



# CITY OF ST. PETERS BOARD OF ALDERMEN

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TENTATIVE AGENDA FOR REGULAR MEETING  
ST. PETERS JUSTICE CENTER, 1020 GRAND TETON DRIVE, ST. PETERS, MO 63376

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APRIL 9, 2020 – 6:30 P.M.

- A. Call to Order, Mayor Len Pagano
- B. Roll Call
- C. Opening Ceremonies
  - 1. Invocation
  - 2. Pledge of Allegiance
  - 3. Proclamation: Arbor Day
- D. Approval of Minutes: The [Board of Aldermen Work Session meeting of March 26, 2020](#); and the [Regular Board of Aldermen meeting of March 26, 2020](#).
- E. Reports of Officers, Boards and Commissions
  - 1. Mayoral Report of Appointments to Boards and Commissions
  - 2. City Administrator's Report:
  - 3. Report of Director, Planning, Community and Economic Development: None
  - 4. St. Peters Business Spotlight: None
- F. Open Forum
  - 1. Citizens Petitions and Comments
  - 2. Communications from the Elected Officials
  - 3. Announcements
- G. Public Hearings: None
- H. Unfinished Business Items: None

I. New Business Items:

1. **Bill No. 20-34: Bill** designating the depository of the City of St. Peters funds for a period ending May 31, 2022 pursuant to Section 95.355 Revised Statutes of Missouri
2. **Bill No. 20-35: Bill** authorizing the City Administrator of the City of St. Peters, Missouri, to enter into an agreement with Ronald G. Theby and Leslie Elizabeth Theby for a Permanent Storm Sewer Easement located within Timberidge Subdivision plat two
3. **Bill No. 20-36: Bill** repealing Ordinance No. 7280 of the City and enacting in lieu thereof an ordinance authorizing the City of St. Peters, Missouri to issue its Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020, in a principal amount not to exceed \$61,500,000, for the purpose of providing funds to pay the costs of acquiring and constructing a facility for an Industrial Development Project in the City; approving a plan for the project; and authorizing the City to enter into certain agreements and take certain other actions in connection with the issuance of the bonds
4. **Bill No. 20-37: Bill** authorizing the City Administrator of the City of St. Peters, Missouri to execute a contract with CCIMW, LLC for the St. Peters Rec-Plex Improvements – Natatorium Painting Project
5. **Bill No. 20-38: Bill** authorizing the City Administrator of the City of St. Peters, Missouri to execute a contract with Capri Pools & Aquatics for the Rec-Plex 50 Meter Pool, Leisure Pool and Spa Refurbishment Project
6. **Bill No. 20-39: Bill** authorizing the City Administrator of the City of St. Peters, Missouri to execute a contract with Bi-State Fire Protection Corporation for the Central Materials Processing Facility Fire Suppression System Restoration Project
7. **Resolution** concerning Voluntary Annexation Michael and Judy Mikulus, 6 Patty Ann Court

J. Executive Session re: Litigation, Real Estate and Personnel, pursuant to Section 610.021 (1)(2)(3)(9)(12)(13)(14) & 610.022 (1-6)

K. Adjournment

AGENDA Posted at City Hall: April 6, 2020 at 9:00 a.m.  
By: P. Smith, City Clerk

Next Regular Board of Aldermen Meeting: April 23, 2020



CITY OF ST. PETERS BOARD OF ALDERMEN  
WORK SESSION MINUTES  
March 26, 2020

The Work Session was called to order at approximately 6:01 p.m. on Thursday, March 26, 2020 at the St. Peters Justice Center located at 1020 Grand Teton Drive. Scott Baumgartner, Deputy City Clerk, called the roll. The following were present: Mayor Pagano; Board President Bateman; Alderman Barclay; Alderman Reimer; Alderman Townsend; Alderman Trupiano; Alderman Violet. Staff present include Rick Struttmann, Police Chief; Russ Batzel, City Administrator; Randy Weber, City Attorney, and Scott Baumgartner, Deputy City Clerk. Alderman Hollingsworth and Alderman Reitmeyer were absent.

COMMUNICATIONS FROM BOARD MEMBERS/ALDERMANIC REPRESENTATIVES

Committee reports were given during this time.

BOA ITEMS FOR DISCUSSION

None

MAYOR/CITY ADMINISTRATOR ITEM

UNFINISHED BUSINESS ITEMS:

None

NEW BUSINESS ITEMS:

Alderman Reimer moved and Alderman Violet seconded the motion to remove Depository Agreement for City Funds Recommendation from the agenda for discussion. The motion was approved.

DEPOSITORY AGREEMENT FOR CITY FUNDS RECOMMENDATION - BATZEL

Mr. Batzel explained that Enterprise Bank became the City's depository for its financial and banking services on June 1, 2016, and opted to renew for two years in 2018. The City of St. Peters solicited bids from banks located from St. Peters and received two bids. Staff is recommending awarding a renewal contract to Enterprise Bank at 300 St. Peters Centre Boulevard; which fulfills all the requirements of the RFP, for the period of June 1, 2020 to May 31, 2022, with an option to renew for a second two year period. No comments or questions from the Board of Aldermen. Alderman Violet moved and Alderman Barclay seconded the motion to place this item on the April 9, 2020 Board of Aldermen meeting agenda. The motion was approved. **This item will be placed on the April 9, 2020 Board of Aldermen meeting agenda for consideration.**

## MISCELLANEOUS UPDATES – BATZEL

- NATATORIUM PROJECTS BID SCHEDULE UPDATE

Mr. Batzel gave an update on the five (5) natatorium projects at the Rec-Plex that were discussed during the Pre-CIP Budget meeting earlier this year. Mr. Batzel stated that the projects involving the curtain wall replacement, skylight replacement, pool and spa refurbishment and painting and tiling in the natatorium have gone out to bid. Mr. Batzel advised these projects are timely as staff will need to shut down the Rec-Plex indoor pool for 60 days. Mr. Batzel advised that staff is requesting these items to be placed on both the Work Session and Board of Aldermen meetings on April 9<sup>th</sup>. No comments or questions from the Board of Aldermen. Alderman Violet moved and Alderman Townsend seconded the motion to place this item on the April 9, 2020 Board of Aldermen meeting agenda. The motion was approved. **This item will be placed on the April 9, 2020 Board of Aldermen meeting agenda for consideration.**

## BOARD MEETING AGENDA ITEM REVISIONS – BATZEL

None

EXECUTIVE SESSION RE: LITIGATION, REAL ESTATE AND PERSONNEL,  
PURSUANT TO SECTION 610.021 (1)(2)(3)(9)(12)(13)(14) & 610.022 (1-6)

No Executive Session was called at this time.

## ADJOURNMENT OF THE WORK SESSION

Alderman Bateman moved and Alderman Reimer seconded the motion to adjourn the Work Session meeting. The motion was approved and the Work Session meeting was adjourned at approximately 6:16 p.m.

Submitted by,

Scott Baumgartner  
Deputy City Clerk



CITY OF ST. PETERS CITY HALL  
BOARD OF ALDERMEN REGULAR MEETING MINUTES  
MARCH 26, 2020

CALL TO ORDER

Mayor Pagano called the Board of Aldermen meeting to order at approximately 6:30 p.m. on March 26, 2020, at the St. Peters Justice Center located at 1020 Grand Teton Drive. Scott Baumgartner, Deputy City Clerk, called the roll. Present were: Mayor Pagano; Alderman Barclay; Board President Bateman; Alderman Reimer; Alderman Townsend; Alderman Trupiano; Alderman Violet; Chief of Police, Rick Struttmann; City Administrator, Russ Batzel; City Attorney, Randy Weber; and Deputy City Clerk, Scott Baumgartner. Alderman Hollingsworth and Alderman Reitmeyer were absent. Steve Koeneman delivered the Invocation. Mayor led the Pledge of Allegiance.

APPROVAL OF MINUTES: THE BOARD OF ALDERMEN WORK SESSION MEETING OF MARCH 12, 2020 AND THE REGULAR BOARD OF ALDERMEN MEETING OF MARCH 12, 2020

Alderman Townsend moved and Alderman Reimer seconded the motion to approve the Board of Aldermen Work Session meeting minutes of March 12, 2020 and the Regular Board of Aldermen meeting minutes of March 12, 2020. All in favor, the motion carried and the minutes were approved.

REPORTS OF OFFICERS, BOARDS AND COMMISSIONS

MAYORAL REPORT OF APPOINTMENTS TO BOARDS AND COMMISSIONS

None

CITY ADMINISTRATOR'S REPORT

None

REPORT OF DIRECTOR OF PLANNING, COMMUNITY AND ECONOMIC DEVELOPMENT

None

ST. PETERS BUSINESS SPOTLIGHT: NONE

OPEN FORUM

CITIZENS PETITIONS AND COMMENTS

None

COMMUNICATIONS FROM THE ELECTED OFFICIALS

Elected Officials made comments during this time.

ANNOUNCEMENTS

PUBLIC HEARINGS:

VOLUNTARY ANNEXATION – DENNIS AND JOYCE SPIES, 8 LE-JER – POWERS

Julie Powers presented the Voluntary Annexation of the Dennis and Joyce Spies property located at 8 Le-Jer Lane. This item will be on the next Planning and Zoning Commission meeting and placed on a future Board of Aldermen meeting agenda to finalize the annexation. Mayor Pagano opened the Public Hearing at 6:50 p.m., and asked anyone wishing to speak on this annexation to please come forward. Seeing no one present to comment, Mayor Pagano closed the Public Hearing at 6:51 p.m.

VOLUNTARY ANNEXATION – JON AND AMANDA SIMMONDS, 1911 OAK TREE STREET – POWERS

Ms. Powers presented the Voluntary Annexation of the Jon and Amanda Simmonds property located at 1911 Oak Tree Street. This item will be on the next Planning and Zoning Commission meeting and placed on a future Board of Aldermen meeting agenda to finalize the annexation. Mayor Pagano opened the Public Hearing at 6:51 p.m., and asked anyone wishing to speak on this annexation to please come forward. Seeing no one present to comment, Mayor Pagano closed the Public Hearing at 6:52 p.m.

UNFINISHED BUSINESS ITEMS: NONE

NEW BUSINESS ITEMS

MOTION/APPROVED: BILL NO. 20-32: ORDINANCE NO. 7286: AN ORDINANCE APPROVING A RECORD PLAT WITHIN THE CITY OF ST. PETERS, MISSOURI, FOR THE PURPOSE OF RECORDING IN ST. CHARLES COUNTY, MISSOURI (OAK CREEK HILLS PLAT 1 RESUBDIVISION OF LOTS 56, 57, 96 AND 97)

Alderman Reimer moved and Alderman Trupiano seconded the motion to introduce the Bill. The motion carried. Alderman Reimer moved and Alderman Trupiano seconded the motion to read Bill No. 20-32 for the first time. The motion carried and Alderman Barclay read the Bill. Alderman Townsend moved and Alderman Trupiano seconded the motion to read the Bill for the second time. The motion carried and Alderman Reimer read the Bill. Alderman Bateman moved and Alderman Reimer seconded the motion to put the Bill to a final vote. Motion approved and Bill No. 20-32 passed becoming Ordinance No. 7286.

Barclay: Yes Reimer: Yes Hollingsworth: Absent Reitmeyer: Absent  
Trupiano: Yes Violet: Yes Bateman: Yes Townsend: Yes  
AYES: 6 NAYS: 0 ABSTENTIONS: 0 ABSENT: 2 MAYOR:

MOTION/APPROVED: BILL NO. 20-33: ORDINANCE NO. 7287: AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF ST. PETERS, MISSOURI, TO ENTER INTO A CONTRACT WITH FABICK CAT FOR THE PURCHASE OF A TEN (10) TON UTILITY ROLLER

Alderman Reimer moved and Alderman Townsend seconded the motion to introduce the Bill. The motion carried. Alderman Reimer moved and Alderman Townsend seconded the motion to read Bill No. 20-33 for the first time. The motion carried and Alderman Townsend read the Bill. Alderman

Barclay moved and Alderman Bateman seconded the motion to read the Bill for the second time. The motion carried and Alderman Trupiano read the Bill. Alderman Violet moved and Alderman Townsend seconded the motion to put the Bill to a final vote. Motion approved and Bill No. 20-33 passed becoming Ordinance No. 7287.

Barclay: Yes Reimer: Yes Hollingsworth: Absent Reitmeyer: Absent  
Trupiano: Yes Violet: Yes Bateman: Yes Townsend: Yes  
AYES: 6 NAYS: 0 ABSTENTIONS: 0 ABSENT: 2 MAYOR:

EXECUTIVE SESSION RE: LITIGATION, REAL ESTATE AND PERSONNEL, PURSUANT TO SECTION 610.021 (1)(2)(3)(9)(12)(13)(14) & 610.022 (1-6)

No Executive Session called at this time.

#### ADJOURNMENT

Alderman Violet moved and Alderman Trupiano seconded the motion to adjourn the Regular Board of Aldermen meeting. Motion approved and the Regular Board of Aldermen meeting adjourned at approximately 6:58 p.m.

Respectfully submitted,

Scott Baumgartner  
Deputy City Clerk

ORDINANCE NO.

AN ORDINANCE DESIGNATING THE DEPOSITORY OF THE CITY OF ST. PETERS FUNDS FOR A PERIOD ENDING MAY 31, 2022 PURSUANT TO SECTION 95.355 REVISED STATUTES OF MISSOURI

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI AS FOLLOWS:

SECTION NO. 1. That Enterprise Bank be and hereby is designated as the depository bank for the City of St. Peters, Missouri, until May 31, 2022.

SECTION NO. 2. That the Treasurer of the City of St. Peters deposit all monies of the City of St. Peters in demand deposit accounts or savings accounts in the depository bank designated in Section No. 1 of this ordinance. This excludes monies that may be invested from time to time in instruments approved in the City Investment Policy and monies held in various trust accounts that may be established by the Board of Aldermen for designated purposes.

SECTION NO. 3. That the depository of the funds of the City of St. Peters comply with the provisions of Section 110.010 and 110.020 of the Revised Statutes of Missouri.

SECTION NO. 4. That a bank services agreement between the City of St. Peters and the depository bank named in Section No. 1 of this Ordinance be executed on behalf of the City of St. Peters by the City Administrator and that his signature thereto be attested to by the City Clerk of the City of St. Peters.

SECTION NO. 5. This Ordinance shall be in force and effect from and after June 1, 2020.

Read two (2) times, passed and approved this 9th day of April, 2020.

\_\_\_\_\_  
Len Pagano, As Presiding Officer and as Mayor

Attest: \_\_\_\_\_  
Patricia E. Smith, City Clerk

No.

CITY OF ST. PETERS, MISSOURI  
DEPOSITORY AGREEMENT FOR  
CITY FUNDS

This agreement is made and entered into by and between the City of St. Peters, Missouri, hereinafter referred to as "City" and Enterprise Bank., hereinafter referred to as "Enterprise Bank".

For the consideration hereinafter set forth, Enterprise Bank agrees to serve in the capacity of depository of City funds for the period of June 1, 2020 to May 31, 2022. The scope of such services will be as outlined in the City's Request for Proposal (RFP) dated February 28, 2020 and the Enterprise Bank proposal dated March 13, 2020, both of which are made a part of this agreement by reference and are on file in the City Clerk's Office. The compensation to Enterprise Bank for such services and the guaranteed interest rates to the city will be as outlined on Exhibit I in Enterprise Bank's proposal.

At the option of the City, this agreement may be extended for an additional two years at the same terms and conditions.

Fees for future services requested by the City that were not addressed in the RFP will be at the standard fee schedule for Commercial accounts. Changes in fees charged by the Federal Reserve will be passed through to the City at the same fee as that charged Enterprise Bank.

Enterprise Bank shall not, in the performance of this Agreement, discriminate against any person because of his/her race, sex, age or political or religious opinions or affiliations.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by the proper officers on this \_\_\_\_ day of April 2020.

CITY OF ST. PETERS, MISSOURI

\_\_\_\_\_  
Russell W. Batzel, City Administrator

Attest: \_\_\_\_\_  
Patricia A. Smith, City Clerk

IN WITNESS WHEREOF, U.S. Bank N.A. has caused this Agreement to be executed by the proper officers on this \_\_\_\_\_ day of April 2020.

ENTERPRISE BANK.

Attest: \_\_\_\_\_

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF ST. PETERS, MISSOURI, TO ENTER INTO AN AGREEMENT WITH RONALD G. THEBY AND LESLIE ELIZABETH THEBY FOR A PERMANENT STORM SEWER EASEMENT LOCATED WITHIN TIMBERIDGE SUBDIVISION PLAT TWO

WHEREAS, it is in the best interest of the inhabitants of the City of St. Peters, Missouri, to make improvements to and maintain City owned utilities and to control and facilitate stormwater flow within the City; and

WHEREAS, construction of a storm sewer located within Timberidge subdivision necessitates obtaining a permanent storm sewer easement from Ronald G. Theby and Leslie Elizabeth Theby, husband and wife.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI, AS FOLLOWS:

SECTION 1. The City does hereby accept and agrees to said permanent storm sewer easement, and the City Administrator of the City of St. Peters, Missouri, be and is hereby authorized to execute on behalf of the City of St. Peters, Missouri, a Permanent Storm Sewer Easement Agreement, in substantially the form attached hereto and made a part hereof, with Ronald G. Theby and Leslie Elizabeth Theby.

SECTION 2. The City Clerk is hereby directed to cause said Permanent Storm Sewer Easement Agreement to be recorded in the office of the Recorder of Deeds of St. Charles County, Missouri.

SECTION 3. Savings Clause

Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 4. Severability Clause

If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced

No.

to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision, which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 5. This ordinance shall be in full force and take effect from and after the date of its final passage and approval.

Read two times, passed, and approved this 9<sup>th</sup> day of April, 2020.

\_\_\_\_\_  
Len Pagano, as Presiding Officer and as Mayor

Attest: \_\_\_\_\_  
Patricia E. Smith, City Clerk

No.

## Permanent Storm Sewer Easement Agreement

*This Agreement*, made and entered into as of the 20<sup>th</sup> day of March, 2020 by and between Ronald G. Theby and Leslie Elizabeth Theby, whose mailing address is 116 Timber Run, St. Peters, Missouri 63376 (hereinafter referred to as “GRANTOR”), and the City of St. Peters, Missouri, a fourth class city and a political subdivision of the State of Missouri, whose mailing address is P.O. Box 9, St. Peters, Missouri 63376 (hereinafter “GRANTEE”).

