

FELDMEIER EQUIPMENT, INC.

and

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

**Herkimer County Industrial Development Agency
Real Estate Lease**

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of this 1st day of February, 2022 is by and between **FELDMEIER EQUIPMENT, INC.**, a New York Corporation having an address of 245 Riverside Industrial Parkway, Little Falls, New York 13365 (the “Company”) and the **HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 420 E. German Street, Suite 101A, Herkimer, New York 13350 (the “Agency”).

W I T N E S S E T H:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the “Enabling Act”), and Chapter 372 of the Laws of 1970 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to accept a leasehold interest in the Facility pursuant to the terms and conditions contained in the Lease Agreement dated of even date herewith; to acquire a leasehold interest in certain real property located in the City of Little Falls, County of Herkimer, State of New York, more particularly described on Exhibit “A” thereof; and

WHEREAS, the Company has executed and delivered a Leaseback Agreement, dated of even date herewith, with the Agency to acquire a leasehold interest in the same real property located in the City of Little Falls, County of Herkimer, New York, more particularly described in Exhibit “A” attached to the Leaseback Agreement, and to construct and equip a facility thereon (the “Facility”); and

WHEREAS, the Agency has agreed to accept a leasehold interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, a portion of the Facility is currently exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company and newly constructed portions will be exempt commencing March 1, 2022, the taxable status date, (the “Exempt Taxes”), because the Agency has a leasehold interest in the Facility and the Facility is used for a purpose within the

meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, the Company understands that it, as Lessee of the Facility lease by the Agency, will continue to have exempt taxes to pay under provisions of an existing Payment in Lieu of Tax Agreement dated as of December 20, 2013; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the Leaseback Agreement dated as of February 1, 2022 commencing July 1, 2022 through the term of the Leaseback Agreement (the "Exemption Term") (each year measured by the twelve month period commencing with the first day of July, herein referred to as an "Exemption Year"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the City of Little Falls, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Herkimer County, the Little Falls Central School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority:
 - (a) all taxes that are due with respect to the Facility prior to the Exemption Term, no later than the last day during which such payments may be made without penalty; and
 - (b) all special assessments and ad valorem taxes coming due and payable during the term of the Lease Agreement and the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.
2. The Company shall pay to the Agency for the benefit of each Taxing Authority:

- (a) In lieu of taxes due and payable pursuant to the terms of the PILOT Agreement dated December 20, 2013 and attached hereto as Exhibit "B". Upon expiration of said PILOT Agreement taxes shall be billed and paid as set forth in paragraph 1(a) herein; and
- (b) in lieu of general real property taxes for the Facility, the Company shall pay the following percentages of the actual real property taxes which would be due if the Facility were fully taxable on the tax rolls of the Taxing Jurisdictions:

Estimated Assessment on Addition is \$700,000.00

Fair Market Value on Addition is estimated at \$3,090,000.00

<u>Year</u>		
1	50	x tax rate x assessment on addition
2	55	
3	60	
4	65	
5	70	
6	75	
7	80	
8	85	
9	90	
10	95	
11	100	

(and each successive year of the term of the lease pursuant to the Lease Agreement)

- (b) Upon receipt of a bill from the Agency, Company shall make payments in lieu of taxes through the Agency based upon calculations of payments due furnished in writing by the Agency to the Company. Payments shall be made to coincide with each individual Taxing Jurisdiction's schedule due dates for payment of taxes. The Agency may accept payment from any Subtenant.
- (c) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days after receipt of notice as herein provided, the Company shall pay as PILOT Payments one hundred (100%) percent of the Exempt Taxes together with interest at the rate of five (5%) percent per annum on any delinquent PILOT Payments together with expenses of

collection, including but not limited to, payment of attorneys' fees; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. The Company will make PILOT Payments for the benefit of each Taxing Authority hereunder for each exemption Year by making the required payment to such Taxing Authority no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Agency did not have a leasehold or other interest in the Facility.
4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Leaseback Agreement if the Agency did not have a leasehold or other interest in the Facility.
5. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.
6. This Agreement shall be binding upon the successors and assigns of the parties.
7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard

by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's interest in the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company.

8. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.
9. The Company, unconditionally, and for its heirs, successors and assigns, guarantee the payment and performance of obligations under this Agreement to the Agency. Company waives any and all claims for offset and defenses of payment.
10. All other provisions of the PILOT Agreement dated as of December 20, 2013, except as may be modified herein, shall remain in full force and effect.
11.
 - (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.
 - (b) This agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.
 - (c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the Agency or the Company, as the case may be, addressed as follows:

To the Agency: Herkimer County Industrial Development Agency
420 E. German Street – Suite 101A
Herkimer, New York 13350
Attn: John J. Piseck, Jr., Executive Director

With a Copy to: Felt Evans, LLP
4 - 6 North Park Row
Clinton, New York 13323
Attn: Anthony G. Hallak, Esq.

To the Company: Feldmeier Equipment, Inc.
245 Riverside Industrial Parkway
Little Falls, New York 13365
Attn: Colby Clark, Vice President

With a Copy to: Barclay Damon LLP
Barclay Damon Tower, 12th Floor
125 East Jefferson Street
Syracuse, New York 13202
Attn: Kevin McAuliffe, Esq.

Provided, that the Agency or the Company may, by notice given hereunder to the other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

- (e) This Agreement shall be governed by and constructed in accordance with the laws of the State of New York.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this **PILOT Agreement** as of the date first above written.

HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

Vincent J. Bono, Chairman

FELDMIEER EQUIPMENT, INC.

By: _____

Colby Clark, Vice President

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

On this 25th day of February, 2022, before me, a notary public in and for said State, did personally appear **Vincent J. Bono**, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Anthony G. Hallak
Notary Public

ANTHONY G. HALLAK
Notary Public - State of New York
#4234403
Qualified in Oneida County
Commission Expires May 23, **2022**

STATE OF NEW YORK)
COUNTY OF) ss.:

On this ____ day of February, 2022, before me, a notary public in and for said State, did personally appear **Colby Clark**, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

IN WITNESS WHEREOF, the parties have executed this **PILOT Agreement** as of the date first above written.

HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Vincent J. Bono, Chairman

FELDMER EQUIPMENT, INC.

By:  _____
Colby Clark, Vice President

STATE OF NEW YORK)
COUNTY OF) ss.:

On this ____ day of February, 2022, before me, a notary public in and for said State, did personally appear **Vincent J. Bono**, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF) ss.:

On this 25 day of February, 2022, before me, a notary public in and for said State, did personally appear **Colby Clark**, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



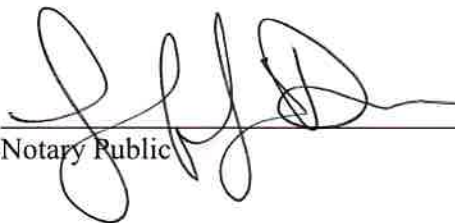
 _____
Notary Public

Exhibit A

LEGAL DESCRIPTION

Parcel I - Tax Map Number 121.2-5-1.11:

All that tract or parcel of land situate in the City of Little Falls, County of Herkimer and State of New York, bounded and described as followings :

BEGINNING at a Point in the Riverside Industrial Park Road which marks the northwesterly corner of premises conveyed by grantor herein to Allegro Shoe Corporation by deed dated November 2, 1997 and recorded in the Herkimer County Clerk's Office in Book 654 of Deeds at Page 380 and from said point of beginning.

RUNNING THENCE the following courses:

1. South 45 degrees 32 minutes 32 seconds east 261.37 feet along the westerly boundary of the aforementioned Allegro Shoe Corporation parcel;
2. South 30 degrees 54 minutes 53 seconds west 70.97 feet;
3. South 20 degree 14 minutes 52 seconds west 315.28 feet;
4. South 33 degrees 31 minutes 09 seconds west 300.12 feet;
5. South 54 degrees 11 minutes 01 seconds west 129.68 feet to a point which marks the southeasterly corner of premises conveyed by the grantor herein to Little Falls Color and Converting Corp. by deed dated October 7, 1972 and recorded in the Herkimer County Clerk's Office in Book 653 at Deeds Page 915;
6. North 45 degrees 32 minutes 32 seconds west 442.32 feet along the easterly boundary of said Little Falls Color Print and Converting Corp. lands;
7. North 44 degrees 27 minutes 28 seconds east 779.04 feet to the point of BEGINNING.

