agrees not to accept a voluntary cancellation or surrender of this Lease;

(ii) Landlord will not grant or create a Fee Mortgage unless such Mortgage (i) is subject and subordinate to this Lease and the Leasehold Estate, and (ii) contains a covenant by the Fee Mortgagee to subordinate the lien of such Fee Mortgage to the lien, operation and effect of any new lease entered into by Landlord and the Leasehold Mortgagee, or its nominee, pursuant to Section 13.5; and

(iii) Landlord and Tenant agree that they will not amend or alter any of the terms and provisions of this Lease, and Landlord will not consent to or accept a prepayment of Annual Net Rent for more than thirty (30) days in advance, without, in each case, obtaining the written consent of the Leasehold Mortgagee.

Section 12.8 Amendment of Lease. Except as otherwise provided in the next sentence, Landlord agrees that, if requested by Tenant and to the extent required by a prospective Leasehold Mortgagee, Landlord will execute, acknowledge and deliver to Tenant an amendment to this Lease which alters and amends the terms, covenants, conditions and provisions of this Lease in the manner requested by such prospective Leasehold Mortgagee. Landlord shall not be required to execute, acknowledge and deliver any amendment to this Lease which (i) changes the amount or terms of payment of the Annual Net Rent or any other monetary amount which Tenant is obligated to pay as Additional Rent, (ii) reduces the Tenant’s or increases the Landlord’s financial obligations under this Lease, or (iii) materially and adversely affects the existing security or rights of Landlord under this Lease. Any dispute between Landlord and Tenant as to whether Landlord is obligated to execute, acknowledge and deliver an amendment to this Lease requested by a prospective Leasehold Mortgagee shall be submitted to arbitration pursuant to Article XVIII.

ARTICLE XIII

Events of Default; Remedies

Section 13.1 Events of Default. If any one or more of the following events (hereinafter sometimes referred to as “Events of Default”) shall happen:

(a) Monetary Default. If Tenant fails to make payment of the Rent required to be paid by Tenant under this Lease when and as the same shall become due and payable, and such failure continues for a period of more than fifteen (15) days after a written notice thereof shall have been given by Landlord to Tenant specifying such default in reasonable detail; or
(b) **Non-Monetary Default.** If Tenant fails to observe or perform any one or more of the terms, covenants or conditions contained in this Lease (other than those referred to in Section 15.1(a)), and if such failure is not remedied by Tenant (1) within thirty (30) days after Landlord gives Tenant a written notice specifying such failure, or (2) in the case of any such failure that requires work to be performed, acts to be done or conditions to be satisfied which cannot, by their nature, reasonably be performed, done or satisfied within such thirty (30) day period, within such additional period as may be reasonably required to cure such failure, but only if Tenant commences to cure such failure within the thirty (30) day period and (subject to Unavoidable Delays) diligently prosecutes the curing of such failure with due diligence and in good faith;

then, and in either such event, Landlord shall have the right, at any time thereafter while such Event of Default shall be continuing, to give written notice to Tenant and to any Recognized Mortgagee specifying such Event(s) of Default and stating that this Lease and the Term shall terminate on the date specified in such notice, which shall be at least thirty (30) days after the giving of such notice, and on the date specified in such notice this Lease and the Term and all rights of Tenant under this Lease shall expire and terminate as if the date specified in the notice were the Fixed Expiration Date.