*Witnesseth*, that the GRANTOR, for and in consideration of the sum of \$1.00 and other good and valuable consideration paid by the said GRANTEE, the receipt and sufficiency of which are hereby acknowledged, do by these presents *Grant* unto the said GRANTEE,

*A Perpetual Right and Non-Exclusive Easement*, for the purposes of constructing, re-constructing, using, and patrolling storm sewer lines and other appurtenances thereto, in, on, upon, along, over, under, through and across the herein easement as described on Exhibits “A” and “B”, attached hereto and incorporated by reference herein (the “Easement Area”). The GRANTEE shall have the right to survey, stake, slope, alter existing grade of, reshape, construct, reconstruct, install, place, keep, operate, maintain, inspect, control, add to and relocate at will, at any time, and from time to time, the storm sewer line(s), pipes and other appurtenances associated therewith, including, without limitation, the right of ingress and egress to and over the above described Easement Area and premises of GRANTOR adjoining the same, for all purposes herein stated; together with the right at any time and from time to time, to trim and cut down any and all brush, saplings, trees and overhanging branches, and remove same and any vegetation and/or any rocks or other obstructions upon, over, and under said Easement Area or any portion thereof for the purposes hereinabove set out, and with the further right at any time and from time to time, to remove any or all of the said improvements and appurtenances thereto located upon, over across and under said Easement Area by virtue hereof. GRANTEE covenants and agrees that after any construction or work done on and to the Easement Area herein granted, that it will restore property of the GRANTOR to substantially its prior condition, to the extent practicable.

GRANTOR, for itself, its successors and assigns, does hereby warrant and covenant unto GRANTEE (1) that GRANTOR is the owner of the above described Easement Area and has full right and authority validly to grant this easement, (2) that GRANTEE may quietly enjoy the Easement Area for the purposes herein stated, and (3) that GRANTOR will not interfere with the exercise and enjoyment of the easement rights hereinabove conveyed.

All provisions of this instrument, including the benefits and burdens, are deemed to be covenants running with the land and are binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

All of which is Subject to all easements, restrictions, conditions and rights of way, now of record, if any.

*To Have and to Hold* the said *Easement*, together with all rights and appurtenances to the same belonging unto the said **GRANTEE**, and to its successors and assigns forever.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

DRAFT



**GRANTOR:**

By: Leslie Elizabeth Theby  
Leslie Elizabeth Theby

STATE OF MISSOURI            )  
  ) SS.  
COUNTY OF ST. CHARLES    )

On this 20 day of March, 2020, before me appeared Leslie Elizabeth Theby, to me personally known, to be the person described in and who executed the foregoing instrument acknowledged that she executed the same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written

Kathy Summers  
Notary Public

My Commission Expires:

KATHY SUMMERS  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for St. Charles County  
My Commission Expires: October 16, 2021  
Commission Number: 13678256

**GRANTEE:**

**CITY OF ST. PETERS MISSOURI**

a Missouri municipal corporation

By: \_\_\_\_\_  
Russell W. Batzel, City Administrator

SEAL

STATE OF MISSOURI                    }  
  }SS.  
COUNTY OF ST, CHARLES         }

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me appeared, Russell W. Batzel, who being by me duly sworn, did say that he is the City Administrator of the City of St. Peters, Missouri, a Municipal Corporation of the State of Missouri, that the seal affixed to the foregoing instrument is the seal of said City, that said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen; and, that said City Administrator acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed by official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:



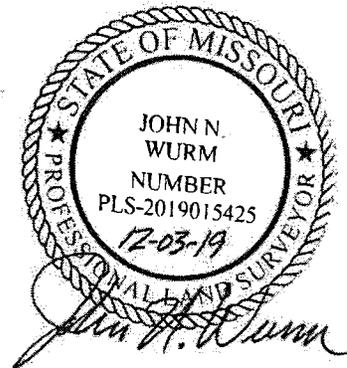
ENGINEERING  
PLANNING  
SURVEYING

EXHIBIT B

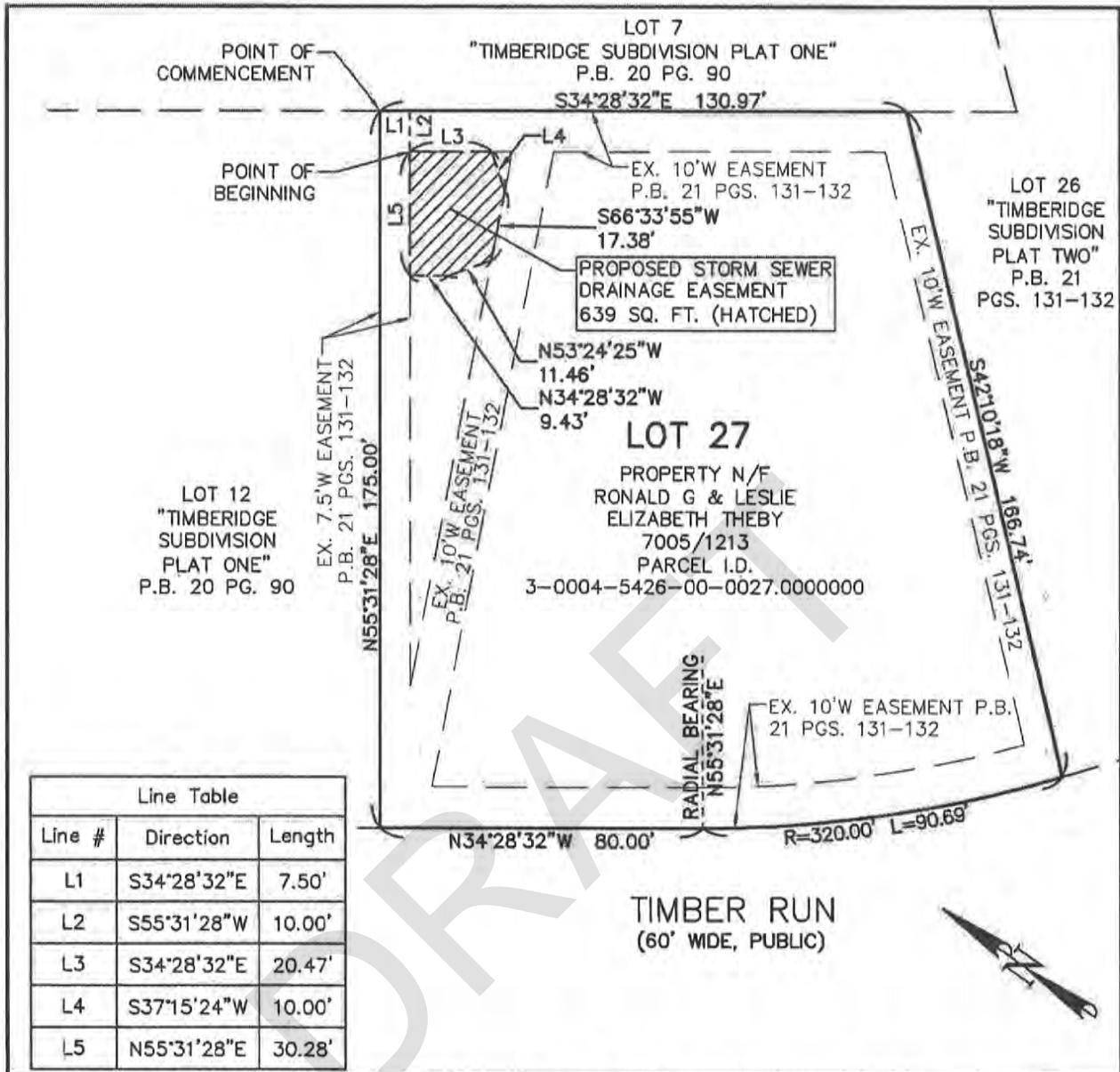
LAND DESCRIPTION  
BAX PROJECT NO. 18-17377L  
639 SQUARE FEET  
DECEMBER 03, 2019  
JNW

A TRACT OF LAND BEING PART OF LOT 27 OF "TIMBERIDGE SUBDIVISION PLAT TWO", A SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 21 PAGES 131-132 OF THE ST. CHARLES COUNTY RECORDS, TOWNSHIP 46 NORTH, RANGE 4 EAST, CITY OF ST. PETERS, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERN CORNER OF LOT 27 OF "TIMBERIDGE SUBDIVISION PLAT TWO" OF SAID RECORDS; THENCE ALONG THE NORTHEAST LINE OF SAID LOT 27 OF "TIMBERIDGE SUBDIVISION PLAT TWO" SOUTH 34 DEGREES 28 MINUTES 32 SECONDS EAST 7.50 FEET; THENCE DEPARTING THE SAID NORTHEAST LINE OF SAID LOT 27 OF "TIMBERIDGE SUBDIVISION PLAT TWO" SOUTH 55 DEGREES 31 MINUTES 28 SECONDS WEST 10.00 FEET TO THE ACTUAL POINT OF BEGINNING OF THE TRACT OF LAND DESCRIBED HEREIN; THENCE ALONG THE FOLLOWING COURSES AND DISTANCES: SOUTH 34 DEGREES 28 MINUTES 32 SECONDS EAST 20.47 FEET; SOUTH 37 DEGREES 15 MINUTES 24 SECONDS WEST 10.00 FEET; SOUTH 66 DEGREES 33 MINUTES 55 SECONDS WEST 17.38 FEET; NORTH 53 DEGREES 24 MINUTES 25 SECONDS WEST 11.46 FEET; NORTH 34 DEGREES 28 MINUTES 32 SECONDS WEST 9.43 FEET; AND NORTH 55 DEGREES 31 MINUTES 28 SECONDS EAST 30.28 FEET TO THE POINT OF BEGINNING AND CONTAINING 639 SQUARE FEET ACCORDING TO CALCULATIONS BY BAX ENGINEERING DURING DECEMBER, 2019.



BAX ENGINEERING CO.  
221 Point West Blvd.  
St. Charles, MO 63301  
636-928-5552 FAX 928-1718



Line Table		
Line #	Direction	Length
L1	S34°28'32"E	7.50'
L2	S55°31'28"W	10.00'
L3	S34°28'32"E	20.47'
L4	S37°15'24"W	10.00'
L5	N55°31'28"E	30.28'

**BAX ENGINEERING CO.**  
221 POINT WEST BLVD.  
ST. CHARLES, MO 63301  
636-928-5552

EXHIBIT A

DATE: 12/03/19  
DRAWN: JNW  
SCALE: 1"=40'  
PROJECT: 18-17377L  
FILE: 17377L27PUE  
SHEET: 1 OF 1

MISSOURI STATE  
CERTIFICATE OF  
AUTHORITY  
SURVEYING:  
#000144

**STORM SEWER DRAINAGE EASEMENT**

LOT 27 OF  
"TIMBERIDGE SUBDIVISION PLAT TWO",  
PLAT BOOK 21, PAGES 131-132  
TOWNSHIP 46 NORTH, RANGE 4 EAST  
CITY OF ST. PETERS,  
ST. CHARLES COUNTY, MISSOURI

GENERAL NOTES:  
1. BASIS OF BEARINGS ARE ADOPTED FROM THE PLAT OF RECORD.  
2. THIS EXHIBIT DOES NOT CONSTITUTE A PROPERTY BOUNDARY SURVEY PURSUANT TO MISSOURI STANDARDS.

STATE OF MISSOURI  
PROFESSIONAL LAND SURVEYOR  
JOHN N. WURM  
NUMBER  
PLS-2019015425  
12-03-19  
JOHN N. WURM  
PROFESSIONAL LAND SURVEYOR  
PLS NO. 2019015425

**ORDINANCE NO.**

**AN ORDINANCE REPEALING ORDINANCE NO. 7280 OF THE CITY AND ENACTING IN LIEU THEREOF AN ORDINANCE AUTHORIZING THE CITY OF ST. PETERS, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (MEDLINE INDUSTRIES, INC. PROJECT), SERIES 2020, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$61,500,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING AND CONSTRUCTING A FACILITY FOR AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.**

**WHEREAS**, the City of St. Peters, Missouri, a fourth-class city and political subdivision of the State of Missouri (the “City”), is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), to purchase, construct, improve and equip certain projects (as defined in the Act), to issue industrial revenue bonds for the purpose of providing funds to pay the costs of such projects, and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, office industry, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

**WHEREAS**, on February 27, 2020, the City adopted Ordinance No. 7280 (1) authorizing the issuance of Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020, in the maximum principal amount of \$50,500,000 (the “Bonds”), for the purpose of acquiring certain real property known as Lot 38 of the Premier 370 Business Park in the City (as legally described in the hereinafter-defined Lease Agreement, the “Project Site”) and constructing an approximately 800,000 square foot distribution center thereon (the “Project Improvements” and together with the Project Site, the “Project”) to be occupied by Medline Industries, Inc., an Illinois corporation (the “Company”), all as more fully described in the Indenture and in the Lease Agreement hereinafter authorized; and (2) approving a Plan for an Industrial Development Project and Cost/Benefit Analysis (the “Original Plan”) prepared in accordance with the Act; and

**WHEREAS**, the Bonds have not been issued and delivered as of the date hereof and the documents approved by Ordinance No. 7280 have not been executed and delivered and have no effect as of the date hereof;

**WHEREAS**, due to an increase in the estimated amount of Project costs, the Company has requested that the maximum principal amount of the Bonds be increased to \$61,500,000, which requires that Ordinance No. 7280 be repealed and an Amended Plan for an Industrial Development Project and Cost/Benefit Analysis (the “Amended Plan”) be prepared by the City; and

**WHEREAS**, notice of the City’s consideration of the Amended Plan has been given in the manner required by the Act, and the Board of Aldermen has fairly and duly considered all comments submitted to the Board of Aldermen regarding the proposed Amended Plan; and

**WHEREAS**, the Board of Aldermen hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City: (1) repeal Ordinance No. 7280, (2) approve the Amended Plan pursuant to the Act; (3) issue the Bonds in a maximum principal amount of \$61,500,000 to finance the costs of the Project from the proceeds of the Bonds, subject to certain terms and conditions set forth in this Ordinance; (4) lease the Project to the Company; and (5) enter into a Performance Agreement with the Company, under which the Company will make certain payments to the City in consideration of the City issuing the Bonds; and

**WHEREAS**, the Board of Aldermen further finds and determines that it is necessary and desirable in connection with the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI, AS FOLLOWS:**

**Section 1. Repeal of Ordinance No. 7280.** Ordinance No. 7280 is hereby repealed in its entirety.

**Section 2. Approval of the Amended Plan.** The Board of Aldermen hereby approves the Amended Plan attached as **Exhibit A** hereto.

**Section 3. Authorization for the Project.** The City is hereby authorized to provide for the acquisition, construction and improvement of the Project, all in the manner and as more particularly described in the Indenture and the Lease Agreement hereinafter authorized.

**Section 4. Authorization of the Bonds.** The City is hereby authorized to issue and sell the Bonds in the maximum principal amount of \$61,500,000 as described in the recitals hereto for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the Indenture and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

**Section 5. Limited Obligations.** The Bonds and the interest thereon shall be limited obligations of the City, payable solely out of certain payments, revenues and receipts derived by the City from the Lease Agreement. Such payments, revenues and receipts shall be pledged and assigned to the bond trustee named therein (the "Trustee") as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State of Missouri (the "State") or any political subdivision thereof, and neither the City nor the State shall be liable thereon. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

**Section 6. Authorization of Documents.** The City is hereby authorized to enter into the following documents (the "City Documents"), in substantially the forms presented to and approved by the Board of Aldermen and attached to this Ordinance, with such changes therein as shall be approved by the officials of the City executing the documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture (the "Indenture") between the City and the Trustee, in substantially the form attached hereto as **Exhibit B**, pursuant to which the Bonds will be issued, and the City will pledge the Project and assign certain of the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Indenture.

(b) Ground Lease between MRE SPMO, LLC (f/k/a MRE SPMI, LLC), a Missouri limited liability company and wholly-owned subsidiary of the Company (“MRE SPMO”), and the City, in substantially the form attached hereto as **Exhibit C**, under which the City will acquire a leasehold interest in the Project Site during the term of the construction of the Project Improvements.

(c) Lease Agreement (the “Lease Agreement”) between the City and the Company, in substantially the form attached hereto as **Exhibit D**, under which the City will lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

(d) Bond Purchase Agreement between the City and the Company, in substantially the form attached hereto as **Exhibit E**, for the purchase of the Bonds.

(e) Performance Agreement among the City, the Company and MRE SPMO, in substantially the form attached hereto as **Exhibit F**.

(f) Special Warranty Deed between MRE SPMO, as grantor, and the City, as grantee, in substantially the form attached hereto as **Exhibit G**, under which the City will acquire the Project Site and Project Improvements following completion of the construction of the Project Improvements.

**Section 7. Execution of Documents.** The Mayor is hereby authorized to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor is hereby authorized to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 8. Further Authority.** The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor is hereby authorized, through the term of the Lease Agreement, to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing of the Project by the Company, and such easements, licenses, rights-of-way, plats and similar documents as may be requested by the Company) as may be required to carry out and comply with the intent of this Ordinance, the Indenture and the Lease Agreement. The Mayor is also authorized, unless otherwise expressly provided herein to the contrary, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Indenture, the Lease Agreement or the Performance Agreement, including extensions of the Completion Date (as defined in the Indenture), as may be requested during the terms thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease Agreement, waive an Event of Default (as defined in the Indenture and the Lease Agreement), or materially change the nature of the transaction unless approved by an ordinance of the Board of Aldermen.

**Section 9. Savings.** Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

**Section 10. Severability.** If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

**Section 11. Effective Date.** This Ordinance shall take effect and be in full force immediately after its passage and approval.

Read and adopted this 9<sup>th</sup> day of April, 2020.

\_\_\_\_\_  
Len Pagano, Mayor and as Presiding Officer

Attest: \_\_\_\_\_  
Patricia E. Smith, City Clerk

**EXHIBIT A**

**CITY OF ST. PETERS, MISSOURI**

**AMENDED  
PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
AND  
COST/BENEFIT ANALYSIS**

**FOR**

**MEDLINE INDUSTRIES, INC.**

DRAFT

**EXHIBIT B**  
**TRUST INDENTURE**

DRAFT

**EXHIBIT C**  
**GROUND LEASE**

DRAFT

**EXHIBIT D**  
**LEASE AGREEMENT**

DRAFT

**EXHIBIT E**

**BOND PURCHASE AGREEMENT**

DRAFT

**EXHIBIT F**  
**PERFORMANCE AGREEMENT**

DRAFT

**EXHIBIT G**

**SPECIAL WARRANTY DEED**

DRAFT

**EXHIBIT A**

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**CITY OF ST. PETERS, MISSOURI**

**AMENDED  
PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
AND  
COST/BENEFIT ANALYSIS**

**FOR**

**MEDLINE INDUSTRIES, INC.**

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CITY OF ST. PETERS, MISSOURI

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AMENDED  
PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
AND  
COST/BENEFIT ANALYSIS  
MEDLINE INDUSTRIES, INC.

**I. PURPOSE OF THIS PLAN**

The City of St. Peters, Missouri (the “City”) intends to issue taxable industrial revenue bonds in a principal amount not to exceed \$61,500,000 (the “Bonds”) to finance the costs of a proposed industrial development project (as further defined herein, the “Project”) for the benefit of Medline Industries, Inc., an Illinois corporation (as further-defined below, “Company”). The Bonds will be issued pursuant to the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri (“Chapter 100”) and Article VI, Section 27(b) of the Missouri Constitution (collectively with Chapter 100, the “Act”).