Parcel II - Tax Map Number 121.2-5-1.12:

All that tract or parcel of land situate in the City of Little Falls, County of Herkimer and State of New York, bounded and described as followings;

BEGINNING at a point distant 84.30 feet south 11 degrees 40 minutes 32 seconds east, from an exiting iron pipe which marks the northeasterly corner of premises conveyed to Eastern Herkimer County Industries, Inc. by the Trustee of Penn Central Transportation Company by Deed dated November 7, 1972 and recorded in the Herkimer County Clerk's Office in Book 625 of Deeds at Page 238 and which point of beginning is on the southerly line of a seventy foot right-of-way heretofore dedicated by the said Eastern Herkimer County Industries, Inc., to the City of Little Falls as a Riverside Industrial Park Road, and from said point of beginning, extending the following six courses and distances:

1. South 11 degrees 40 minutes 32 seconds east, 238.29 feet;
2. South 46 degrees 22 minutes 31 seconds west, 149.98 feet;
3. South 40 degrees 41 minutes 44 seconds west, 447.67 feet;
4. South 30 degrees 54 minutes 53 seconds west, 167.28 feet;
5. North 45 degrees 32 minutes 32 seconds west, 261.37 feet to the Riverside Industrial Park Road aforementioned;
6. North 44 degrees 27 minutes 28 seconds east, 892.00 feet along said Road to the point of BEGINNING.

Exhibit B

**PAYMENT-IN-LIEU-OF-TAX-AGREEMENT
2013 Lease/Leaseback Transaction**

FELDMEIER EQUIPMENT, INC.

and

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Herkimer County Industrial Development Agency
2013 Lease/Leaseback Transaction

THIS AGREEMENT is by and between FELDMEIER EQUIPMENT, INC. (the "Company"), a corporation with offices at 6800 Townline Road, Syracuse, New York 13211 and the HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its offices at 320 North Prospect Street, Herkimer, New York, 13350 (the "Agency").

WITNESSETH

WHEREAS, the Agency was created pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended by Chapter 410 of the Laws of 1970 and Chapter 158 of the Laws of 1981, of the State of New York (collectively, the "Act"), as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has executed and delivered a Lease Agreement, dated of even date herewith, with the Agency to acquire a leasehold interest in certain real property located in the Town and City of Little Falls, New York, more particularly described in Exhibit "A" attached to the Lease Agreement, and to construct and equip a facility thereon (the "Facility"); and

WHEREAS, pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the Agency is exempt from the payment of general real estate taxes imposed upon real property and improvements owned by it; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to Herkimer County, the City of Little Falls, and the City of Little Falls School District (collectively the "Taxing Jurisdictions");

NOW, THEREFORE, in consideration of the Agency's acquisition and sale of the Facility and in consideration of the covenants herein contained, it is mutually agreed as follows:

1(a). Pursuant to Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law, the parties hereto understand that, after the date hereof, and for so long thereafter as the Agency shall hold a leasehold in the Facility, the Facility shall be assessed by the Taxing Jurisdictions as exempt upon the first assessment rolls of the Taxing Jurisdictions prepared subsequent to the date of this Agreement. The Company shall, promptly following the date hereof, take such action as may be necessary to ensure that the Facility shall be assessed as exempt upon the assessment rolls of the Taxing Jurisdictions prepared subsequent to the date hereof, and, for so long thereafter as the Agency shall hold a leasehold interest in the Facility, the Company shall take such further action as may be necessary to maintain such exempt assessment with respect to each Taxing Jurisdiction.

1(b) The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies, service charges and improvement district charges or similar tax equivalents. Pursuant to the Lease Agreement and herein, the Company is required to pay all special assessments and special ad valorem levies, service charges and improvement district charges or similar tax equivalents lawfully levied and/or assessed against the Facility.

1(c). In lieu of general real property taxes for the Facility, the Company shall pay the following percentages for the years indicated of the actual real property taxes which would be due on the facility if the facility were fully taxable on the tax rolls of the taxing jurisdictions.

Until the first tax status date after the completion of the Facility, the Company will pay an amount equal to 100% of such taxes. Thereafter the Company will pay according to the following schedule.

Year 1.	33 1/3% of such taxes;
Year 2.	33 1/3% of such taxes;
Year 3.	33 1/3% of such taxes;
Year 4.	33 1/3% of such taxes;
Year 5.	33 1/3% of such taxes;
Year 6.	66 2/3% of such taxes;
Year 7.	66 2/3% of such taxes;
Year 8.	66 2/3% of such taxes;
Year 9.	66 2/3% of such taxes;
Year 10.	66 2/3% of such taxes;
Year 11. and all years thereafter	100% of such taxes

The years in the above schedule shall be the twelve (12) month period running from the first tax status date after the sooner of a) the date of the completion of the Facility, or b) March 31, 2014 and each twelve (12) month period thereafter.