**Section 13.2 Leasehold Mortgagee’s Right to Cure.** If an Event of Default occurs, Landlord shall, prior to the termination of this Lease, give written notice of the occurrence of the Event of Default to the Recognized Mortgagee. A Leasehold Mortgagee that is a Recognized Mortgagee shall not only have and be subrogated to any and all rights of Tenant with respect to the curing of any such Default, but shall also have the right to extend the period of time for thirty (30) days for the curing of any such Default (the “**Extended Cure Period**”). Irrespective of any other right any such Leasehold Mortgagee may have to maintain this Lease free from Default and in the meantime to foreclose its Leasehold Mortgage, such Leasehold Mortgagee, with respect to any default that may not be cured by the payment of money and which requires entry upon the Leased Premises in order to be able to cure, shall have the right to extend the period of time in which to cure such Default beyond the Extended Cure period, for such additional period of time (the “**Additional Cure Period**”) as, in good faith, will enable such Leasehold Mortgagee to institute foreclosure proceedings, appoint a receiver for the purpose, among other things, of curing such Default and/or to acquire the Leasehold Estate by foreclosure, to effect a removal of Tenant from and/or acquire possession of the Leased Premises and for such reasonable time thereafter as may enable the Leasehold Mortgagee to cure any and all such Defaults. The Leasehold Mortgagee shall pay during the Extended Cure Period, and the Additional Cure Period, the Annual Net Rent and Additional Rent due under this Lease, and shall reimburse Landlord, at or prior to the time of remedying the Default, for all reasonable and necessary costs and expenses of Landlord in connection with such Default and in maintaining, protecting and insuring the Leased Premises during the Extended Cure Period and the Additional Cure Period, including reasonable attorney’s fees incurred by Landlord, and provided such Leasehold Mortgagee institutes appropriate action to cure such Default within the Extended Cure Period and thereafter prosecutes such action with due diligence and continuity. Landlord shall have no obligation to maintain, protect or insure the Leased Premises during the Extended Cure Period or the Additional Cure Period. If the foregoing conditions shall have been fulfilled in good faith and the Leasehold Estate shall have been duly acquired by the Leasehold Mortgagee, or its nominee, and such Default shall have been duly cured, then any Default which Tenant failed to
cure shall be deemed removed as to any such mortgagee-purchaser or any such nominee-purchaser and Landlord’s right to terminate this Lease based upon Tenant’s failure to cure timely any such default shall be entirely eliminated as a result thereof.

**Section 13.3  Effect of Termination.** If this Lease is terminated pursuant to Section 14.1, Tenant shall quit and peacefully surrender the Leased Premises to Landlord, and Landlord, upon or at any time after any such termination, may without further notice, enter upon and re-enter the Leased Premises and possess and repossess itself thereof, by summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other Persons and property from the Leased Premises and may have, hold and enjoy the Leased Premises.

**Section 13.4  Landlord’s Right to Relet.** At any time or from time to time after the termination of this Lease, Landlord may relet the Leased Premises, or any part thereof, in the name of Landlord or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Fixed Term) and on such conditions as Landlord may determine and may collect and receive the rents therefor.

**Section 13.5  Landlord May Perform Tenant’s Obligations.** If Tenant shall at any time fail to keep or perform any of its obligations under this Lease in respect of (a) maintenance of insurance, (b) payment of **Real Estate Taxes**, (c) repairs and maintenance of the Leased Premises, (d) compliance with Insurance Requirements, or (e) the making of any other payment or performance of any other obligation of Tenant hereunder, Landlord may, but shall not be obligated to, upon the continuance of such failure on Tenant’s part for thirty (30) days after written notice (or without notice in the case of Tenant’s failure to maintain insurance or a bonafide emergency creating an imminent threat of injury to individuals or damage to property) to Tenant (or after such additional period, if any, as Tenant may reasonably require to cure such failure if such failure is of a nature that cannot be cured within said thirty (30) day period and if, within said thirty (30) day period, Tenant begins appropriate action to cure such failure and thereafter prosecutes such action with due diligence and continuity) and without waiving or releasing Tenant from any obligation, make any such payment or perform any such obligation and all sums so paid by Landlord and all necessary incidental costs and expenses incurred by Landlord in making such payments or performing such obligation, together with interest thereon at the Default Interest Rate from the date of payment, shall be deemed Additional Rent and shall be paid to Landlord on demand, or at Landlord’s option may be added to any installment of Annual Net Rent thereafter falling due, and if not so paid by Tenant, Landlord shall have the same rights and remedies as in the case of a default by Tenant in the payment of Annual Net Rent.