Gilmore & Bell, P.C. has prepared this Amended Plan for an Industrial Development Project and Cost/Benefit Analysis (the “Plan”) on behalf of the City to satisfy requirements of the Act and to analyze the potential costs and benefits, including the related tax impact on all affected taxing jurisdictions, of using industrial revenue bonds to finance the Project and to facilitate abatement of ad valorem taxes on the bond-financed property.

**II. DESCRIPTION OF CHAPTER 100 FINANCINGS**

**General.** Chapter 100 authorizes any county, city, incorporated town or village of the State to issue industrial revenue bonds to finance the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities which provide interstate commerce, and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures, and machinery. In addition, Article VI, Section 27(b) of the Missouri Constitution authorizes any county, city or incorporated town or village of the state to issue revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing, extending or improving any facility to be leased or otherwise disposed of for manufacturing, commercial, warehousing and industrial development purposes, including the real estate, buildings, fixtures and machinery.

**Issuance and Sale of Bonds.** Revenue bonds issued pursuant to the Act do not require voter approval and are payable solely from revenues received from a lease or other disposition of the project. The municipality issues its revenue bonds and in exchange, the benefited company promises to make payments that are sufficient to pay the principal of and interest on the bonds as they become due. Thus, the municipality merely acts as a conduit for the financing.

Concurrently with the closing of the revenue bonds, the company will typically convey title or lease the site on which the industrial development project will be located to the municipality. (The municipality must be the legal owner of the property while the revenue bonds are outstanding for the property to be eligible for tax abatement, as further described below.) At the same time, the municipality will lease the project site and the improvements thereon back to the benefited company pursuant to a lease agreement. The lease agreement will require the company, acting on behalf of the municipality, to use the bond proceeds to purchase and construct the project.

Under the lease agreement, the company typically: (1) unconditionally agrees to make payments sufficient to pay the principal of and interest on the bonds as they become due; (2) agrees, at its own

expense, to maintain the project, to pay all taxes and assessments with respect to the project, and to maintain adequate insurance; (3) may, at its own expense, make certain additions, modifications or improvements to the project; (4) may assign its interests under the lease agreement or sublease the project while remaining responsible for payments under the lease agreement; (5) covenants to maintain its corporate existence during the term of the bond issue; and (6) agrees to indemnify the municipality for any liability the municipality might incur as a result of its participation in the transaction.

**Property Tax Abatement.** Under Article X, Section 6 of the Missouri Constitution and Section 137.100 of the Revised Statutes of Missouri, all property of any political subdivision is exempt from taxation. In a typical Chapter 100 transaction, the municipality holds fee title to the project and leases the project to the benefited company. Although the Missouri Supreme Court has held that the leasehold interest is taxable, it is taxable only to the extent that the economic value of the lease is less than the actual market value of the lease. See *Iron County v. State Tax Commission*, 437 S.W.2d 665 (Mo. 1968)(*en banc*) and *St. Louis County v. State Tax Commission*, 406 S.W.2d 644 (Mo. 1966)(*en banc*). If the rental payments under the lease agreement equal the actual debt service payments on the bonds, the leasehold interest should have no “bonus value,” and the bond-financed property should be exempt from ad valorem taxation while the revenue bonds are outstanding.

If the municipality and the company determine that partial tax abatement is desirable, the company may agree to make payments in lieu of taxes (sometimes referred to as “PILOTS”). The amount of payments in lieu of taxes is negotiable. The payments in lieu of taxes are payable by December 31 of each calendar year, and are distributed to the municipality and to each political subdivision within the boundaries of the project in the same manner and in the same proportion as property taxes would otherwise be distributed under Missouri law.

**Sales Tax Exemption.** In addition to property tax abatement, qualified building materials can be exempt from sales tax if approved by the municipality. The sales tax exemption is evidenced by a project exemption certificate issued by the municipality.

### III. DESCRIPTION OF THE PARTIES

**Medline Industries, Inc.** The Company is an Illinois corporation whose principal business is distributing medical supplies and equipment to hospitals, nursing homes, surgery centers, home health care and physician offices.

**MRE SPMO, LLC.** MRE SPMO, LLC (“MRE SPMO”) is a Missouri limited liability company and wholly-owned subsidiary of the Company. MRE SPMO is the owner of the herein-defined Project Site. For purposes of this Plan, “Company” will include Medline and MRE SPMO.

**City of St. Peters, Missouri.** The City is a fourth-class city and a political subdivision of the State of Missouri.

### IV. REQUIREMENTS OF THE ACT

**A. Description of the Project.** The Company intends to construct an approximately 800,000 square foot distribution center (the “Project Improvements”) on approximately 49 acres of land located at Lot 38 on Premier Parkway within the 370 Business Park in the City (the “Project Site” and, together with the Project Improvements, the “Project”). The Project Improvements, which are expected to be substantially complete by the end of 2020, will be used for distribution purposes.

**B. Estimate of the Costs of the Project.** The acquisition of the Project Site (approximately \$6,200,000), site improvements (approximately \$11,300,000) and construction of the Project Improvements (approximately \$44,000,000) are expected to cost \$61,500,000.

**C. Source of Funds to be Expended for the Project.** The source of funds to be expended for the Project will be the proceeds of the Taxable Industrial Revenue Bonds to be issued by the City in the maximum principal amount of \$61,500,000, which will be purchased by the Company. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project (as further described below). The Bonds will not be an indebtedness or general obligation, debt or liability of the City or the State of Missouri.

**D. Statement of the Terms Upon Which the Project is to be Leased or Otherwise Disposed of by the City.** During the construction period, the Company will lease the Project Site to the City. After construction of the Project Improvements is complete, the Company will convey fee title to the Project Site and Project Improvements to the City and the City will lease the Project Site and Project Improvements constructed thereon to the Company. The lease payments to the City will equal the principal and interest on the Bonds, plus certain payments in lieu of taxes. The Company will have the option to purchase the Project at the termination of the lease for a nominal price. The lease between the City and the Company will terminate on December 31, 2030, unless terminated sooner pursuant to the terms thereof.

**E. Affected School District, Community College District, County, City and Emergency Service Districts.** The Ft. Zumwalt School District is the school district affected by the Project. The St. Charles Community College is the community college affected by the Project. St. Charles County, Missouri is the county affected by the Project. The City of St. Peters is the city affected by the Project. The St. Charles County Ambulance District, Central County Fire and Rescue and the St. Charles County Dispatch and Alarm are the emergency service districts affected by the Project (collectively, the "Emergency Service Districts"). The Cost/Benefit Analysis attached hereto identifies all other taxing districts affected by the Project (other than those taxing entities solely affected by the Project with respect to receipt of tax revenues from the commercial surcharge tax).

**F. Current Assessed Valuation.** The most recent equalized assessed valuation of the real property included in the Project is \$76,369, consisting of a residential assessed value of \$61,380 for the existing improvements on the Project Site and an agricultural value of \$14,989 for the land. The Company recently purchased the real property, consisting of 52 acres, for approximately \$6,200,000. The Project Site consists of 49 acres of this site. The estimated appraised value of the Project after completion is \$44,000,000, which is equal to the estimated Project Improvement costs. The total estimated equalized assessed valuation after development of the Project is \$14,080,000, which is equal to 32% of the estimated appraised value of the Project.

**G. Payments in Lieu of Taxes.** If this Plan is approved by the Board of Aldermen, the City intends to issue the Bonds, to take possession of the Project and to extend tax abatement to the Company. The Company will make payments in lieu of taxes on the Project based on the number of "Quality Jobs" the Company creates and maintains.

"Quality Jobs" means full-time equivalent positions with the Company, (1) the duties of which positions shall be performed in the City, (2) who shall be scheduled to work an average of at least 35 hours per week, and (3) who shall be offered health insurance whereby the Company pays at least 50% of the insurance premiums. The overall average total paid wage of the Quality Jobs must be no less than \$12.50/hour. The total paid wage per employee will be calculated as the total of base pay (excluding bonuses, commissions and overtime), divided by 2,080 hours per year.

The Company currently expects to create and maintain the following number of Quality Jobs during the abatement period:

<u>Year</u>	<u>Number of Quality Jobs</u>
2021	75
2022-2030	150

The Company will make payments in lieu of taxes equal to 100% of the amount of taxes that would be due, but for the City's ownership of the Project Site (land only) for the duration of time the Project Site is owned by the City (expected to be 2020-2030). The Company will make payments in lieu of taxes in 2020 equal to 100% of the amount of property taxes that would be due on the Project Improvements, if any, but for the City's ownership thereof. The payments in lieu of taxes on the land and on the Project Improvements in 2020 will be disbursed to the respective taxing districts in the same proportion as the then-current ad valorem tax levy of each taxing district. For the period 2021-2030, the Company will make annual payments in lieu of taxes on the Project Improvements in an amount to be calculated each year as follows:

$$[100 - (0.5 \text{ multiplied by the number of Quality Jobs})]\%$$

of the ad valorem real property taxes that would have been otherwise payable on the Project Improvements but for the City's ownership thereof, but in no event will the tax abatement exceed 50%.

Example: If the Company has 60 Quality Jobs in a given year, the Company must make payments in lieu of taxes for that year equal to 70% of the ad valorem real property taxes that would have been otherwise payable on the Project Improvements but for the City's ownership thereof. If the Company has 150 Quality Jobs in a given year, the Company must make payments in lieu of taxes for that year equal to 50% of the ad valorem real property taxes that would have been otherwise payable on the Project Improvements but for the City's ownership thereof.

The Emergency Service Districts are expected to set their reimbursement rates in an amount not less than 50% of the real property taxes that would have been levied on the Project Improvements by the Emergency Service Districts in each year the Project Improvements are owned by the City. The Company will pay the reimbursement amounts in addition to the payments in lieu of taxes discussed herein. All payments in lieu of taxes (other than the reimbursement payments to the Emergency Service Districts) will be disbursed to the respective taxing entities in the same proportion as the then-current ad valorem tax levy of each taxing entity.

**H. Sales Tax Exemption.** Qualified building materials constituting tangible personal property to be incorporated or consumed in the construction of the Project Improvements are expected to be exempt from sales tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the Bond documents, upon delivery of a project exemption certificate by the City to the Company.

**I. Cost/Benefit Analysis and Discussion of Exhibits.** In compliance with Section 100.050.2(3) of the Revised Statutes of Missouri, this Plan has been prepared to show the costs and benefits to the City and to other taxing jurisdictions affected by the tax abatements and exemptions of the Project Improvements. The following is a summary of the exhibits attached to this Plan that show the direct tax impact the Project Improvements is expected to have on each taxing jurisdiction and key ancillary benefits expected to be derived from the Project. This Plan does not attempt to quantify the overall economic impact of the Project Improvements.

*Summary of Cost/Benefit Analysis.* **Exhibit 1** provides a summary for each affected taxing district of (1) the total estimated tax revenues that would be generated if the Project Improvements did not receive tax abatement, (2) the total estimated value of the payments in lieu of taxes to be made by the Company for the proposed abatement period, and (3) the total estimated value of the abatement to the Company. Please note that the actual value of the Project Improvements may differ from the estimated value assumed in this Plan, which would impact the amount of the payments in lieu of taxes to be made by the Company and the value of the abatement the Company receives.

*Real Property Tax Revenues.* **Exhibit 2** provides the projected real property tax revenues that would be generated from the Project Improvements without tax abatement. **Exhibit 3** provides the projected value of the payments in lieu of taxes to be made by the Company based on (1) an estimated assessed value of the Project Improvements after completion, and (2) the Company hiring and maintaining the projected number of Jobs during each year of the lease to qualify the Company for abatement. The County’s commercial surcharge tax was applied to the Project Improvements at a rate of \$0.53 per \$100.00 of assessed valuation. **Exhibit 4** provides the projected value of the abatement to the Company.

Refer to **Attachment A** for the assumptions related to the determination of the assessed value and the tax formula.

*Sales Tax Exemption.* The City will grant a sales tax exemption on the qualified building materials necessary to construct the Project Improvements. For purposes of determining the impact of the sales tax exemption on the qualified building materials on the affected taxing jurisdictions granted by the City, this Plan assumes that the following sales tax levies will remain constant throughout the construction period:

State of Missouri	4.225%
City of St. Peters – General	1.000
City of St. Peters – Transportation	0.500
City of St. Peters – Parks & Stormwater	0.500
St. Charles County – General	0.500
St. Charles County – Transportation	0.500
St. Charles County – Operating	0.250
St. Charles County – Capital Improvements	0.250
Children and Family Services	0.125
Metro Parks	0.100

The Company estimates there will be approximately \$10,800,000 of qualified construction materials for the Project Improvements, and that all (or a significant portion) of those construction materials will be purchased in the State of Missouri. Thus, if \$10,800,000 of construction materials are purchased in the State of Missouri, the value of that exemption will be \$456,300. The Company does not know at this time what portion of the construction materials will be purchased within the State of Missouri, the City or St. Charles County. The net fiscal impact of the value of the sales tax exemption on each affected taxing jurisdiction will depend on the amount of construction materials purchased within each taxing jurisdiction.

*Personal Property Taxes.* The Company believes it will spend approximately \$5,000,000 on equipment and other personal property at the Project Site. There will be no abatement of personal property taxes. Therefore, any taxing district that imposes taxes on personal property will benefit from taxes on that new personal property.

*Other Project Benefits.* The City can also anticipate growth in construction jobs during the construction of the Project. These jobs will only last during the Project's construction phase and will cease to exist upon completion. All additional workers will be contributing to the local economy. The Project will also provide collateral benefits for local suppliers during the construction period. The City may also see an increase in businesses that support the Company's local employees and operations. These ancillary impacts were not measured for purposes of this Plan.

**V. ASSUMPTIONS AND BASIS OF PLAN**

In preparing this Plan, we have made some key assumptions to estimate the fiscal impact of the abatement and exemptions proposed for the Project. See **Attachment A** for a summary of these assumptions.

In addition to the foregoing, in order to complete this Plan, we have generally reviewed and relied upon information furnished to us by, and have participated in conferences with, representatives of the City and its counsel, representatives of the Company and its counsel, and other persons as we have deemed appropriate. We do not assume any responsibility for the accuracy, completeness or fairness of any of the information provided to us; and, we have not independently verified the accuracy, completeness or fairness of such information.

\* \* \*

## ATTACHMENT A

### SUMMARY OF KEY ASSUMPTIONS

1. The cost of constructing the Project Improvements is estimated at \$44,000,000. The estimated appraised value of the Project Improvements after construction is \$44,000,000, which results in an assessed value of \$14,080,000. Since the Company is making payments in lieu of taxes on the Project Site (land) in the amount of 100% of the taxes that would be levied but for the City's ownership thereof, the appraised value of the Project Site is not included for purposes of the calculation of the value of the abatement in the accompanying Exhibits.

2. The acquisition and construction of the Project Improvements will be substantially complete by the end of 2020.

3. The Project will be owned by the City and leased to the Company with an option to purchase. As long as the Project is owned by the City, it will be exempt from ad valorem taxes.

4. The Project will be excluded from the calculation of ad valorem property taxes from 2020 through 2030.

5. The Company will make payments in lieu of taxes in 2020 through 2030 equal to 100% of the real property taxes that would be levied against the Project Site (land only), but for the City's ownership thereof, resulting in no tax abatement on the land. During 2020, the Company will make payments in lieu of taxes in the amount of 100% of the actual real property taxes that would have otherwise been payable on the Project Improvements, if any, but for the City's ownership thereof. The City will provide tax abatement on the Project Improvements for the following 10 years (2021-2030); provided however, following completion of construction, the City will provide tax abatement on the Project Improvements based solely on the number of Quality Jobs located at the Project Site during each calendar year. During the abatement period, the Company will make payments in lieu of taxes on the Project Improvements based on the number of Quality Jobs located at the Project Site as described in the Plan.

6. Commercial real property taxes are calculated using the following formula:

$$(\text{Assessed Value} * \text{Tax Rate})/100$$

7. The assessed value of the Project Improvements is calculated using the following formula:

$$\text{Estimated Value} * \text{Assessment Ratio of 32\%}$$

8. After development, the assessed value of the Project Improvements is subject to growth at an estimated rate of 2% every year an assessment is made (every odd year).

9. The tax rates used in this Plan reflect the rates in effect for the tax year 2019. The tax rates were held constant through the 2030 tax year.

\* \* \*

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The Cost/Benefit Analysis has been prepared on the basis of factual information and assumptions provided to Gilmore & Bell, P.C. by, or on behalf of, the City and the Company. This information is provided in conjunction with our legal representation of the City, as its bond counsel, for this transaction. It is not intended as financial advice or a financial recommendation to the City, the Company, or any other taxing jurisdiction that may be affected by the Project. Gilmore & Bell, P.C. is not a financial advisor or a "municipal advisor" as defined in the Securities Exchange Act of 1934, as amended.

**EXHIBIT 1\***

**SUMMARY OF TAX IMPACT ANALYSIS**

<b>Tax Distribution</b>	<b>Tax Rate</b>	<b>Tax Revenue for Real Property Without Abatement</b>	<b>Revenue Generated from PILOT Payments</b>	<b>Value of Abatement</b>
Central County Fire & Rescue	1.0658	\$ 1,561,885	\$ 799,700	\$ 762,184
Fort Zumwalt School District R-2	4.8506	7,108,349	3,639,545	3,468,804
St. Charles Community College	0.2019	295,876	151,491	144,385
State of Missouri	0.0300	43,964	22,510	21,454
St. Charles County Highway Dept. (Road & Bridge)	0.1781	260,998	133,634	127,364
St. Charles City-County Library District	0.1996	292,505	149,766	142,740
St. Charles County Ambulance District	0.2595	380,286	194,710	185,576
Development Disabilities Resource Board	0.1279	187,432	95,967	91,465
St. Charles County Dispatch and Alarm	0.0400	58,618	30,013	28,605
City of St. Peters	0.7700	1,128,402	577,753	550,649
Surtax	0.5300	776,693	397,674	379,018
	8.2534	\$ 12,095,009	\$ 6,192,764	\$ 5,902,244

\* Numbers in Exhibits 1-4 may not foot due to rounding to the nearest dollar.