1(d). Upon receipt of a bill from the Agency, Company shall make payments in lieu of taxes through the Agency based upon calculations of payments due furnished in writing by the Agency to the Company. Payments shall be made to coincide with each individual Taxing Jurisdiction's scheduled due dates for payment of taxes.

2(a). Special district charges, special assessments, and special ad valorem levies, unless otherwise exempt, and pure waters and sewer charges, if any, are to be paid in full by the Company in accordance with normal billing practices.

2(b). If the Company shall fail to make any payment required by this

Agreement when due, its obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with interest thereon, to the extent permitted by law, at the same rate per annum as if such amounts were delinquent taxes, until so paid in full. Notwithstanding anything herein or in the Leaseback Agreement to the contrary, if the Company shall fail to make any payment required by this Agreement when due and such payment shall remain in default for a period in excess of sixty days after notice of default is given to the Company by the Agency mailed to Company's above address (or such other address as Company may provide to Agency through written notice thereof) by certified mail return receipt requested then in that event at the election of the Agency Company shall commence with the next date upon which a payment is otherwise due hereunder and for the balance of the years set forth in paragraph 1(b) make payments in lieu of taxes equal to 100% of the taxes that would be paid if the property were fully taxable and not exempt.

3. In the event that the Facility is transferred from the Agency to the Company, and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption is less than that described in Paragraph 1(b) herein, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period) to the Taxing Jurisdictions an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable, pro rata for the unexpired portion of the year of transfer.

4. The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Facility. The Agency shall execute, upon request, at the Company's expense, whatever documents are necessary to effectuate the rights delineated herein.

5. The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility with respect to any proposed assessment or change in assessment with respect to the Facility by and of the Taxing Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

6. To the extent the Facility is declared to be subject to general real property taxation by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligation of the Company hereunder shall, to such extent, be adjusted by way of a credit to the Company against payments due hereunder to the extent of such taxes paid.

7. If the Company enters into any written agreement with any Taxing Jurisdiction providing for payments in lieu of taxes by the Company to any or all of them, so much of this Agreement as relates to the Taxing Jurisdiction with which the Company has entered into said written agreement shall be automatically modified to reflect the terms of any such written agreement, and any such written agreement shall be deemed to be incorporated herein by reference and made a part hereof as an amendment or modification hereof. The Company shall provide a copy of any such agreement and any and all modifications thereof to the Agency promptly after the execution and delivery thereof. Should the Company receive any exemption from any of the Taxing Jurisdictions this Agreement shall automatically be deemed modified to reflect the extent of such exemption.

8. If payments are not made as provided for herein, the Agency and/or the Taxing Jurisdictions, individually or collectively, shall in addition to all other rights set forth herein be entitled to pursue any and all remedies afforded a municipal taxing entity at law or in equity.

9. The rights and obligations of the Company hereunder may not be assigned or transferred without the prior written consent of the Agency, such consent not to be unreasonably withheld.

10. This Agreement and the other agreements between the Company and the Herkimer County Industrial Development Agency are subject to the Uniform Tax Exemption Policy of the Agency established on June 27, 1994 and re-established on March 31, 1999 including, without limitation, the recapture of benefits provision thereof the entirety of which Uniform Tax Exemption Policy is incorporated herein by reference as though set forth in full.

11(a). If there shall be a future addition to the Facility constructed or added in any manner after the date of this Agreement, the Company shall notify the Agency of such future addition ("**Future Addition(s)**"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant evidence that the Agency may thereafter request. Upon the Agency's receipt of the notice, the parties hereto shall use their best efforts to agree upon additional payments in lieu of tax for such Future Additions ("**Additional Payments**") and shall amend this Agreement to provide for such Additional Payments.

11(b). If the parties are unable to agree on such Additional Payments, the value of the Future Additions for purposes of determining the amount of real property taxes owed by the Company shall be determined by the relevant assessor. The assessor shall establish the assessed value of the Future Additions. The Company shall be entitled to prompt written notice of the initial establishment of such assessed value for the Future Additions. If the parties are unable to agree on such Additional Payments, commencing on the first tax year following the date on which any Future

Additions shall be completed, the Company agrees to make Additional Payments to the Agency with respect to such Future Additions, such Additional Payments to be computed by multiplying (x) the assessed value of such Future Additions determined pursuant to subsection (b) above by (y) the tax rate or rates that would be applicable to such Future Additions if the Agency did not hold a leasehold interest in the Future Additions, and (z) reduce the amount so determined by the amounts of any tax exemptions that would be afforded to the Company if the Agency did not hold a leasehold interest in such Future Additions.