**Section 13.6  Landlord’s Remedies Cumulative.** Subject to the provisions of Section 16.2, each right or remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or the beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.
Section 13.7 Effect of Recognized Mortgagee Rights and Tenant Exculpation.
Nothing in this Article XV shall be in derogation of, or limit in any way (a) the rights afforded to a Recognized Mortgagee under the provisions of this Lease or (b) the provisions of Section 16.2.

ARTICLE XIV

Surrender of Possession

Section 14.1 Tenant’s Duty to Surrender Possession. Tenant shall, on or before the last day of the Term, peaceably and quietly leave, surrender and yield up to Landlord the Leased Premises, free of subtenancies other than subleases then terminable at the option of Landlord, broom clean and, subject to the provisions of Article XI and Article XII, in good order and condition except for reasonable wear and tear.

Section 14.2 Removal of Tenant’s Property. Subject to the rights of any Recognized Mortgagee, all furniture and furnishings, fixtures and equipment installed in, affixed to or placed or used in the operation of the Leased Premises, and removable without material injury to the freehold shall, throughout the Term, be the property of Tenant. Tenant may remove all trade fixtures within twenty (20) days after the termination of this Lease or surrender of the Leased Premises to Landlord. Any dispute between Landlord and Tenant as to whether a specific item is a trade fixture which may be removed by Tenant pursuant to this Section shall be settled by arbitration pursuant to Article XVIII.

Section 14.3 Abandonment. Any other personal property of Tenant or any subtenant which shall remain on the Leased Premises after the Expiration of the Term and the removal of Tenant or such subtenant from the Leased Premises may, at the option of Landlord, be deemed to have been abandoned by Tenant or such subtenant and either may be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit.

Section 14.4 Survival. The provisions of this Section shall survive the Expiration of the Term.

ARTICLE XV

Limitation on Liability

Section 15.1 Transfer of Landlord’s Interest. If the original Landlord named in this Lease, or any successor to the original Landlord’s interest in the Leased Premises, conveys or otherwise disposes of its interest in the Leased Premises, then upon such conveyance or other disposition all liabilities and obligations on the part of the original Landlord, or such successor Landlord, as Landlord under this Lease, which accrue after such conveyance or disposition shall cease and terminate and each successor Landlord shall, without further agreement, be bound by Landlord’s covenants and obligations under this Lease, but only during the period of such successor Landlord’s ownership of the Leased Premises. A copy of the recorded deed conveying the interest in the Leased Premises shall be satisfactory evidence of a successor Landlord’s interest.
Section 15.2 Limitation on Tenant's Liability. Landlord covenants and agrees that any claim, judgment or decree of any court or arbitrator(s) against Tenant and in favor of Landlord as a result of any default or breach of any of the terms, covenants, conditions or limitations contained in this Lease on Tenant’s part to be kept, observed and performed, shall be satisfied by Landlord by resorting to the interest of Tenant in this Lease, and not against any other assets of Tenant (or, if Tenant is a partnership or limited liability company, any other assets of any of its partners or members), and Landlord shall not have the right to seek or obtain a personal judgment against Tenant (or, if Tenant is a partnership or limited liability company, any of its partners or members) for any of the damages provided for in this Lease.

ARTICLE XVI

Waiver of Jury Trial

Section 16.1 Waiver of Jury Trial. Landlord and Tenant hereby waive any right to a trial by jury in any action or proceeding based upon, or related to, the subject matter of this Lease. This waiver is knowingly, intentionally, and voluntarily made by Landlord and Tenant, and each acknowledges that neither the other nor any Person acting on behalf of the other has made any representations of fact to induce this waiver of trial by jury or in any way to modify or nullify its effect. Landlord and Tenant each further acknowledges that it has been represented (or has had the opportunity to be represented) in the signing of this Lease and in the making of this waiver by independent legal counsel, selected of its own free will, and that it has had the opportunity to discuss this waiver with counsel.