**EXHIBIT 2**

**PROJECTED TAX REVENUES WITHOUT ABATEMENT**

Estimated Assessed Value of Project Improvements		\$ 14,080,000	\$ 14,080,000	\$ 14,361,600	\$ 14,361,600	\$ 14,648,832	\$ 14,648,832	\$ 14,941,809	\$ 14,941,809	\$ 15,240,645	\$ 15,240,645	
Taxing Jurisdiction	Tax Rate per \$100	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Central County Fire & Rescue	1.0658	\$ 150,065	\$ 150,065	\$ 153,066	\$ 153,066	\$ 156,127	\$ 156,127	\$ 159,250	\$ 159,250	\$ 162,435	\$ 162,435	\$ 1,561,885
Fort Zumwalt School District R-2	4.8506	682,964	682,964	696,624	696,624	710,556	710,556	724,767	724,767	739,263	739,263	7,108,349
St. Charles Community College	0.2019	28,428	28,428	28,996	28,996	29,576	29,576	30,168	30,168	30,771	30,771	295,876
State of Missouri	0.0300	4,224	4,224	4,308	4,308	4,395	4,395	4,483	4,483	4,572	4,572	43,964
St. Charles County Highway Dept. (Road & Bridge)	0.1781	25,076	25,076	25,578	25,578	26,090	26,090	26,611	26,611	27,144	27,144	260,998
St. Charles City-County Library District	0.1996	28,104	28,104	28,666	28,666	29,239	29,239	29,824	29,824	30,420	30,420	292,505
St. Charles County Ambulance District	0.2595	36,538	36,538	37,268	37,268	38,014	38,014	38,774	38,774	39,549	39,549	380,286
Development Disabilities Resource Board	0.1279	18,008	18,008	18,368	18,368	18,736	18,736	19,111	19,111	19,493	19,493	187,432
St. Charles County Dispatch and Alarm	0.0400	5,632	5,632	5,745	5,745	5,860	5,860	5,977	5,977	6,096	6,096	58,618
City of St. Peters	0.7700	108,416	108,416	110,584	110,584	112,796	112,796	115,052	115,052	117,353	117,353	1,128,402
Surtax	0.5300	74,624	74,624	76,116	76,116	77,639	77,639	79,192	79,192	80,775	80,775	776,693
	8.2534	\$ 1,162,079	\$ 1,162,079	\$ 1,185,320	\$ 1,185,320	\$ 1,209,027	\$ 1,209,027	\$ 1,233,207	\$ 1,233,207	\$ 1,257,871	\$ 1,257,871	\$ 12,095,009

**EXHIBIT 3**

**PROJECTED PAYMENTS IN LIEU OF TAXES**

Estimated Assessed Value of Project Improvements		\$ 14,080,000	\$ 14,080,000	\$ 14,361,600	\$ 14,361,600	\$ 14,648,832	\$ 14,648,832	\$ 14,941,809	\$ 14,941,809	\$ 15,240,645	\$ 15,240,645	
PILOT Payment		62.50%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	
Taxing Jurisdiction	Tax Rate per \$100	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Central County Fire & Rescue	1.0658	\$ 93,790	\$ 75,032	\$ 76,533	\$ 76,533	\$ 78,064	\$ 78,064	\$ 79,625	\$ 79,625	\$ 81,217	\$ 81,217	\$ 799,700
Fort Zumwalt School District R-2	4.8506	426,853	341,482	348,312	348,312	355,278	355,278	362,384	362,384	369,631	369,631	3,639,545
St. Charles Community College	0.2019	17,767	14,214	14,498	14,498	14,788	14,788	15,084	15,084	15,385	15,385	151,491
State of Missouri	0.0300	2,640	2,112	2,154	2,154	2,197	2,197	2,241	2,241	2,286	2,286	22,510
St. Charles County Highway Dept. (Road & Bridge)	0.1781	15,673	12,538	12,789	12,789	13,045	13,045	13,306	13,306	13,572	13,572	133,634
St. Charles City-County Library District	0.1996	17,565	14,052	14,333	14,333	14,620	14,620	14,912	14,912	15,210	15,210	149,766
St. Charles County Ambulance District	0.2595	22,836	18,269	18,634	18,634	19,007	19,007	19,387	19,387	19,775	19,775	194,710
Development Disabilities Resource Board	0.1279	11,255	9,004	9,184	9,184	9,368	9,368	9,555	9,555	9,746	9,746	95,967
St. Charles County Dispatch and Alarm	0.0400	3,520	2,816	2,872	2,872	2,930	2,930	2,988	2,988	3,048	3,048	30,013
City of St. Peters	0.7700	67,760	54,208	55,292	55,292	56,398	56,398	57,526	57,526	58,676	58,676	577,753
Surtax	0.5300	46,640	37,312	38,058	38,058	38,819	38,819	39,596	39,596	40,388	40,388	397,674
	8.2534	\$ 726,299	\$ 581,039	\$ 592,660	\$ 592,660	\$ 604,513	\$ 604,513	\$ 616,604	\$ 616,604	\$ 628,936	\$ 628,936	\$ 6,192,764

**EXHIBIT 4**

**PROJECTED VALUE OF ABATEMENT**

Estimated Assessed Value of Project Improvements		\$ 14,080,000	\$ 14,080,000	\$ 14,361,600	\$ 14,361,600	\$ 14,648,832	\$ 14,648,832	\$ 14,941,809	\$ 14,941,809	\$ 15,240,645	\$ 15,240,645	
Abatement Percentage		37.50%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%	
Taxing Jurisdiction	Tax Rate per \$100	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Central County Fire & Rescue	1.0658	\$ 56,274	\$ 75,032	\$ 76,533	\$ 76,533	\$ 78,064	\$ 78,064	\$ 79,625	\$ 79,625	\$ 81,217	\$ 81,217	\$ 762,184
Fort Zumwalt School District R-2	4.8506	256,112	341,482	348,312	348,312	355,278	355,278	362,384	362,384	369,631	369,631	3,468,804
St. Charles Community College	0.2019	10,660	14,214	14,498	14,498	14,788	14,788	15,084	15,084	15,385	15,385	144,385
State of Missouri	0.0300	1,584	2,112	2,154	2,154	2,197	2,197	2,241	2,241	2,286	2,286	21,454
St. Charles County Highway Dept. (Road & Bridge)	0.1781	9,404	12,538	12,789	12,789	13,045	13,045	13,306	13,306	13,572	13,572	127,364
St. Charles City-County Library District	0.1996	10,539	14,052	14,333	14,333	14,620	14,620	14,912	14,912	15,210	15,210	142,740
St. Charles County Ambulance District	0.2595	13,702	18,269	18,634	18,634	19,007	19,007	19,387	19,387	19,775	19,775	185,576
Development Disabilities Resource Board	0.1279	6,753	9,004	9,184	9,184	9,368	9,368	9,555	9,555	9,746	9,746	91,465
St. Charles County Dispatch and Alarm	0.0400	2,112	2,816	2,872	2,872	2,930	2,930	2,988	2,988	3,048	3,048	28,605
City of St. Peters	0.7700	40,656	54,208	55,292	55,292	56,398	56,398	57,526	57,526	58,676	58,676	550,649
Surtax	0.5300	27,984	37,312	38,058	38,058	38,819	38,819	39,596	39,596	40,388	40,388	379,018
	8.2534	\$ 435,780	\$ 581,039	\$ 592,660	\$ 592,660	\$ 604,513	\$ 604,513	\$ 616,604	\$ 616,604	\$ 628,936	\$ 628,936	\$ 5,902,244

Exhibit B

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**CITY OF ST. PETERS, MISSOURI,**

**AND**

**BOKF, N.A.,  
as Trustee**

\_\_\_\_\_  
**TRUST INDENTURE**

**Dated as of April 1, 2020**  
\_\_\_\_\_

**Relating to:**

**\$61,500,000  
(Aggregate Maximum Principal Amount)  
City of St. Peters, Missouri  
Taxable Industrial Revenue Bonds  
(Medline Industries, Inc. Project)  
Series 2020**

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**TRUST INDENTURE**

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DRAFT

## TRUST INDENTURE

**THIS TRUST INDENTURE**, dated as of April 1, 2020 (the “Indenture”), between the **CITY OF ST. PETERS, MISSOURI**, a fourth-class city organized and existing under the laws of the State of Missouri (the “City”), and **BOKF, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in St. Louis, Missouri, as Trustee (the “Trustee”);

### RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), to purchase, construct, improve and equip certain projects (as defined in the Act) and to issue industrial revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the Board of Aldermen passed Ordinance No. \_\_\_\_ (the “Ordinance”) on April 9, 2020, authorizing the City to issue its Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020, in the maximum principal amount of \$61,500,000 (the “Bonds”) for the purpose of acquiring (a) upon the issuance of the Bonds, a leasehold interest and (b) upon completion of the herein-defined Project Improvements, a fee interest, in certain real property known as Lot 38 of the Premier 370 Business Park in the City (as legally described in the hereinafter defined Lease Agreement, the “Project Site”) and constructing an approximately 800,000 square foot distribution center thereon (as further defined herein, the “Project Improvements”).

3. The Ordinance authorizes the City to lease the City’s interest in the Project Site and the Project Improvements (collectively, the “Project”) to Medline Industries, Inc., an Illinois corporation (the “Company”).

4. Pursuant to the Ordinance, the City is authorized to (a) execute and deliver this Indenture for the purpose of issuing and securing the Bonds, (b) enter into the Lease Agreement of even date herewith (the “Lease”) with the Company, under which the City, as lessor, will cause the Company to acquire and construct the Project and will lease the Project to the Company, as lessee, in consideration of rental payments that will be sufficient to pay the principal of and interest on the Bonds, and (c) enter into the Performance Agreement of even date herewith (the “Performance Agreement”) with the Company and MRE SPMO, LLC (f/k/a MRE SPMI, LLC), a Missouri limited liability company and wholly-owned subsidiary of the Company, for the purpose of setting forth the terms and conditions of the Project’s exemption from ad valorem real property taxes and certain payments in lieu of taxes to be made by the Company with respect to the Project.

5. All things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate (defined herein) herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:**

**GRANTING CLAUSES**

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (as defined herein) thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding (as defined herein) under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest of the City in and to the Project, subject to the Company's rights under the Lease, together with the tenements, hereditaments, appurtenances, rights, easements, privileges and immunities thereunto belonging or appertaining and, to the extent permissible, all permits, certificates, approvals and authorizations;

(b) All right, title and interest of the City in, to and under the Lease (excluding the Unassigned Rights, as defined herein), and all rents, revenues and receipts derived by the City from the Project including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by or now or hereafter required to be paid to the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD**, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

**PROVIDED, HOWEVER**, that if the City pays, or causes to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or provides for the payment thereof (as provided in **Article XIII** hereof), and pays or causes to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH**, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon

and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

## ARTICLE I

### DEFINITIONS

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined in the Lease, which definitions shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

**“Act”** means, collectively, Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended.

**“Additional Rent”** means the additional rental described in **Section 5.2** of the Lease.

**“Approved Investor”** means the Company or any Person approved by the Board of Aldermen of the City.

**“Authorized City Representative”** means the Mayor, the City Administrator or such other Person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Company and the Trustee containing the specimen signature of such Person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized City Representative.

**“Authorized Company Representative”** means the Person at the time designated to act on behalf of the Company as evidenced by written certificate furnished to the City and the Trustee containing the specimen signature of such Person and signed on behalf of the Company by an authorized officer of the Company. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Company Representative.

**“Basic Rent”** means the rental described in **Section 5.1** of the Lease.

**“Bond Fund”** means the “City of St. Peters, Missouri, Bond Fund – Medline Industries, Inc. Project” created in **Section 501** of this Indenture.

**“Bond Purchase Agreement”** means the agreement by that name with respect to the Bonds by and between the City and the Purchaser.

**“Bonds”** or **“Bond”** means the Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020, in the maximum aggregate principal amount of \$61,500,000, issued, authenticated and delivered under and pursuant to this Indenture.

**“Business Day”** means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

**“City”** means the City of St. Peters, Missouri, a fourth-class city organized and existing under the laws of the State.

**“Closing Date”** means the date identified in the Bond Purchase Agreement for the initial issuance and delivery of the Bonds.

**“Closing Price”** means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Company from its own funds before the Closing Date, and the costs of issuance of the Bonds if such costs are not paid from Bond proceeds.

**“Company”** means Medline Industries, Inc., an Illinois corporation, and its successors or assigns.

**“Completion Date”** means the date of execution of the certificate required by **Section 4.5** of the Lease and **Section 504** hereof or December 31, 2021, whichever is earlier, subject to the exception provided in **Section 4.5** of the Lease.

**“Costs of Issuance Fund”** means the “City of St. Peters, Missouri, Costs of Issuance Fund – Medline Industries, Inc. Project” created in **Section 501** of this Indenture.

**“Cumulative Outstanding Principal Amount”** means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed \$61,500,000, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

**“Deed”** means the Special Warranty Deed dated the Transfer Date, pursuant to which the Company conveys title to the Project Site to the City on the Transfer Date, the form of which is attached to the Lease as **Exhibit C**.

**“Event of Default”** means, with respect to this Indenture, any Event of Default as defined in **Section 901** hereof and, with respect to the Lease, any Event of Default as described in **Section 12.1** of the Lease.

**“Financing Document”** means any loan agreement, credit agreement, security agreement, mortgage, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document executed by or on behalf of, or for the benefit of, a Financing Party, including, without limitation, any loan agreement, credit agreement, deed of trust or any other document executed in connection with the loans made to the Company.

**“Financing Party”** means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for or in connection with such financing or hedging arrangements, in connection with the development, construction, ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person’s behalf.

**“Full Insurable Value”** means the reasonable replacement cost of the Project less physical depreciation and exclusive of land, excavations, footings, foundation and parking lots as determined at the expense of the Company from time to time.

**“Government Securities”** means direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

**“Ground Lease”** means the Ground Lease dated as of April \_\_\_, 2020 between the City and the Company, as may be amended from time to time.

**“Indenture”** means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI** hereof.

**“Investment Securities”** means any of the following securities:

- (a) Government Securities;
- (b) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;
- (c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;
- (d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;
- (e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, and which shares, at the time of purchase, are rated by Standard & Poor’s and Moody’s in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature; or

(f) any other investment approved in writing by the Authorized City Representative and the Owners of all of the Outstanding Bonds.

“**Lease**” means the Lease Agreement dated as of April 1, 2020 between the City, as lessor, and the Company, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

“**Lease Term**” means the period from the effective date of the Lease until the expiration thereof pursuant to **Section 3.2** of the Lease.

“**Net Proceeds**” means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees, Trustee’s fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

“**Outstanding**” when used with reference to Bonds, means, as of a particular date, all Bonds theretofore authenticated and delivered, except:

- (a) Bonds previously cancelled by the Trustee or delivered to the Trustee for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 1302** hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

“**Owner**” means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee.

“**Paying Agent**” means the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

“**Payment Date**” means the date on which principal or interest on any Bond, whether at the stated maturity thereof or the redemption date thereof, is payable, which shall be December 1 of each year that the Bonds are Outstanding.

“**Performance Agreement**” means the Performance Agreement dated as of April 1, 2020 among the City, the Company and MRE SPMO, LLC (f/k/a MRE SPMI, LLC), a Missouri limited liability company and wholly-owned subsidiary of the Company.

“**Permitted Encumbrances**” means, as of any particular time, as the same may encumber the Project Site, (a) liens for ad valorem taxes and special assessments not then delinquent, (b) the Indenture, the Lease and the Performance Agreement, (c) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the City, (d) such minor defects, irregularities, encumbrances, easements, mechanic’s liens, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project Site and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the

City, (e) liens or security interests granted pursuant to any Financing Documents, and (f) such exceptions to title set forth in the Pro Forma Title Policy dated \_\_\_\_\_, 2020.

**“Person”** means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

**“Plans and Specifications”** means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time before the Completion Date, the same being on file at the principal office of the Company, and which shall be available for reasonable inspection during normal business hours and upon not less than one Business Day’s prior notice by the City, the Trustee and their duly appointed representatives.

**“Principal Amount Advanced”** means the amount set forth in each requisition certificate in accordance with **Section 4.4** of the Lease, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

**“Project”** means the project referred to in the recitals of this Indenture, including the Project Site and the Project Improvements.

**“Project Costs”** means all costs of purchase and construction of the Project, including the following:

- (a) all costs and expenses necessary or incident to the acquisition, construction and improvement of the Project Site and Project Improvements located on the Project Site;
- (b) fees and expenses of architects, appraisers, surveyors and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of construction, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of professionals and consultants in relation to the purchase and construction of the Project or the issuance of the Bonds;
- (c) all costs and expenses of every nature incurred in purchasing and constructing the Project Improvements and otherwise improving the Project Site, including the actual cost of labor and materials as payable to contractors, builders and materialmen in connection with the purchase and construction of the Project;
- (d) interest accruing on the Bonds until the Completion Date;
- (e) the cost of title insurance policies and the cost of any other insurance maintained until the Completion Date in accordance with **Article VII** of the Lease;
- (f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, legal fees and expenses of Bond Counsel and City’s Special Counsel, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the purchase and construction of the Project;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds, including costs of issuance of the Bonds; (2) the purchase and construction of the Project; and (3) the financing thereof; and

(h) reimbursement to the Company or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

**“Project Fund”** means the “City of St. Peters, Missouri, Project Fund – Medline Industries, Inc. Project” created in **Section 501** hereof.

**“Project Improvements”** means the buildings, structures, improvements and fixtures to be purchased, constructed, installed and otherwise improved on the Project Site pursuant to **Article IV** of the Lease and which are paid for in whole from the proceeds of the Bonds, and all additions, alterations, modifications and improvements thereof made pursuant to the Lease.

**“Project Site”** means all of the real estate as described in **Exhibit A** attached to the Lease and by this reference made a part hereof.

**“Purchaser”** means the entity identified in the Bond Purchase Agreement as the purchaser of the Bonds.

**“State”** means the State of Missouri.

**“Supplemental Indenture”** means any indenture supplemental or amendatory to this Indenture entered into by the City and the Trustee pursuant to **Article XI** hereof.

**“Supplemental Lease”** means any supplement or amendment to the Lease entered into pursuant to **Article XII** hereof.

**“Transfer Date”** means the date upon which the Company transfers fee title of the Project to the City pursuant to **Section 4.5** of the Lease and the Deed, which date shall be no later than 30 days after the Completion Date and the Company’s receipt of waivers of all mechanic’s lien rights with respect to the Project.

**“Trust Estate”** means the Trust Estate described in the Granting Clauses of this Indenture.

**“Trustee”** means BOKF, N.A., St. Louis, Missouri, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

**“Unassigned Rights”** means the City’s rights under the Lease to receive moneys for its own account and the City’s rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

## **Section 102. Rules of Interpretation.**

(a) Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including public bodies, as well as natural Persons.

(b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

(d) Whenever an item or items are listed after the word “including”, such listing is not intended to be a listing that excludes items not listed.

(e) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

**Section 103. Date of Indenture.** The dating of this Indenture as of April 1, 2020, is intended as and for the convenient identification of this Indenture only and is not intended to indicate that this Indenture was executed and delivered on said date, this Indenture being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds.

## **ARTICLE II**

### **THE BONDS**

**Section 201. Title and Amount of Bonds.** No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as “City of St. Peters, Missouri, Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020.” The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$61,500,000.