11(c). If the Company shall disagree with the determination of assessed value for any Future Additions, the Company shall have such rights, remedies and recourses available to it as would lawfully be available to the Company if the Agency did not hold a leasehold interest in the Facility and therefore not exempt upon the assessment rolls of the Taxing Jurisdictions. If a lesser assessed value is determined by a court of competent jurisdiction and the Additional Payment is thereby reduced, any excess payment shall be refunded to the Company or, in the Agency's reasonable discretion, such excess payment shall be applied as a credit against the next succeeding Additional Payment.

12. NO RECOURSE; SPECIAL OBLIGATION. (A) The obligations and agreements of the Agency contained herein and in the other Basic Documents and any other instrument or document executed in connection herewith or therewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company) or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company) and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(B) The obligations and agreements of the Agency contained herein and therein shall not constitute or give rise to an obligation of the State of New York or the County of Herkimer, New York, and neither the State of New York nor the County of Herkimer shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights).

(C) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (1) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the

Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten day period) or failed to respond within such notice period, (2) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Agency and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company) and employees against all liability expected to be incurred as a result of compliance with such request.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the 20th day of December, 2013.

Feldmeier Equipment, Inc.

By: 

Name: ROBERT E. FELDMER
Title: PRESIDENT

Herkimer County Industrial
Development Agency

By: 

Mark Feane
Executive Director

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


On the 2nd day of December, 2013 before me, the undersigned a notary public in and for said state, personally appeared Robert E. Feldmeier personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

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

On the 6th day of December, 2013 before me, the undersigned a notary public in and for said state, personally appeared Mark Feane, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LILLIAN A. ORAM
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN HERKIMER COUNTY
REG.#010R4719707
MY COMM. EXPIRES 5/31/ 2014

SCHEDULE A

All that tract or parcel of land situate in the Town of Little Falls, County of Herkimer and State of New York, bounded and described as follows:

BEGINNING at a point in the Riverside Industrial Park Road which marks the northwesterly corner of premises conveyed by grantor herein to Allegro Shoe Corporation by deed dated November 2, 1997 and recorded in the Herkimer County Clerk's Office in Book 654 of Deeds at Page 380 and from said point of beginning.

RUNNING THENCE the following courses:

1. South 45 degrees 32 minutes 32 seconds east 261.37 feet along the westerly boundary of the aforementioned Allegro Shoe Corporation parcel;
2. South 30 degrees 54 minutes 53 seconds west 70.97 feet;
3. South 20 degrees 14 minutes 52 seconds west 315.28 feet;
4. South 33 degrees 31 minutes 09 seconds west 300.12 feet;
5. South 54 degrees 11 minutes 01 seconds west 129.68 feet to a point which marks the southeasterly corner of premises conveyed by the grantor herein to Little Falls Color and Converting Corp. by deed dated October 7, 1972 and recorded in the Herkimer County Clerk's Office in Book 653 at Deeds Page 915;
6. North 45 degrees 32 minutes 32 seconds west 442.32 feet along the easterly boundary of said Little Falls Color Print and Converting Corp. lands;
7. North 44 degrees 27 minutes 28 seconds east 779.04 feet to the point of BEGINNING.

Said premises being more modernly described as follows:

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF LITTLE FALLS, COUNTY OF HERKIMER AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

Beginning at an iron rod on the southeasterly highway boundary of Riverside Industrial Park Road (Riverside Drive), said iron rod standing at the intersection of the southeasterly highway boundary of Riverside Industrial Park Road with the northeasterly boundary of Seventy Five Little Falls Industrial, LLC (Now or Formerly), as described in a Bargain and Sale Deed dated September 8, 2006 and filed in the Herkimer County Clerk's Office in Liber 1183 of Deeds at Page 73; thence N 44° 27' 28" E 778.61 feet along the southeasterly highway boundary of Riverside Industrial Park Road to a point; thence S 45° 32' 32" e 261.37 feet to a point; thence S 30° 54' 53" W 70.97 feet to a point; thence S 20° 14' 52" W 315.28 feet to a point; thence S 33° 31' 09" W 300.12 feet to a point; thence S 54° 11' 01" W 129.27 feet still along the northwesterly boundary of the lands of the State of New York Barge Canal to a point standing

on the northeasterly boundary of Seventy Five Little Falls Industrial, LLC; thence N 45° 32' 22" W 442.39 feet along the northeasterly boundary of Seventy Five Little Falls Industrial, LLC to the point and place of beginning.