ARTICLE XVII

Notices

Section 17.1 Manner of Giving Notice. Each notice, request, demand, consent, approval or other communication (hereafter in this Section referred to collectively as “Notices” and referred to singly as a “Notice”) which Landlord or Tenant is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if

(i) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered),

(ii) sent by Federal Express (or other similar overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier),

(iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two (2) days after mailing in the United States), or

(iv) sent by teletypewriter or facsimile machine which automatically generates a transmission report that states the date and time of the transmission, the length of the
document transmitted and the telephone number of the recipient’s telecopier or facsimile machine (with a copy thereof sent in accordance with Section 19.2) (any notice so delivered shall be deemed to have been received (i) on the date of transmission, if so transmitted before 5:30 p.m. (local time of the recipient) on a Business Day, or (ii) on the next Business Day, if so transmitted on or after 5:30 p.m. (local time of the recipient) on a Business Day or if transmitted on a day other than a Business Day), addressed to the parties at their respective addresses designated pursuant to Section 19.2.

**Section 17.2 Addresses for Notices.** All notices shall be addressed to the parties at the following addresses:

(1) if to Landlord: LANDLORD IS STAFFORD. JIM MORAN IS ADMINISTRATOR.

260 East Bay Avenue  
Manahawkin, New Jersey 08050  
Attention: James Moran, Administrator  
Telecopy Number: (609) 597-4911

with a copy to:

__________________________________  
__________________________________  
__________________________________  
Attention: ___________________  
Telecopy Number: _____________

(2) if to Tenant:

Stafford Park 1, LLC  
100 Centre Boulevard, Suite E  
Marlton, NJ 08053  
Attention: Joe DelDuca  
Telecopy Number: (856) 983-1219

with a copy to:

Archer & Greiner, P.C.  
One Centennial Square  
Haddonfield, NJ 08033  
Attention: Gary L. Green, Esquire  
Telecopy Number: (856) 795-0574

Either party may, by notice given pursuant to this Section, change the Person or Persons and/or address or addresses, or designate an additional Person or Persons or an additional address or addresses, for its notices, but notice of a change of address shall only be effective upon receipt.
Landlord and Tenant each agrees that it will not refuse or reject delivery of any notice given hereunder, that it will acknowledge, in writing, receipt of the same upon request by the other party and that any notice rejected or refused by it shall be deemed for all purposes of this Agreement to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

Section 17.3 Notice Given by Counsel. All Notices that are required or permitted to be given by either party to the other under this Agreement may be given by such party or its legal counsel, who are hereby authorized to do so on the party’s behalf.

ARTICLE XVIII

Quiet Enjoyment

Section 18.1 Covenant of Quiet Enjoyment. Landlord covenants that Tenant, upon paying the Annual Net Rent and the Additional Rent provided for in this Lease, and upon performing and observing all of the terms, covenants, conditions and provisions of this Lease on Tenant's part to be kept, observed and performed, shall quietly hold, occupy and enjoy the Leased Premises during the Term without hindrance, ejection or molestation by Landlord or any Person lawfully claiming through or under Landlord.

ARTICLE XIX

Estoppel Certificates

Section 19.1 Obligation to Deliver. Landlord and Tenant (the “Certifying Party”) each agrees, at any time and from time to time during the Term, upon not less than fifteen (15) days prior written notice from the other party (the “Requesting Party”), to execute, acknowledge and deliver to the Requesting Party a statement certifying to substantially the following provisions (recognizing that any of such statement may be modified by the Certifying Party to reflect the then state of facts): (i) a statement that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (ii) a statement of the dates to which the Annual Net Rent and any Additional Rent have been paid by Tenant, (iii) a statement whether or not, to the best knowledge of the Certifying Party, the Requesting Party is in Default in performing any of its material obligations under this Lease, and if so, describing in reasonable detail each such Default of which the Certifying Party may have knowledge, (iv) a statement of the address to which notices to the Certifying Party should be sent, and (v) such other statement or statements as the Requesting Party, any prospective purchaser of the Leased Premises or the Leasehold Estate, any Leasehold Mortgagee or prospective Leasehold Mortgagee, any Fee Mortgagee or prospective Fee Mortgagee, any prospective assignee of any such Leasehold Mortgagee or Fee Mortgagee and/or any prospective assignee of the Leasehold Estate or prospective subtenant of Tenant may reasonably request. Any such statement delivered pursuant hereto, may be relied upon by any owner of the Leased Premises, any prospective purchaser of the Leased Premises, any Leasehold Mortgagee or Fee Mortgagee or prospective Leasehold Mortgagee or Fee Mortgagee, any prospective assignee of any such Leasehold Mortgagee or Fee Mortgagee or any prospective assignee of the Leasehold Estate or prospective subtenant of Tenant.
ARTICLE XX