**Section 202. Nature of Obligation.** The Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City. The Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and neither the City, the State nor any political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

**Section 203. Denomination, Number and Dating of the Bonds.**

(a) The Bonds shall be issuable in the form of one fully-registered Bond, in substantially the form set forth in **Exhibit A** hereto, in the denomination of \$0.01 or any multiple thereof.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof.

**Section 204. Method and Place of Payment of Bonds.**

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of any Paying Agent named in the Bonds. The payment of principal on the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206** hereof. Payment of the interest on the Bonds shall be made by the Trustee on each Payment Date to the Person appearing on the registration books of the Trustee hereinafter provided for as the Owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Payment Date by check or draft mailed to such Owner at such Owner's address as it appears on such registration books.

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via facsimile or other electronic means to the Owner, the Company (if not the Owner) and the City. Absent manifest error, the amounts shown on **Schedule I** as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

(d) If there is one Owner of the Bonds, the Trustee is authorized to make the final or any interim payments of principal on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated in writing by such Owner and located in the continental United States. The Trustee is also authorized to make interest payments on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated by such Owner and located in the continental United States.

(e) If the Company is the sole Owner of the Bonds and the lessee under the Lease, then the Owner may set-off its obligation to the City as lessee under the Lease against the City's obligations to the bondholder under this Indenture; provided that, at all times that Owner is the only bond holder and the lessee under the Lease, such set off shall be deemed to occur and payment under this Indenture is deemed to have been made. The Company shall provide the Trustee with a written statement confirming such ownership upon which the Trustee may conclusively rely. In connection with any such permitted set off the Trustee may conclusively rely on the absence of any written notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Owner may deliver to the Trustee for cancellation the Bonds and the Owner as lessee under the Lease shall receive a credit against the Basic Rent payable by the lessee under **Section 5.1** of the Lease in an amount equal to the remaining principal on the Bond so tendered for cancellation plus accrued interest thereon.

**Section 205. Execution and Authentication of Bonds.**

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of the City Clerk, and shall have the corporate seal of the City affixed thereto or imprinted thereon. If any officer whose signature or facsimile thereof appears on the Bonds ceases to be such officer before the delivery of such Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Exhibit B** hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes until such Certificate of Authentication has been duly executed by the Trustee. The executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee.

**Section 206. Registration, Transfer and Exchange of Bonds.**

(a) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture.

(b) The Bonds may be transferred to an Approved Investor only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. In connection with any such transfer of the Bonds, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form of **Exhibit B** hereto. The Trustee has no duty or obligation to confirm that any transferee that provides such representation letter is an Approved Investor. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

**Section 207. Persons Deemed Owners of Bonds.** As to any Bond, the Person in whose name the same is registered as shown on the bond registration books required by **Section 206** hereof shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

**Section 208. Authorization of the Bonds.**

(a) The Bonds are authorized in the aggregate maximum principal amount of \$61,500,000 for the purpose of providing funds to pay Project Costs, which Bonds shall be designated "City of St. Peters, Missouri, Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project) Series 2020." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on December 1 of the 10<sup>th</sup> calendar year following the Completion Date (subject to prior redemption as provided in **Article III** hereof) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

(b) The Trustee is hereby designated as the Paying Agent. The Owners of a majority of Bonds then Outstanding may designate a different Paying Agent upon written notice to the City and the Trustee.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in **Exhibit A** hereto and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

- (1) A copy of the Ordinance;
- (2) Executed counterparts of this Indenture, the Ground Lease, the Lease, the Performance Agreement, and the Bond Purchase Agreement;
- (3) A representation letter from the Purchaser in substantially the form attached as **Exhibit B** hereto;
- (4) A request and authorization to the Trustee on behalf of the City, executed by the Authorized City Representative, to authenticate the Bonds and deliver the same to or at the written direction of the Purchaser upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;
- (5) An opinion of counsel nationally recognized on the subject of municipal bonds selected by the City to the effect that the Bonds constitute valid and legally binding limited and special revenue obligations of the City; and

(6) Such other certificates, statements, receipts, opinions and documents as the Trustee shall reasonably require for the delivery of the Bonds.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, either:

(1) The Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser; or

(2) The Company shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall authenticate and endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price.

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with **Section 4.4** of the Lease. If the Purchaser does not pay to the Trustee the amount set forth in the requisition certificate, the Purchaser will be deemed to have advanced an amount equal to the amount set forth in the requisition certificate and, if the Trustee is holding the Bonds, the Trustee shall endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Trustee shall keep a record of the total requisitions submitted to the Trustee for the Project, and shall notify the City if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.0% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full, but not later than December 1 of the 10<sup>th</sup> calendar year following the Completion Date. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount". If the Trustee is holding the Bonds such advanced amounts shall be reflected in **Schedule I** to the Bonds. To the extent that advances are deemed to have been made pursuant to a requisition the Trustee's records of such advances shall be based solely on the requisitions provided to it. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records and **Schedule I** to the Bonds, if the Trustee is holding the Bonds, the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the form of the Table of Cumulative Outstanding Principal Amount as set out in the form of

Bonds in **Exhibit A** hereto. To the extent the Company sets-off its obligation to the City as lessee under the Lease against the City's obligations to the Company as permitted by **Section 204(e)** the Trustee shall not be required to confirm that such set-off has occurred. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 4.5** of the Lease, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

**Section 209. Mutilated, Lost, Stolen or Destroyed Bonds.** If any Bond becomes mutilated, or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to save, defend and hold each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

**Section 210. Cancellation and Destruction of Bonds Upon Payment.**

(a) All Bonds that have been paid or redeemed or that the Trustee has purchased or that have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity shall be cancelled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee in accordance with applicable laws and regulations and the Trustee's policies and practices. The Trustee shall execute a certificate describing the Bonds so destroyed, and shall file executed counterparts of such certificate with the City and the Company.

### ARTICLE III

#### REDEMPTION OF BONDS

**Section 301. Redemption of Bonds.**

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company, in accordance with the terms of the Lease, exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (i) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (ii) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal

to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Sections 9.1(f)** or **9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

(c) At its option, the Company may deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

**Section 302. Effect of Call for Redemption.** Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in **Section 11.2** of the Lease.

**Section 303. Notice of Redemption.** If the Bonds are to be called for redemption as provided in **Section 301(a)** hereof, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

## ARTICLE IV

### FORM OF BONDS

**Section 401. Form Generally.** The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit A** hereto. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

## ARTICLE V

### CUSTODY AND APPLICATION OF BOND PROCEEDS

**Section 501. Creation of Funds.** There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds in the name of the City:

(a) “City of St. Peters, Missouri, Project Fund – Medline Industries, Inc. Project” (herein called the “Project Fund”).

(b) “City of St. Peters, Missouri, Costs of Issuance Fund – Medline Industries, Inc. Project” (herein called the “Costs of Issuance Fund”).

(c) “City of St. Peters, Missouri, Bond Fund – Medline Industries, Inc. Project” (herein called the “Bond Fund”).

**Section 502. Deposits into the Project Fund.** The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Sections 208(d)** and **(e)** hereof), including Additional Payments as defined in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601** hereof, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of purchasing, constructing and installing the Project shall pursuant to any written directions from the Person depositing such moneys also be deposited into the Project Fund.

**Section 503. Disbursements from the Project Fund.**

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company (or any other party that has made payment on behalf of the Company) for payment of, Project Costs upon receipt of requisition certificates signed by the Company in accordance with the provisions of **Article IV** of the Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions.

(b) If, pursuant to **Sections 208(d)** and **(e)** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company to the Trustee in accordance with the provisions of **Article IV** of the Lease, the Trustee shall be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate. If the Trustee is holding the Bonds such deemed disbursement will be deemed to have been made on the date the Trustee endorses the Bond with respect to such additional amount.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

**Section 504. Completion of the Project.** The completion of the purchase and construction of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable

after the Completion Date, (a) any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease, and (b) the Deed shall be recorded with the Recorder of Deeds of St. Charles County, Missouri.

**Section 505. Deposits into and Disbursements from the Costs of Issuance Fund.** Any money deposited by the Company in the Costs of Issuance Fund shall be used solely to pay costs of issuing the Bonds or be refunded to the Company as hereinafter provided. The Trustee shall without further authorization disburse from the Costs of Issuance Fund, to the extent available, money sufficient to pay the amounts shown in a closing memorandum provided to the Trustee on or before the date of delivery of the Bonds and as a condition thereto, which shall have attached thereto the statements, invoices and related items described in said closing memorandum. The Trustee may rely conclusively on the amounts due as shown in the closing memorandum and will not be required to make any independent inspection or investigation in connection therewith. Any of such money not used to pay costs of issuance within 6 months of the issuance date of the Bonds shall be refunded to the Company.

**Section 506. Disposition Upon Acceleration.** If the principal of the Bonds has become due and payable pursuant to **Section 902** hereof, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX** hereof, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and to the Company of such action.

## ARTICLE VI

### REVENUES AND FUNDS

**Section 601. Deposits Into the Bond Fund.**

(a) The Trustee shall deposit into the Bond Fund, as and when received, (i) all accrued interest on the Bonds, if any, paid by the Purchaser; (ii) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (iii) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (iv) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project or pursuant to **Section 506** hereof upon acceleration of the Bonds; (v) the balance of any Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (vi) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (vii) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (viii) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by written directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Company in writing, at least 15 days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

**Section 602. Application of Moneys in the Bond Fund.**

(a) Except as provided in **Section 604** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 601** above, shall be expended by the Trustee (1) without further authorization from the City for payment of the Trustee's and Paying Agent's fees and (2) disbursed for such other items of Additional Rent as they are received or due in accordance with the written direction of the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon before and until such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee may use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** hereof so long as the Company is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

(d) After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, the City and any Paying Agent and any other amounts required to be paid under this Indenture, the Lease and the Performance Agreement, all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

**Section 603. Payments Due on Days Other than Business Days.** In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

**Section 604. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon

repay to the Company the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

## ARTICLE VII

### SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

**Section 701. Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder.

**Section 702. Investment of Moneys in Project Fund and Bond Fund.** Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by the Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. If the Company fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee shall invest and reinvest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee may conclusively rely upon the Authorized Company Representative's written instructions as to both the suitability and legality of the directed investments and such written direction shall be deemed to be a certification that such directed investments constitute Investment Securities. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** hereof of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

**Section 703. Record Keeping.** The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** hereof while any of the Bonds are Outstanding.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

**Section 801. Payment of Principal and Interest.** The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

**Section 802. Authority to Execute Indenture and Issue Bonds.** The City covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

**Section 803. Performance of Covenants.** The City covenants that it will faithfully perform or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its Board of Aldermen pertaining thereto. The Trustee may take such action as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

**Section 804. Instruments of Further Assurance.** The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds, upon being first indemnified by the Company for the cost thereof. The City covenants and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

**Section 805. Recordings and Filings.** The City shall cause to be kept and filed all financing statements, and hereby directs and authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The Trustee shall file continuation statements with respect to each UCC financing statement relating to the trust estate filed by the City at the time of the issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee shall have been notified in writing by the City that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial

filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this section, and (b) filing any continuation statements in the same filing offices as the initial filings were made. The Company shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder, including attorneys' fees and expenses. These fees shall be considered "extraordinary services" fees.

**Section 806. Inspection of Project Books.** The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

**Section 807. Enforcement of Rights Under the Lease.** The Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture, in its name or in the name of the City, may enforce all assigned rights of the City and the Trustee and all obligations of the Company under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder.

## ARTICLE IX

### DEFAULT AND REMEDIES

**Section 901. Events of Default; Notice; Opportunity to Cure.** If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

- (a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;
- (c) Default as specified in **Section 12.1** of the Lease has occurred; or
- (d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the City, the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail or a recognized overnight delivery service to the Company, and the Company has had 30 days after receipt of such notice to correct said default or cause said default to be corrected and has not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Company or the City (as the case may be) within such period and diligently pursued until the default is corrected.

**Section 902. Acceleration of Maturity in Event of Default.**

(a) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the Trustee may, and upon the written request of the City or the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest and all other amounts due hereunder shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the City under this Indenture are either paid or provisions satisfactory to the Trustee are made for such payment, then and in every such case the Trustee shall, but only with the approval of a majority of the Owners of the Bonds then Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of rent payments on the Bonds as provided in **Section 12.2** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Company and the Owners shall be restored to their former position and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

**Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges having a lien that is senior to this Indenture, (d) all expenses of such repairs and improvements, and (e) any amounts payable under the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

**Section 904. Appointment of Receivers in Event of Default.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 905. Exercise of Remedies by the Trustee.**

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then Outstanding and all other amounts due hereunder, and to enforce and compel the performance of the duties and obligations of the City or the Company as herein set forth or as set forth in the Lease, respectively.

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested in writing to do so by (1) the City in the case of an Event of Default pursuant to **Section 12.1** of the Lease (except with respect to a default of payment of Basic Rent under **Section 12.1(a)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in **subsection (I)** of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owners, and any recovery of judgment shall, subject to the provisions of **Section 908** hereof, be for the equal benefit of all the Owners of the Outstanding Bonds.

**Section 906. Limitation on Exercise of Remedies by Owners.** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** hereof or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(I)** hereof, and (d) the Trustee thereafter fails or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

**Section 907. Right of Owners to Direct Proceedings.**

(a) The Owners of a majority in aggregate principal amount of Bonds then Outstanding may, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)** hereof.

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Section 12.1** of the Lease, except with respect to a default of payment of Basic Rent under **Section 12.1(a)** of the Lease.

**Section 908. Application of Moneys in Event of Default.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall first be applied to the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys' fees and expenses) or amounts to be paid pursuant to **Section 903** hereof, and second, be applied to the obligations outstanding under the Lease and the Performance Agreement. Any remaining moneys shall be deposited in the Bond Fund and applied as follows:

(1) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the Persons entitled thereof of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(2) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Person entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of **Section 910** hereof, then, subject to the provisions of subsection (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Performance Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 602** hereof.

**Section 909. Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default.** The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on the Bonds, but only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (1) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Section 12.1** of the Lease, except with respect to a default of payment of Basic Rent under **Section 12.1(a)** of the Lease, and (2) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (i) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (ii) any Event of Default in the payment when due of the interest on any such Bonds, unless before such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any

subsequent or other default, or impair any right consequent thereon and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

## ARTICLE X

### THE TRUSTEE

**Section 1001. Acceptance of the Trusts.** The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform all ministerial duties and obligations of the City hereunder (except as otherwise provided in **Section 805** hereof), but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(i)** below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly **Section 10.8** thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII** hereof.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights that it would have if it were not Trustee. The Trustee shall not be accountable for the use or application by the City or the Company of the proceeds of any of the Bonds or of any money paid to or upon the order of the City or Company under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is an Owner, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI** hereof, unless the Trustee is specifically notified in writing of such default by the City or by the Owners of at least 25% in aggregate principal amount of all Bonds then Outstanding.

(i) At any and all reasonable times and subject to the Company's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project, and all books, papers and records of the Company pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Company as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in the Indenture or the Lease to the contrary, before taking any action under this Indenture other than the payments from moneys on deposit in the Project Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

(n) No provision of this Indenture or any other agreement executed in connection herewith shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, except to the extent resulting from the Trustee's bad faith, negligence or willful misconduct.

**Section 1002. Fees, Charges and Expenses of the Trustee.** The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment before payment on account of principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred. The Trustee's right to compensation and indemnification shall survive the satisfaction and discharge of this Indenture or its resignation or removal hereunder and payment in full of the Bonds.

**Section 1003. Notice to Owners if Default Occurs.** If a default occurs of which the Trustee is by **Section 1001(h)** hereof required to take notice or if notice of default is given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the last known Owners of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

**Section 1004. Intervention by the Trustee.** In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(l)**

hereof, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

**Section 1005. Successor Trustee Upon Merger, Consolidation or Sale.** With the prior written consent of the Company, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

**Section 1006. Resignation of Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the City, the Company and the Owners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30 days after the giving of such notice of resignation, the Trustee may, at the Company's expense, petition any court of competent jurisdiction for the appointment of a successor Trustee.

**Section 1007. Removal of Trustee.** The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Owners and signed by the Company or the City.

**Section 1008. Appointment of Successor Trustee.** If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having a reported capital, surplus and undivided profits of not less than \$50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee, at the Company's expense, or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

**Section 1009. Vesting of Trusts in Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without

any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall, nevertheless, on the written request of the City, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

**Section 1010. Right of Trustee to Pay Taxes and Other Charges.** If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

**Section 1011. Trust Estate May be Vested in Co-Trustee.**

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the City be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

(d) If any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

**Section 1012. Accounting.** The Trustee shall render an annual accounting for the period ending December 31 of each year to the City, the Company and to any Owner requesting the same and, upon the request of the City, the Company or any Owner, a monthly accounting to any such party, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

**Section 1013. Performance of Duties Under the Lease.** The Trustee hereby accepts and agrees to perform all duties and obligations assigned to it under the Lease.

## ARTICLE XI

### SUPPLEMENTAL INDENTURES

**Section 1101. Supplemental Indentures Not Requiring Consent of Owners.** The City and the Trustee may from time to time, without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which is not to the material prejudice of the Owners, or, in the judgment of the Trustee, is not to the material prejudice of the Trustee (provided the Trustee shall be entitled to receive and may rely upon an opinion of counsel in exercising such judgment);
- (b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or either of them;
- (c) To more precisely identify any portion of the Project or to add additional property thereto;
- (d) To conform the Indenture to amendments to the Lease made by the City and the Company; or
- (e) To subject to this Indenture additional revenues, properties or collateral.

**Section 1102. Supplemental Indentures Requiring Consent of Owners.**

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding may, from time to time, anything contained in this Indenture to the contrary notwithstanding, consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that without the consent of the Owners of 100% of the principal amount of the Bonds then Outstanding, nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1103. Company's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article shall not become effective unless and until the Company and any Financing Party shall have consented in writing to the execution and delivery of such Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture (regardless of whether it affects the Company's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Company and any Financing Party of which the Trustee has received written notice thereof at least 15 days before the proposed date of execution and delivery of the Supplemental Indenture.

**Section 1104. Opinion of Counsel.** In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

## ARTICLE XII

### SUPPLEMENTAL LEASES

**Section 1201. Supplemental Leases Not Requiring Consent of Owners.** The City and the Trustee shall, without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto or (d) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Owners. In exercising such judgment, the Trustee may rely upon an opinion of counsel.

**Section 1202. Supplemental Leases Requiring Consent of Owners.** Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1203. Opinion of Counsel.** In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the executing of such Supplemental Lease is authorized or permitted by the Lease and this Indenture and the applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereof.

## ARTICLE XIII

### SATISFACTION AND DISCHARGE OF INDENTURE

**Section 1301. Satisfaction and Discharge of this Indenture.**

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon

cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with **Section 1302** hereof as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

### **Section 1302. Bonds Deemed to be Paid.**

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) have been made or caused to be made in accordance with the terms thereof, or (2) have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed before the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed before their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** hereof or irrevocable instructions shall have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

## ARTICLE XIV

### MISCELLANEOUS PROVISIONS

#### **Section 1401. Consents and Other Instruments by Owners.**

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in Person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond) if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(i) The fact and date of the execution by any Person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(ii) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee pursuant to **Section 206** hereof.