Non-Merger of Estates

Section 20.1 No Merger of Estates. The interests of Landlord and Tenant in the Leased Premises shall at all times be separate and apart, and shall in no event be merged, notwithstanding the fact that the Leasehold Estate, or any interest therein, may be held directly or indirectly by or for the account of any Person who shall own the fee simple title in and to the Leased Premises, or any portion thereof; and no such merger of estates shall occur by operation of law, or otherwise, unless and until all Persons at the time having any interest in the Leased Premises, including any Leasehold Mortgagee, shall join in the execution of a written instrument effecting such merger of estates.

ARTICLE XXI

Miscellaneous Provisions

Section 21.1 Invalid Provisions. 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 enforced to the fullest extent permitted by law. This Lease represents the result of negotiations between Landlord and Tenant, each of which has been (or has had opportunity to be) represented by counsel of its own selection, and neither of which has acted under duress or compulsion, whether legal, economic or otherwise. Consequently, Landlord and Tenant agree that the language in all parts of the Lease shall in all cases be construed as a whole according to its fair meaning and neither strictly for nor against Landlord or Tenant.

Section 21.2 Recording. Landlord and Tenant, upon the request of the other or any Leasehold Mortgagee or Fee Mortgagee, shall execute, acknowledge and deliver a memorandum of this Lease (setting forth or reaffirming the Lease Commencement Date and the Fixed Expiration Date and any other provision of this Lease as either party may request), and of each modification of this Lease, in proper form for recordation. Either party, at its sole cost and expense, may record this Lease and any memorandum of this Lease. The cost of recording this Lease or any memorandum of this Lease shall be borne entirely by the party who records the Lease or the memorandum.

Section 21.3 Governing Law. This Lease and the rights and obligations of the parties hereto shall be interpreted, construed, and enforced in accordance with the laws of the State of New Jersey.

Section 21.4 Successors and Assigns. Subject to the terms of this Lease, this Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord and Tenant and their respective permitted successors and assigns.
**Section 21.5 Entire Agreement.** This Lease, including the Exhibits, constitutes the entire agreement between the parties hereto with respect to the subject matter of this Lease and supersedes all prior agreements and understandings between the parties related to the Leased Premises, including all lease proposals, letters of intent and similar documents.

**Section 21.6 Consumer Price Adjustments**

(a) Whenever any of the provisions of this Lease provides that an amount shall be “Subject to Adjustment”, then such amount shall be multiplied by a fraction, the numerator of which shall be the Consumer Price Index for the calendar month preceding the date through which such amount is to be adjusted pursuant to this Section and the denominator of which shall be the Consumer Price Index published for the month of August 2003.

(b) The “Consumer Price Index” means the Consumer Price Index for All Urban Consumers (CPI-U)--All Items (1987=100) for the Philadelphia, PA area currently published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor index thereto, appropriately adjusted. If the Consumer Price Index ceases to be published, and there is no successor thereto, such other index as Landlord and Tenant agree upon, as appropriately adjusted, shall be substituted for the Consumer Price Index.

[Signatures appear on the following page.]
IN WITNESS WHEREOF, Landlord, acting by its duly authorized Manager, and Tenant, acting by its duly authorized officer, have executed this Lease as of the day and year first above written.

LANDLORD:

THE BOARD OF CHOSEN FREEHOLDERS OF OCEAN COUNTY, NEW JERSEY

By: ________________________________(SEAL)
Title: _______________________________

TENANT:

STAFFORD PARK 1, LLC,
a New Jersey limited liability company

By: ________________________________(SEAL)
Title: _______________________________
EXHIBIT A

Description of Land
EXHIBIT B

Permitted Encumbrances