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Company shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded; provided, the foregoing provisions shall not be applicable if the Company is the only Owner of the Bonds. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and the pledgee is not the Company or any affiliate thereof.

**Section 1402. Limitation of Rights Under this Indenture.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, and the Owners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners, as herein provided.

**Section 1403. Notices.** It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Company or Owners if the same is duly mailed, postage prepaid, sent by overnight delivery or other delivery service, as follows:

(a) To the City:

City of St. Peters, Missouri  
City Hall  
One St. Peters Centre Boulevard  
St. Peters, Missouri 63376  
ATTN: City Administrator

with a copy to:

Hamilton Weber LLC  
200 N. 3rd Street  
St. Charles, Missouri 63301  
ATTN: Wm. Randolph Weber, Esq.

(b) To the Trustee:

BOKF, N.A.  
200 North Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

(c) To the Company:

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: Director, Tax Compliance and Audit

with copies to each of the following:

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: Vice President of Real Estate Operations

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: General Counsel

Reinhart Boerner Van Deuren s.c.  
1000 N. Water Street, Suite 1700  
Milwaukee, Wisconsin 53202  
ATTN: John M. Murphy, Esq.

(d) To the Owners if the same is duly mailed by first class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided that any of the foregoing given to the Trustee shall be effective only upon receipt. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when received. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 1404. Severability.** If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

**Section 1405. Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 1406. Governing Law.** This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 1407. Electronic Storage.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 1408. City Consent and Approvals.** Pursuant to the Ordinance, the Mayor is authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing of the Project by the Company, and such easements, licenses, rights-of-way, plats and similar documents as may be requested by the Company) as may be required to carry out and comply with the intent of the Ordinance, this Indenture and the Lease. The Mayor is also authorized, unless otherwise expressly provided herein to the contrary, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, this Indenture, the Lease or the Performance Agreement, including extensions of the Completion Date, as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or adversely affect the tax exemption as provided for therein, waive an Event of Default, or materially change the nature of the transaction unless approved by an ordinance of the Board of Aldermen.

[Remainder of page intentionally left blank; signature pages to follow]

**IN WITNESS WHEREOF**, the City of St. Peters, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the City to be hereunto affixed and attested by the City Clerk, and to evidence its acceptance of the trusts hereby created, BOKF, N.A. has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

**CITY OF ST. PETERS, MISSOURI**

By: \_\_\_\_\_  
Len Pagano, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Patricia E. Smith, City Clerk

DRAFT

[Trust Indenture]

**BOKF, N.A.,**  
as Trustee

By: \_\_\_\_\_  
Name: Victor Zarrilli  
Title: Senior Vice President

DRAFT

**EXHIBIT A**

**FORM OF BONDS**

***THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED,  
ASSIGNED OR NEGOTIATED ONLY TO AN APPROVED INVESTOR  
AS DEFINED IN THE HEREIN-DESCRIBED INDENTURE.***

**No. 1**

**Not to Exceed  
\$61,500,000**

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**CITY OF ST. PETERS, MISSOURI  
TAXABLE INDUSTRIAL REVENUE BOND  
(MEDLINE INDUSTRIES, INC. PROJECT)  
SERIES 2020**

**Interest Rate**

**5.0%**

**Maturity Date**

**December 1 of the 10th  
Calendar Year Following the  
Completion Date**

**Dated Date**

**April \_\_, 2020**

**OWNER:** \_\_\_\_\_

**MAXIMUM PRINCIPAL AMOUNT:**

**SIXTY-ONE MILLION FIVE HUNDRED  
THOUSAND DOLLARS**

**CITY OF ST. PETERS, MISSOURI**, a fourth-class city organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

As used herein, the term “Cumulative Outstanding Principal Amount” means all Bonds outstanding under the terms of the hereinafter-defined Indenture, as reflected on **Schedule I** hereto maintained by the Trustee.

**THIS BOND** is one of a duly authorized series of Bonds of the City designated “City of St. Peters, Missouri, Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020,” in the maximum aggregate principal amount of \$61,500,000 (the “Bonds”), to be issued for the purpose of acquiring certain real property known as Lot 38 of the Premier 370 Business Park in the City (as further described in the hereinafter-defined Lease, the “Project Site”) and constructing an approximately 800,000 square foot distribution center thereon (the “Project Improvements”). The City will lease the Project Site and the Project Improvements (collectively, the “Project”) to Medline Industries, Inc., an Illinois corporation (the “Company”), under the terms of a Lease Agreement dated as of April 1, 2020 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Lease”), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, and pursuant to proceedings duly had by the governing body of the City.

**THE BONDS** are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of April 1, 2020 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Indenture”), between the City and BOKF, N.A., St. Louis, Missouri, as trustee (the “Trustee”). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Owners, and the terms upon which the Bonds are issued and secured.

**THE BONDS** are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating at least 10% of the maximum principal amount of Bonds authorized under the Indenture shall not be subject to redemption and payment before the stated maturity thereof. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

**THE BONDS** are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Sections 9.1(f)** or **9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph, money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

If the Bonds are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owner of this Bond at least 30 days (five days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid.

**THE BONDS**, including interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special fund created by the City and designated the "City of St. Peters, Missouri, Bond Fund -- Medline Industries, Inc. Project"

**THE OWNER** of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

**THIS BOND** is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in Person or by such Person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person's duly authorized attorney, and thereupon a new fully registered Bond or Bonds, in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

**THE BONDS** are issuable in the form of one fully-registered Bond in the maximum principal amount of \$61,500,000.

**THIS BOND** shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

**IT IS HEREBY CERTIFIED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of Missouri.

**IN WITNESS WHEREOF**, the City of St. Peters, Missouri, has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk and its corporate seal to be affixed hereto or imprinted hereon.

**CITY OF ST. PETERS, MISSOURI**

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

[SEAL]

ATTEST:

By: \_\_\_\_\_  
City Clerk

DRAFT

\_\_\_\_\_

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**CERTIFICATE OF AUTHENTICATION**

This Bond is the Taxable Industrial Revenue Bond (Medline Industries, Inc. Project), Series 2020, described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

**BOKF, N.A.**, as Trustee

\_\_\_\_\_ By \_\_\_\_\_  
Date Authorized Signatory

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DRAFT



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**FORM OF ASSIGNMENT**

***(NOTE RESTRICTIONS ON TRANSFERS)***

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

---

Print or Typewrite Name, Address and Social Security or  
other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept by the Trustee  
for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

---

NOTICE: The signature to this assignment must  
correspond with the name as it appears upon the  
face of the within Bond in every particular.

Medallion Signature Guarantee:

## EXHIBIT B

### FORM OF REPRESENTATION LETTER

City of St. Peters, Missouri  
One St. Peters Centre Boulevard  
St. Peters, Missouri 63376  
ATTN: City Administrator

BOKF, N.A.  
200 North Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

Re: \$61,500,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020 of City of St. Peters, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced Bonds (the “Bonds”), the undersigned purchaser of the Bonds hereby represents, warrants and agrees as follows:

**1.** The undersigned understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of April 1, 2020 (the “Indenture”), between the City of St. Peters, Missouri (the “City”) and BOKF, N.A., as trustee (the “Trustee”), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Medline Industries, Inc., an Illinois corporation (the “Company”), under a Lease Agreement dated as of April 1, 2020 (the “Lease”), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

**2.** The undersigned understands that (a) the Bonds and the interest thereon are special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City, (b) the Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in the Indenture, (c) the Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and none of the City, the State or related political subdivision thereof shall be liable thereon, and (d) the Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

**3.** The undersigned understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward its distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

4. The undersigned is an Approved Investor, as defined in the Indenture.

5. The undersigned agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and, if requested by the City, upon receipt of an opinion of counsel reasonably acceptable to the City, the Company and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

6. The Company has (a) furnished to the undersigned such information about itself as the undersigned deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the undersigned, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested. [\*Delete Paragraph 6 if Company is the Purchaser of the Bonds.\*]

7. The undersigned is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds. [\*Delete previous sentence if Company is the Purchaser of the Bonds.\*] The undersigned believes that the Bonds which it is acquiring is a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

8. The undersigned is fully aware of and satisfied with (a) the current status of the title to the Project and any issues related thereto and (b) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

9. The undersigned understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

10. The undersigned hereby directs the Trustee to hold the Bonds in trust pursuant to **Section 204(c)** of the Indenture.

Dated: \_\_\_\_\_, 20\_\_\_\_

**[PURCHASER OF BONDS]**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit C

-----  
(The above space is reserved for Recorder's Certification.)

TITLE OF DOCUMENT: GROUND LEASE

DATE OF DOCUMENT: April \_\_, 2020

GRANTOR: MRE SPMO, LLC

GRANTOR'S MAILING ADDRESS: c/o Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093

GRANTEE: CITY OF ST. PETERS, MISSOURI

GRANTEE'S MAILING ADDRESS: One St. Peters Centre Boulevard  
St. Peters, Missouri 63376

RETURN DOCUMENTS TO: Jason S. Terry, Esq.  
Gilmore & Bell, P.C.  
211 North Broadway, Suite 2000  
St. Louis, Missouri 63102

LEGAL DESCRIPTION: See **Exhibit A**

**GROUND LEASE**  
**BY AND BETWEEN**  
**MRE SPMO, LLC**  
**“LANDLORD”**

**AND**

**CITY OF ST. PETERS, MISSOURI**  
**“TENANT”**

## GROUND LEASE

THIS GROUND LEASE (“Lease”) is made and entered into as of the \_\_\_\_ day of April, 2020 (the “Effective Date”), by and between MRE SPMO, LLC (f/k/a MRE SPMI, LLC), a Missouri limited liability company (“Landlord”) and a wholly-owned subsidiary of Medline Industries, Inc., an Illinois corporation (“Company”), and the CITY OF ST. PETERS, MISSOURI, a fourth-class city organized and existing under the laws of the State of Missouri (“Tenant” or “City”).

### Recitals:

A. Landlord owns fee simple title to an approximately 48.7 acre parcel of real property located in the City, legally described on **Exhibit A** hereto and made a part hereof (the “Project Site”).

B. City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the “Act”), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) and to issue industrial revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

C. Pursuant to the Act, the governing body of the City passed Ordinance No. \_\_\_\_ (the “Ordinance”) on April 9, 2020, authorizing the City to (a) acquire a leasehold interest in the Project Site, and (b) issue its Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020, in the maximum principal amount of \$61,500,000 (the “Bonds”), for the purpose of constructing on the Project Site an approximately 800,000 square foot distribution center for Company (the “Project Improvements”).

D. The Ordinance authorizes the City to lease from Landlord the Project Site and Project Improvements (collectively, the “Project”) and to sublease the Project to Company pursuant to the Lease Agreement dated as of April 1, 2020 to be entered into by and between City, as sublessor, and Company, as sublessee (the “Sublease”).

E. In connection with the Project, the Ordinance and the issuance of the Bonds, and as a condition thereof, City and BOKF, N.A., as trustee, have entered into a certain Trust Indenture dated as of April 1, 2020 (the “Trust Indenture”), and Landlord, Tenant and Company have entered into a Performance Agreement dated as of April 1, 2020 (the “Performance Agreement”) (collectively, with the Trust Indenture, the Lease, the Sublease and all other documents entered into by Landlord, Company, Tenant, or any other parties with respect thereto, the “Chapter 100 Transaction”).

F. Landlord desires to lease the Project to Tenant and Tenant desires to lease the Project from Landlord for the term of this Lease, as more fully described in this Lease and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants of the parties herein contained, and as part of the Project and the Chapter 100 Transaction, and as a condition thereof, and in consideration of the mutual promises and agreements of the parties pursuant thereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby demises and lets to Tenant, and Tenant hereby takes from Landlord, the Leased

Premises, as hereinafter defined, for the Term and upon the covenants, terms and conditions herein contained, and in connection therewith the parties agree as follows:

### **ARTICLE I. THE LEASED PREMISES**

Section 1.1 Description of the Leased Premises. The “Leased Premises” means, collectively, the Project Site, the Project Improvements, and all rights, privileges, easements and other interests appurtenant to the Project Site.

### **ARTICLE II. TERM**

Section 2.1 Term. The term of this Lease (“Term”) shall be deemed to have commenced on the Effective Date and, subject to **Section 4.5** of the Sublease with respect to merger of interests, terminating simultaneously with the termination of the Sublease.

### **ARTICLE III. DEFINITIONS**

The following terms, whenever appearing in this Lease with initial capital letters, shall have the respective meanings set forth or referred to in this Article III:

- (a) “Event of Default” shall have the meaning set forth in Section 11.1.
- (b) “Including” shall mean “including, without limitation”.
- (c) “Landlord’s Mortgage” shall have the meaning set forth in Section 6.1.
- (d) “Lease Year” shall mean a period of twelve (12) consecutive full calendar months beginning on the Effective Date and ending twelve months thereafter; provided, however, that if the Effective Date does not fall on the first day of a calendar month, the first Lease Year shall begin on the Effective Date and shall end on the date which is twelve months after the first day of the month following the Effective Date; and provided further, that the last Lease Year shall end on the expiration or earlier termination of this Lease, notwithstanding the fact that such Lease Year may consist of less than twelve (12) consecutive full calendar months.
- (e) “Leased Premises” shall have the meaning set forth in Section 1.1.
- (f) “Mortgage” shall have the meaning set forth in Section 6.1.
- (g) “Project” shall have the meaning set forth in the Recitals above.
- (h) “Rent” shall have the meaning set forth in Section 4.1.
- (i) “Term” shall have the meaning set forth in Section 2.1.

## ARTICLE IV. RENT

Section 4.1 Rent. In addition to City's agreement to issue the Bonds, City hereby agrees to pay to Landlord annual rent under this Lease (the "Rent") equal to One Dollar and no/100 (\$1.00). The Rent shall be payable in cash or other available funds on the first day of each Lease Year (or the next business day, if such first day is not a business day) at the offices of Landlord. Notwithstanding any other provision herein, City may offset its obligation to pay Rent hereunder against any monetary sum or sums due to City by Company pursuant to the Sublease.

Section 4.2 Gross Lease. Landlord and Company shall pay, subject to the provisions of the Sublease and Performance Agreement, all impositions, and all other costs, expenses, and payments which Tenant assumes or agrees to pay to any person under the terms of this Lease. It is the purpose and intent of Landlord and Tenant that this is a gross lease and that Tenant shall have no obligation to pay maintenance, insurance, or taxes arising out of this Lease or the Project.

## ARTICLE V. CONSTRUCTION OF PROJECT

Section 5.1 Construction of Project. The Project Improvements shall be constructed by Company, as agent of Tenant under the Sublease, to the extent required by the Sublease and the Chapter 100 Transaction.

## ARTICLE VI. FINANCING

Section 6.1 Mortgage. Landlord shall have the right at any time and from time-to-time to create security interests in the form of a mortgage, deed of trust or other similar lien or encumbrance (a "Mortgage") upon or affecting Landlord's fee estate in the Project and its reversionary interest in the Project, or any part thereof. Any holder of any such Mortgage is herein referred to as "Landlord's Mortgagee(s)". This Lease and the estate of Tenant hereunder shall be subject and subordinate to any Mortgage in favor of Landlord's Mortgagee now encumbering the Leased Premises or any part thereof. Upon the request of Landlord, Tenant will execute and deliver any necessary or proper instruments or certificates reasonably necessary to subordinate, or confirm the subordination of, this Lease and the estate of Tenant hereunder to any such Mortgage or to any easement, reciprocal easement agreement or other operating agreement burdening the Leased Premises. Upon the foreclosure of any Mortgage by Landlord's Mortgagee, or sale in lieu thereof, Tenant shall attorn to such Landlord's Mortgagee.

Section 6.2 No Leasehold Mortgage. Tenant shall have no right to mortgage its interests under this Lease for any purpose.

## ARTICLE VII. DISCHARGE OF LIENS

Section 7.1 Covenant Against Liens. Tenant, Company, and Landlord shall not create or permit to be created or to remain, and each shall promptly discharge, any mechanic's, laborer's or materialman's lien which might be or become a lien, encumbrance or charge upon the Leased Premises or Project or any part thereof as a result of their separate actions, except as expressly permitted pursuant to the Sublease. Notwithstanding the foregoing, the Landlord hereby acknowledges that mechanic's, laborer's or materialman's liens may be filed against the Landlord's fee simple interest in the Leased Premises despite Tenant's leasehold interest in the Leased Premises. All such liens shall be discharged prior to the termination of this Lease.

## **ARTICLE VIII. ASSIGNMENT AND SUBLEASE**

Section 8.1 Assignment and Sublease. Except to the limited extent of the Sublease, Tenant shall not assign, sublet or otherwise transfer this Lease or any of its rights hereunder, presently or collaterally.

## **ARTICLE IX. USE**

Section 9.1 Use by Tenant. Tenant shall have the right of use or possession of the Leased Premises only to the extent expressly required and permitted by the Sublease.

Section 9.2 Covenant Against Waste. Tenant and Landlord shall not commit or suffer any waste to the Leased Premises or any property adjacent thereto.

## **ARTICLE X.**

### **REPAIRS, MAINTENANCE, UTILITIES**

Section 10.1 Repairs and Maintenance. Company shall, at its sole cost and expense, maintain and repair the Leased Premises and the Project, and all portions thereof and improvements thereon, to the extent required by the Sublease. In no event shall Tenant be required to make any repairs, improvements, additions, replacements, reconstructions or other changes to the Leased Premises or the Project or perform any maintenance thereon.

## **ARTICLE XI. DEFAULT**

Section 11.1 Events of Default. The following shall constitute an "Event of Default" hereunder:

(a) if Tenant shall fail or refuse to perform or comply with any of the agreements, terms, covenants or conditions provided in this Lease (other than those referred to in the following paragraph (b) of this Section 11.1) for a period of thirty (30) days after receipt of written notice from Landlord specifying the items in default; provided, however, that in the event that such failure by its nature cannot be cured within such thirty (30) day period, then such thirty (30) day period shall be extended until such failure is cured, so long as Tenant commences its efforts to cure within such period and thereafter diligently pursues the same to completion; or

(b) if Tenant shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present Bankruptcy Code or any future federal bankruptcy act or any other present or future federal, state or other bankruptcy or insolvency statute or law, or shall seek, consent to, or acquiesce in the appointment of any bankruptcy or insolvency trustee, receiver or liquidator of Tenant or of all or any substantial part of its properties or of the Leased Premises or if within sixty (60) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present Bankruptcy Code or any future federal bankruptcy or insolvency statute or law, such proceeding shall not have been dismissed or such appointment shall not have been vacated or stayed; or

(c) any Event of Default by Tenant under the Sublease, Performance Agreement, or Indenture.

Upon the occurrence of an Event of Default, at Landlord's option, by written notice and election to Tenant, Tenant's rights under this Lease shall expire and terminate, and upon such expiration the Tenant's estate in the Project under this Lease shall expire and terminate. The foregoing termination of Tenant's rights shall not be deemed to imply that the Lease is terminated unless Landlord specifically declares Landlord is exercising such right to so terminate this Lease.

Section 11.2 Surrender. Upon any such termination of Tenant's rights under this Lease pursuant to Section 11.1, Tenant shall quit and peacefully surrender the Leased Premises and the Project to Landlord to the extent that Tenant may be in possession thereof to the limited extent permitted or required by the Sublease, and Landlord, upon or at any time after any such termination, may without further notice enter upon and re-enter the Leased Premises and the Project and possess and repossess itself thereof, may dispossess Tenant and remove Tenant and all other persons and property from the Leased Premises and may have, hold and enjoy the Project and the Leased Premises and the right to receive all income of and from the same.

Section 11.3 Self-Help. In addition to any and all other rights and remedies available to Landlord under this Lease or at law or in equity, upon the occurrence of an Event of Default by Tenant with respect to any covenant or provision of this Lease, Landlord may, at Landlord's option, after notice and expiration of any applicable cure period, perform such covenant or provision for the account of Tenant, and the costs incurred by Landlord shall be immediately due and payable by Tenant to Landlord, on demand, as Additional Rent.

Section 11.4 Attorneys' Fees. In the event of litigation pertaining to this Lease, the Landlord shall pay all costs of litigation, including reasonable attorneys' fees.

Section 11.5 No Waiver. No failure by either party to insist upon the strict performance of any agreement, term, covenant or condition hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rent by Landlord during the continuance of any such breach, shall constitute a waiver of any such breach or of such agreement, term, covenant or condition. No agreement, term, covenant or condition hereof to be performed or complied with by either party and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver of any breach shall affect or alter this Lease, but each and every agreement, term, covenant and condition hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

Section 11.6 Cumulative Remedies. Each right and remedy 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 beginning of the exercise by either party of any such rights or remedies shall not preclude the simultaneous or later exercise by either party of any other such rights or remedies, except as otherwise expressly provided in this Lease.

## **ARTICLE XII. INSURANCE**

Section 12.1 Coverage. Company shall maintain insurance insuring the interests of Landlord and Tenant in the Leased Premises, and shall provide proof thereof to Landlord and Tenant, to the extent provided by the Sublease and the Performance Agreement, and in form and amounts as provided therein.

### **ARTICLE XIII. INDEMNIFICATION**

Section 13.1 Indemnification by Landlord. Company shall, at its sole cost and expense, defend, indemnify and hold harmless Landlord and Tenant to the extent provided in the Sublease and Performance Agreement.

### **ARTICLE XIV. CASUALTY DAMAGE**

Section 14.1 Repair. In the event that, at any time during the Term of this Lease, the Project or other improvements on the Leased Premises shall be destroyed or damaged in whole or in part by fire or other casualty, then, the Project shall be repaired or replaced to the extent and in the manner expressly provided by the Sublease.

### **ARTICLE XV. CONDEMNATION**

Section 15.1 Condemnation. If, at any time during the Term of this Lease, there shall be a total or partial taking of the Leased Premises or Project in condemnation proceedings or by any right of eminent domain or by sale in lieu thereof, the parties shall have the rights and obligations provided in the Sublease, and this Lease shall terminate only to the extent and in the manner provided in the Sublease.

Section 15.2 Proceeds. In the event of any such taking, the condemnation proceeds shall be applied as expressly provided in the Sublease.

### **ARTICLE XVI. EASEMENTS**

Section 16.1 Utility Easements. Tenant shall grant or join in the grant of utility easements upon the Leased Premises at the request of Landlord or Company, in such locations and scope as are requested by Landlord or Company, to the extent required by the various utility companies to provide the utility services necessary for the use and operation of the Leased Premises as permitted by the Sublease.

### **ARTICLE XVII. SURRENDER**

Section 17.1 Surrender of Leased Premises. Except as otherwise expressly provided in this Lease, Tenant shall surrender and deliver up the Leased Premises and all improvements thereon to Landlord at the expiration or other termination of this Lease, to the limited extent that Tenant may have any rights to possession thereof as expressly provided herein, without fraud or delay.

Section 17.2 Survival of Terms. The terms of this Article XVII shall survive the expiration or sooner termination of this Lease.

### **ARTICLE XVIII. CERTIFICATES**

Each party shall, at Landlord's expense, as reasonably requested by the other party from time to time, within ten (10) days after request by the other party, certify by written instrument, duly executed, acknowledged, and delivered to the requesting party or any other person, firm or corporation specified by the requesting party, the following facts (if the same be true):

(a) that this Lease is unmodified and in full force and effect, or, if there have been any modifications, that this Lease is in full force and effect as modified and stating, the modifications;

(b) whether or not there are, to the best of the certifying party's knowledge and belief, then existing any set-offs or defenses against the enforcement of any of the agreements, terms, covenants or conditions hereof upon the part of Tenant to be performed or complied with, and, if so, specifying the same;

(c) the Rent then payable under this Lease and the dates, if any, to which the Rent has been paid in advance;

(d) the dates of commencement and expiration of the Term; and

(e) whether or not, to the best knowledge of the officer executing such certificate, the other party is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which the person executing such certificate may have knowledge.

### **ARTICLE XIX. NOTICES**

Any and all notices, demands, requests, submissions, approvals, consents, disapprovals, objections, offers, or other communications or documents required to be given, delivered or served or which may be given, delivered or served under or by the terms and provisions of this Lease or pursuant to law or otherwise, shall be made in the form and manner provided in the Sublease.

### **ARTICLE XX. TERMINATION**

Section 20.1 Landlord's Right to Terminate. Landlord shall have the absolute right to terminate this Lease upon any termination of the Sublease pursuant to Landlord's purchase of the leasehold interest of Tenant hereunder, including Tenant's title to the Project and the Leased Premises, pursuant to Article XI of the Sublease.

Section 20.2 Termination of Sublease. This Lease shall automatically terminate upon any termination of the Sublease.

### **ARTICLE XXI. MISCELLANEOUS PROVISIONS**

Section 21.1 Rule of Construction. In the event of any conflict between the terms hereof and the terms of the Sublease, the terms of the Sublease shall control.

Section 21.2 Severability. 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 and every term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 21.3 No Oral Modification. All prior understandings and agreements between the parties are merged within this Lease which alone fully and completely sets forth the understanding of the parties, and this Lease may not be changed orally or in any manner other than by an agreement in writing and signed by the party against whom enforcement of the change is sought.

Section 21.4 Covenants to Bind and Benefit Respective Parties. Each and every one of the covenants and agreements herein contained shall bind and inure to the benefit of Landlord, Company and Tenant and their permitted successors and assigns, and shall run with the Land.

Section 21.5 Captions. The captions of this Lease are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease.

Section 21.6 Disclaimer of Relationship. Neither anything contained in this Lease nor any act of Landlord, Company or Tenant, shall be deemed or construed by any person to create any relationship of limited or general partnership or joint venture between Landlord, Company and Tenant or any third party beneficiary in favor of any person.

Section 21.7 Governing Law. This Lease shall be construed in accordance with the law of the State of Missouri.

Section 21.8 Recording. At Company's option, exercised by written notice to the City, Company and City shall, within ten (10) business days of such notice, execute a Memorandum of Lease in recordable form, in a form mutually agreeable to Company and City, which will be recorded by Company in the Office of the Recorder of Deeds of St. Charles County, Missouri at the cost of Company. Upon the termination of this Lease or upon any information in such memorandum becoming inaccurate, Company and City shall, upon request of either party, promptly execute an instrument in recordable form that states that the Lease has terminated, or that corrects any inaccurate information, as the case may be.

Section 21.9 Limitation on Liability of City. No provision, covenant or agreement contained in this Lease or the Sublease, or any obligation herein or therein imposed upon City, or the breach thereof, shall constitute or give rise to or impose upon City a pecuniary liability or a charge upon the general credit or taxing power of City.

Section 21.10 Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, teletypes, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of page intentionally left blank; signature pages to follow]



Name: Len Pagano  
Title: Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Name: Patricia E. Smith  
Title: City Clerk

STATE OF MISSOURI        )  
  ) SS.  
ST. CHARLES COUNTY        )

On this \_\_\_\_ day of April, 2020, before me, the undersigned, a Notary Public in and for said State, appeared **LEN PAGANO**, to me personally known, who, being by me duly sworn, did say that he is the Mayor of **CITY OF ST. PETERS, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its Board of Aldermen, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

\_\_\_\_\_  
Name: Jason S. Terry  
Notary Public in and for said State

My Commission Expires:

*PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX*



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROJECT SITE**

The land situated in the County of St. Charles, State of Missouri, and described as follows:

**Description of Lot 38 – Portion in U.S. Survey No. 735**

All that part of Lot 38 of Premier 370 Business Park Plat One, according to the plat thereof recorded in St. Charles County Plat Book 45 at Pages 354-362;

Which lies in U.S. Survey 735, Township 47 North, Range 4 East of the Fifth Principal Meridian, in the City of St. Peters, St. Charles County, Missouri, containing 48.7 acres, more or less.

DRAFT

Exhibit D

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**CITY OF ST. PETERS, MISSOURI,  
As Lessor,**

**AND**

**MEDLINE INDUSTRIES, INC.,  
As Lessee**

---

**LEASE AGREEMENT**

**Dated as of April 1, 2020**

---

**Relating to:**

**\$61,500,000  
(Aggregate Maximum Principal Amount)  
City of St. Peters, Missouri  
Taxable Industrial Revenue Bonds  
(Medline Industries, Inc. Project)  
Series 2020**

---

**Certain rights of the City of St. Peters, Missouri (the “City”), in this Lease Agreement have been pledged and assigned to BOKF, N.A., St. Louis, Missouri, as Trustee under the Trust Indenture dated as of April 1, 2020, between the City and the Trustee.**

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## LEASE AGREEMENT

**THIS LEASE AGREEMENT**, dated as of April 1, 2020 (the “Lease”), between the **CITY OF ST. PETERS, MISSOURI**, a fourth-class city organized and existing under the laws of the State of Missouri (the “City”), as lessor, and **MEDLINE INDUSTRIES, INC.**, a corporation organized and existing under the laws of the State of Illinois (the “Company”);

### RECITALS:

**1.** The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), to purchase, construct, extend, equip and improve certain projects (as defined in the Act) and to issue industrial revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

**2.** Pursuant to the Act, the Board of Aldermen passed Ordinance No. \_\_\_\_ (the “Ordinance”) on April 9, 2020, authorizing the City to issue its Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020, in the maximum principal amount of \$61,500,000 (the “Bonds”) for the purpose of acquiring (a) upon the issuance of the Bonds, a leasehold interest and (b) upon completion of the herein-defined Project Improvements, a fee interest, in certain real property known as Lot 38 of the Premier 370 Business Park in the City (as legally described on **Exhibit A** hereto, the “Project Site”) and constructing an approximately 800,000 square foot distribution center thereon (as further defined in the hereinafter-defined Indenture, the “Project Improvements”).

**3.** Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the “Indenture”) with BOKF, N.A., St. Louis, Missouri, as Trustee (the “Trustee”), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will lease the Project Site and the Project Improvements (collectively, the “Project”) to the Company, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

**4.** In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City, the Company and MRE SPMO, LLC (f/k/a MRE SPMI, LLC), a Missouri limited liability company and wholly-owned subsidiary of the Company, have concurrently herewith entered into a Performance Agreement of even date herewith (the “Performance Agreement”) pursuant to which the Company has agreed to make certain payments in lieu of taxes.

**5.** Pursuant to the foregoing, the City desires to acquire the Project from the Company and the Company desires to lease the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.1. Definitions of Words and Terms.** In addition to any words and terms defined elsewhere in this Lease, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

**Section 1.2. Rules of Interpretation.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

**Section 1.3. Date of Lease.** The dating of this Lease as of April 1, 2020, is intended as and for the convenient identification of this Lease only and is not intended to indicate that the Lease was executed and delivered on said date, this Lease being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds.

## ARTICLE II

### COVENANTS

**Section 2.1. Covenants of the City.** The City covenants as the basis for the undertakings on its part herein contained, that:

(a) The City is a fourth-class city duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of

its Board of Aldermen, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers.

(b) As of the date of delivery hereof, the City agrees to acquire initially, a leasehold interest pursuant to the Ground Lease, and, on the Transfer Date, fee title, from the Company or an affiliate thereof, subject to Permitted Encumbrances, and construct or cause to be constructed, the Project Improvements. The City agrees to sell the Project to the Company, if the Company exercises its option to purchase the Project, upon termination of this Lease, all for the purpose of furthering the public purposes of the Act.

(c) To the City's knowledge, no member of the Board of Aldermen or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

(d) To finance the costs of the Project, the City proposes to issue the Bonds which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture.

(e) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, consisting of all rents, revenues and receipts to be derived by the City from the leasing or sale of the Project, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds and amounts owing pursuant to the Lease.

(f) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of the Authorized Company Representative.

(g) The City will not operate the Project as a business or in any other manner except as the lessor thereof; provided, subsequent to an Event of Default hereunder, the City may, but is not obligated to, operate the Project in such manner as the City deems best.

**Section 2.2. Covenants of the Company.** The Company covenants, as the basis for the undertakings on its part herein contained, that:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois and is duly authorized to conduct business in the State of Missouri.

(b) The Company has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives.

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the best of the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or

encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party.

(d) The estimated costs of the purchase, construction and improvement of the Project are in accordance with sound engineering and accounting principles.

(e) The Project will comply in all material respects with all applicable federal, state and local laws, statutes, ordinances, rules, regulations and codes pertaining to or affecting the Project, including all building and zoning, health, environmental and safety orders and laws, subject to all rights of the Company to contest the same.

## ARTICLE III

### GRANTING PROVISIONS

**Section 3.1. Granting of Leasehold Estate.** The City hereby exclusively rents, leases and lets the Project to the Company, and the Company hereby rents, leases and hires the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

**Section 3.2. Lease Term.** This Lease shall become effective upon its execution and delivery. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project shall terminate on December 31 of the 10<sup>th</sup> calendar year following the Completion Date.

**Section 3.3. Possession and Use of the Project.**

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** hereof following the occurrence and continuance of an Event of Default, as defined in **Section 12.1** hereof, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company to defend the Company's quiet and peaceable possession and enjoyment of the Project.

(b) Subject to the provisions of this Section, the Company shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall use its best efforts to comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project, as to the manner of use or the condition of the Project. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or

requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

## ARTICLE IV

### PURCHASE, CONSTRUCTION AND IMPROVEMENT OF THE PROJECT

**Section 4.1. Issuance of the Bonds.** To provide funds for the payment of Project Costs, the City agrees that, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Trustee shall promptly deposit such proceeds, if and when received, as provided in the Indenture to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Trustee shall, (pursuant to **Section 208(d)** of the Indenture) endorse the Bonds in an amount equal to the requisition certificates submitted pursuant to **Section 4.4** hereof. In that event, so long as the sole Owner of the Bonds is the lessee under the Lease, the purchaser of the Bonds shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in the requisition certificate.

**Section 4.2. Purchase, Construction and Improvement of the Project.** The City and the Company agree that the Company, as the agent of the City, shall, but solely from the Project Fund, purchase, construct and improve the Project as follows:

(a) The City will acquire a leasehold interest in the Project Site at the execution hereof and fee title to the Project on the Transfer Date. Concurrently with the execution of this Lease, (i) the Ground Lease will be executed by the City and the Company and placed of record, and (ii) the commitment for title insurance or ownership and encumbrance report required by **Article VII** will be delivered to the City and the Trustee. The Company shall deliver to the City (A) an updated commitment for title insurance or ownership and encumbrance report, (B) the Special Warranty Deed dated the Transfer Date, in substantially the form attached hereto as **Exhibit C** (the "Deed"), and (C) any other necessary instruments for transfer of fee title to the Project on or before the Transfer Date.

(b) On behalf of the City, the Company will purchase, construct and improve the Project Improvements on the Project Site and otherwise improve the Project Site in accordance with the Plans and Specifications. The Company may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that would alter the intended purpose of the Project may be made only with the prior written approval of the City. The Company agrees that the aforesaid construction and improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for its purposes, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.2**.

(c) The Company will comply with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, and will purchase a payment and performance bond in the amount of the construction costs of the Project Improvements.

(d) The Company will cause the purchase, construction and improvement of the Project to be completed on or before the Completion Date. If such purchase, construction and improvement commences

before the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose.

**Section 4.3. Project Costs.** The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof. The Company may not submit any requisition certificates for Project Costs incurred after the Completion Date. The Company must submit all requisitions for Project Costs incurred before the Completion Date within three months after the Completion Date. The maximum amount of Project Costs for which requisition certificates may be submitted is \$61,500,000.

**Section 4.4. Payment for Project Costs.**

(a) The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund and endorse the Bonds, if the Trustee is holding the Bonds, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit B**, signed by an Authorized Company Representative and approved by an Authorized City Representative. The Company agrees that the information in each certificate will be accurate in all respects when given, and that the Company will notify the City if the Company becomes aware of any material inaccuracies in a certificate after the date on which it is given. Each such certificate shall:

- (i) request payment or reimbursement of a specified amount of such funds (which amount shall be equal to the value of the property being transferred to the City or added to the Project Improvements simultaneously with any request) and directing to whom such amount shall be paid (which may include the Company in the event of a reimbursement);
- (ii) describe each item of Project Costs for which payment is being requested;
- (iii) state that each item for which payment is requested is or was provided for in the Plans and Specifications, has been properly incurred and is a proper charge against the Project Fund, that the amount requested either has been paid by the Company, or is justly due, and has not been the basis of any previous requisition from the Project Fund; and
- (iv) state that, except for the amounts, if any, stated in said certificate, to the best of its knowledge, there are no outstanding disputed amounts for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, construction, and equipping of the Project Improvements which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon the Project or any part thereof.

(b) The Trustee may rely conclusively on any such certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by the Authorized Company Representative and an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

**Section 4.5. Establishment of Completion Date.** The Completion Date shall be evidenced to the City and the Trustee by a certificate signed by the Authorized Company Representative stating (a) that the purchase and construction of the Project has been substantially completed in accordance with the Plans and Specifications, (b) the date of substantial completion thereof, and (c) that all costs and expenses of the purchase and construction of the Project have been paid except costs and expenses the payment of which is

not yet due or is being retained or contested in good faith by the Company. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee. Notwithstanding the foregoing, the certificate shall be deemed given on December 31, 2021, if not actually filed with the City by December 31, 2021, subject to any delay to the extent caused by force majeure, which for purposes of this Lease shall mean: legal proceedings, orders of any kind of any court or governmental body, strikes, lockouts, labor disputes, riots, acts of God, earthquake, fire or other casualties, explosions, tornadoes, cyclones, floods, adverse weather conditions, war, invasion or acts of a public enemy, governmental restrictions or priorities, shortage or delay in shipment of material or fuel, any court order or judgment resulting from any litigation affecting the validity of this Lease, or other like causes beyond the Company's reasonable control. The Company shall, within ten (10) days after the event of force majeure, notify the City in writing of the occurrence of such event and shall have the burden of proof in establishing such cause. In no event shall the Completion Date extend beyond December 31, 2022. The Transfer Date shall occur no later than 30 days after the Completion Date and the Company's receipt of waivers of all mechanic's lien rights with respect to the Project. The Company and the City agree to cooperate in causing notice of the Transfer Date to be furnished to the Trustee and St. Charles County, Missouri Assessor. The parties agree that upon transfer of fee title to the City on the Transfer Date, the City's leasehold interest under the Ground Lease and fee title interest will merge and the Company's leasehold interest under this Lease will, subject to the terms hereof, continue without interruption.

**Section 4.6. Surplus in Project Fund.** Upon receipt of the certificate described in **Section 4.5** hereof, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Company solely to (a) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (b) at the option of the Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

**Section 4.7. Project Property of City.** The Project Site and the Project Improvements located thereon at the execution hereof, all work and materials on the Project Improvements as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, and anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the City, subject only to this Lease, the Indenture and any other Permitted Encumbrances.

**Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company.** Any improvements or items of machinery or equipment located on the Project Site which do not constitute part of the Project Improvements and the entire purchase price of which is paid for by the Company with its own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company and shall not constitute a part of the Project for purposes of **Section 6.4** and therefore are subject to taxation, to the extent otherwise provided by law.

**Section 4.9. Construction Contracts.** The Company may enter into one or more construction contracts to complete the Project. All construction contracts entered into by or on behalf of the Company shall state that the contractor has no recourse against the City or the Trustee in connection with the contractor's construction of the applicable portion of the Project.

## ARTICLE V

### RENT PROVISIONS

**Section 5.1. Basic Rent.** The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on each Payment Date, as Basic Rent for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as principal of the Bonds and the interest thereon as provided in the Indenture. Except as offset pursuant to the right of the Company set forth below, all payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Ground Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Company (or any Financing Party holding a mortgage or deed of trust on the Project) is the sole holder of the Bonds, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, upon providing the Trustee with a written statement confirming such ownership upon which the Trustee may conclusively rely. The Trustee may conclusively rely on the absence of any written notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

**Section 5.2. Additional Rent.** The Company shall pay or cause to be paid as Additional Rent, within 30 days after receiving an itemized invoice therefor, the following amounts:

(a) all fees, charges and expenses, including agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, this Lease, the Ground Lease or the Performance Agreement, including but not limited to claims by contractors or subcontractors and legal costs associated with the transfer of title to the Project on the Transfer Date, as and when the same become due;

(b) all costs incident to the issuance of the Bonds (which are to be paid on the Closing Date) and the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) all fees, charges and expenses incurred in connection with the enforcement of any rights under this Lease, the Ground Lease, the Indenture or the Performance Agreement by the City, the Trustee or the Owners, including counsel fees and expenses; and

(d) all other payments of whatever nature which the Company has agreed in writing to pay or assume under the provisions of this Lease, the Ground Lease, the Performance Agreement or the Indenture.

### **Section 5.3. Obligations of Company Absolute and Unconditional.**

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off (subject to **Section 11.5** hereof), counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project has been started or completed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Company's use thereof, the eviction or constructive eviction of the Company, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this Section is intended or shall be deemed to affect or impair in any way the rights of the Company to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4** hereof, nor the right of the Company to terminate this Lease and repurchase the Project as provided in **Article XI** hereof.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the Company of any rights or claims the Company may have against the City under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owners and the City. The Company may, however, at its own cost and expense and in its own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third Persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the City hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

### **Section 5.4. Prepayment of Basic Rent.**

(a) The Company may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the partial redemption of the Bonds). During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

(b) At its option, the Company may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

## ARTICLE VI

### MAINTENANCE, TAXES AND UTILITIES

**Section 6.1. Maintenance and Repairs.** Throughout the Lease Term the Company shall, at its own expense, keep the Project in reasonably safe operating condition and keep the Project in good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance with all provisions of the St. Peters City Code relating to maintenance and appearance.

**Section 6.2. Taxes, Assessments and Other Governmental Charges.**

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Company therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Company on behalf of the City, or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the City's title to the Project; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the City written notice of its intention to do so, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The Company shall save and hold harmless the City from any costs and expenses the City may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against the PILOT Payments (as defined in the Performance Agreement) to be made by the Company under the Performance Agreement to the extent of any ad valorem taxes imposed with respect to the Project paid pursuant to this Section, except as otherwise provided in the Performance Agreement.

**Section 6.3. Utilities.** All utilities and utility services used by the Company in, on or about the Project shall be paid by the Company and shall be contracted by the Company in the Company's own name, and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

**Section 6.4. Property Tax Exemption.** The City and the Company expect that while the Project is owned by the City and subject to the Lease, the Project will be exempt from all ad valorem property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement are incorporated herein as if fully set forth herein.

## ARTICLE VII

### INSURANCE

#### **Section 7.1. Title Commitment or Report.**

(a) Before entering into the Ground Lease, the Company will purchase, from a title insurance company reasonably acceptable to the City, a commitment for title insurance or provide such other report in a form reasonably acceptable to the City Attorney showing the ownership of and encumbrances on the Project Site. A copy of such report shall be provided to the City and the Trustee.

(b) Before conveying title to the Project Site and Project Improvements to the City on the Transfer Date pursuant to the Deed, the Company will purchase, from a title insurance company reasonably acceptable to the City, a commitment for title insurance or provide such other report in a form reasonably acceptable to the City Attorney showing the ownership of and encumbrances on the Project Site. A copy of such report shall be provided to the City and the Trustee

#### **Section 7.2. Casualty Insurance.**

(a) The Company shall obtain, at its sole cost and expense, a policy or policies of insurance (including, if appropriate, builder's risk insurance) to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions). The insurance required pursuant to this Section shall be maintained from commencement of construction throughout the Lease Term with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of not less than "A-" or the equivalent thereof as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee prior to commencement of construction of the Project Improvements and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City, the Trustee and the Company as insureds, as their respective interests may appear, shall name the Trustee as loss payee and shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 30 days after written notice of cancellation to the City, the Company, the Trustee and each other insured or loss payee named therein. The Company shall provide the Trustee, on an annual basis with a certificate of an Authorized Company Representative certifying compliance with this Section. The Trustee shall be entitled to rely upon said certificate as to the Company's compliance

with the insurance requirements. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance.

(b) In the event of loss or damage to the Project, the Net Proceeds of casualty insurance carried pursuant to this Section shall be, unless otherwise provided by law, (i) paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or (ii) applied as directed in writing by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding or as directed by a Financing Party.

**Section 7.3. Blanket Insurance Policies.** The Company may satisfy any of the insurance requirements set forth in this Article using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with.

**Section 7.4. Worker's Compensation.** The Company agrees throughout the Lease Term to maintain or cause to be maintained the worker's compensation coverage required by the laws of the State of Missouri.

**Section 7.5. Sovereign Immunity.** Notwithstanding anything to the contrary contained herein, nothing in this Lease shall be construed to broaden the liability of the City beyond the provisions of Sections 537.600 to 537.610 of the Revised Statutes of Missouri, as amended, or abolish or waive any defense at law that might otherwise be available to the City or its officers, agents and employees.

## ARTICLE VIII

### ALTERATION OF THE PROJECT

#### **Section 8.1. Additions, Modifications and Improvements to the Project.**

(a) The Company may make such other additions, modifications and improvements in and to any part of the Project Site or Project Improvements as the Company from time to time may deem necessary or desirable for its business purposes. All other additions, modifications and improvements made by the Company pursuant to this Section shall (i) be made in a good and workmanlike manner and in strict compliance with all laws, orders and ordinances applicable thereto and (ii) when commenced, be prosecuted to completion with due diligence. Any such other additions, modifications and improvements shall be subject to ad valorem taxes, or if for any reason the St. Charles County Assessor determines that such additions, modifications and improvements are not subject to ad valorem taxes, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due but for the City's ownership thereof, unless otherwise agreed to by the City.

(b) The Company shall, following the Completion Date, notify the City in writing of any improvements to the Project Site or Project Improvements, other than the Project being financed with the proceeds of the Bonds, that in the aggregate are reasonably expected to exceed \$1,000,000 during any calendar year. If such improvements constitute personal property, any such improvements shall remain the property of the Company, shall not become part of the Project, and shall be subject to ad valorem taxes, unless otherwise exempted from ad valorem taxes.

**Section 8.2. Additional Improvements on the Project Site.** Subject to **Section 8.1(b)** hereof, the Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and

improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all ad valorem taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the St. Charles County Assessor determines that such additional buildings and improvements are not subject to ad valorem taxes, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due under this Section, unless otherwise agreed to by the City.

**Section 8.3. Permits and Authorizations.** The Company shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. The City shall cooperate with the Company to obtain, amend, or maintain any existing or future municipal or other governmental permit or authorization for the Project which requires the City's signature, certification, or consent as the owner of any part of the Project, including executing any required applications, certifications, or reports. All such work shall be done in a good and workmanlike manner and in strict compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

**Section 8.4. Mechanics' Liens.**

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, and subject to the terms of any Financing Documents executed by the Company in favor and for the benefit of any Financing Party the Company may contest any such mechanics' or other similar lien if the Company (1) within 60 days after the Company becomes aware of any such lien notifies the City and the Trustee in writing of its intention to do so, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise

satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City that, in the opinion of counsel, by nonpayment of any such items, the interest of the City in the Project will be subject to loss or forfeiture. In that event, the Company shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall defend, save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

## ARTICLE IX

### DAMAGE, DESTRUCTION AND CONDEMNATION

#### Section 9.1. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Company's option, construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (A) the value thereof shall not be less than the value of such destroyed or damaged Project Improvements immediately before the occurrence of such damage or destruction and (B) the nature of such new buildings, improvements, and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

If the Company elects to construct any such new buildings and improvements, for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings and improvements and all additions thereto and all replacements and alterations thereof.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the Project shall be used to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof. Insurance monies in an amount less than \$1,000,000 may be paid to or retained by the Company to be held in trust and used as provided herein. Insurance monies in any amount of \$1,000,000 or more shall be (i) paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** hereof to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, or (ii) applied as directed in writing by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding. If the Company makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any Financing Party, except as otherwise provided by law. Completion of such repairs, restoration, replacement or

rebuilding shall be evidenced by a certificate of completion delivered by the Company to the City and the Trustee in accordance with the provisions of **Section 4.5** hereof. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The City and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Company agrees to give prompt written notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site causing (in the Company's opinion) damage of more than \$1,000,000.

(f) If the Company determines that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, or if the Company does not have the right under any Financing Document to use any Net Proceeds for repair or restoration of the Project, any Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of any Financing Party. The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Company is the sole owner of the Bonds and it has determined that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance, and retain such proceeds for its own account.

(g) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section.

## **Section 9.2. Condemnation.**

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project is condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than \$1,000,000, the Company shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City in writing, the Trustee and any Financing Party under the Financing Document (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire or construct substitute improvements.

(b) If the Company determines that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition or construction of such substitute improvements, so as to place the Project in substantially the same condition as existed before the exercise of the said power of eminent domain, including the acquisition or construction of other improvements suitable for the Company's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Company without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

(c) If the Company determines that it is not practicable or desirable to acquire or construct substitute improvements, any Net Proceeds of condemnation awards received by the Company shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, all subject to the rights of any Financing Party under the Financing Documents (if any).

(d) The Company shall not, by reason of its inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The City shall cooperate fully with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the City. In no event will the City voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Company or any Financing Party.

**Section 9.3. Bondowner Approval.** Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) shall before the application thereof by the City or the Trustee be applied as directed in writing by the Owners of 100% of the principal amount of the Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement.

## ARTICLE X

### SPECIAL COVENANTS

**Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification.** The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Company's purposes or needs. The Company releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the Company's use thereof, unless such loss is the result of the City's or the Trustee's (or their respective employees and agents') willful misconduct. This provision shall survive termination of this Lease.

**Section 10.2. Surrender of Possession.** Upon accrual of the City's right of re-entry to the extent provided in **Section 12.2(b)** hereof, the Company shall peacefully surrender possession of the Project to the City in good condition and repair; provided, however, the Company may within 90 days (or such later date as the City may agree to) after the termination of this Lease remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Company, and during said 90-day (or extended) period the Company shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and which are not so removed from the Project before the expiration of said period shall be the separate and absolute property of the City. Notwithstanding the foregoing, if the Company has paid all obligations due and owing under the Indenture (or such obligations have been cancelled), this Lease and the Performance Agreement, the City shall convey the Project in accordance with **Section 11.2** hereof.

**Section 10.3. Right of Access to the Project.** The City may conduct such periodic inspections of the Project as may be generally provided in the St. Peters City Code. In addition, the Company agrees that the City and the Trustee and their duly authorized agents may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than five (5) Business Days' prior notice, subject to the Company's usual business proprietary, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Company's operations, (b) to monitor the acquisition, construction and installation provided for in **Section 4.2** hereof as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the acquisition, installation or maintenance of the Project, (d) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Company's failure to purchase the Project at the end of the Lease Term, to exhibit the Project to prospective purchasers, lessees or trustees.

**Section 10.4. Granting of Easements; Deed of Trust; and Financing Arrangements.**

(a) Subject to **Sections 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing, the City agrees that it will execute and deliver and will cause and direct the Trustee in writing to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant,

release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance, and that the Company will defend, indemnify and save and hold harmless the City from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising from the execution and delivery of any instrument, agreement or arrangement pursuant to this Section. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Company may mortgage or grant a deed of trust against the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such mortgage, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The sale of the Company's leasehold estate at a foreclosure sale or trustee's sale under any Financing Documents or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Performance Agreement are paid and the Bonds are paid or redeemed in full.

(c) The City acknowledges and agrees that the Company may further finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)** hereof.

(d) Upon notice by the Company to the City in writing that the Company has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply in respect of each such Financing Party and any Financing Party existing as of the date of the execution and delivery hereof:

(i) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same Person or Persons, without the prior written consent of such Financing Party;

(ii) the City shall serve upon each such Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice

of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party;

(iii) each Financing Party shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(iv) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default. Without limiting the generality of the foregoing, any Financing Party may cause the sale of the leasehold interest of the Company to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Financing Documents, to accept assignment of this Lease in lieu of foreclosure and to appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

(v) upon the occurrence and continuance of an Event of Default by the Company under this Lease, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party and permitting such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such Event of Default shall continue beyond any period set forth in the Lease to effect said cure so long as the Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that the Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default;

(vi) the Financing Parties (and their designees, nominees, assignees or transferees) may enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents;

(vii) this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without prior written consent of the Financing Party; and

(viii) any Financing Party may, on behalf of the Company and without the consent of the Company, but only having first caused the redemption of the Bonds, exercise the right to purchase the Project pursuant to **Section 11.1** hereof, upon compliance with the provisions of that Section. The Company agrees that the City will have no liability for taking direction from any Financing Party in connection with a conveyance of the Project back to the Company pursuant to **Article XI** hereof.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

(f) The Company's obligations under any mortgage or Financing Document relating to the Project entered into after the date of execution of this Lease shall be subordinate to the Company's obligations under this Lease.

**Section 10.5. Indemnification of City and Trustee.** The Company shall defend, indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of the Performance Agreement, this Lease (or any instrument requested by the Company pursuant to **Section 10.4** hereof) or the Indenture and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Performance Agreement, the Ground Lease, this Lease or any related document, (c) any contract entered into in connection with the acquisition, purchase, construction, extension, installation or improvement of the Project (including mechanics' liens), (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)** hereof, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any violation of Section 107.170 of the Revised Statutes of Missouri, as amended; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of work being performed at the Project by employees of the City, and shall not extend to the City or Trustee, as applicable, to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of willful misconduct by the City or the Trustee, respectively. Upon obtaining actual knowledge of the event giving rise to the indemnification contained in this **Section 10.5**, the City or Trustee shall provide prompt written notice of any such claims or demand to the Company. The Company shall defend them or either of them in any such action or proceeding; provided, the City shall cooperate with the Company and provide reasonable assistance in such defense. All costs related to the defense of the City or the Trustee shall be paid by the Company. This **Section 10.5** shall survive any termination of the Performance Agreement and this Lease or the satisfaction and discharge of the Indenture.

**Section 10.6. Depreciation and Other Tax Benefits.** The City and the Company hereby acknowledge and agree that:

(a) this Lease is intended to be and shall be treated as a "financing lease" for federal income tax purposes;

(b) the Company shall be treated solely for federal income tax purposes, as the owner of the Project and, as such, shall be entitled to claim all depreciation and amortization deductions and other tax benefits attributable to the ownership of the Project;

(c) each party shall report and file all federal income tax returns consistent with the intended tax treatment; and

(d) the City will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation, amortization deductions and benefits.

**Section 10.7. Company to Maintain its Existence.** The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee Person (a) expressly assumes in writing all the obligations of the Company contained in this Lease, and (b) (i) has a long-term-debt rating in any of the top 3 long-term-debt rating categories by any nationally recognized rating service, or (ii) is otherwise approved by the Board of Aldermen.

**Section 10.8. Security Interests.** The City and the Company hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. The Trustee shall file all continuation instruments necessary to be filed and shall continue or cause to be continued such instruments for so long as the Bonds are Outstanding. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to file or to renew such statements.

**Section 10.9. Environmental Matters, Warranties, Covenants and Indemnities Regarding Environmental Matters.**

(a) As used in this Section, the following terms have the following meanings:

“Environmental Laws” means any now-existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, order, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, all as amended from time to time.

“Hazardous Substances” means all (i) “hazardous substances” (as defined in 42 U.S.C. §9601(14)), (ii) “chemicals” subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials which are included under or regulated by any Environmental Law.

(b) The Company warrants and represents to the City and the Trustee that there are no conditions on the Project Site which violate any applicable Environmental Laws and no claims or demands have been asserted or made in writing by any third parties arising out of, relating to or in connection with any Hazardous Substances on, or allegedly on, the Project Site for any injuries suffered or incurred, or allegedly suffered or incurred, by reason of the foregoing.

(c) The Company will provide the City and the Trustee with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards in violation of Environmental Laws which are given by or on behalf of the Company to any federal, state or local or other agencies or authorities or which are received by the Company from any federal, state or local or other

agencies or authorities with respect to the Project Site. Such copies shall be sent to the City and the Trustee concurrently with their being mailed or delivered to the governmental agencies or authorities or within ten days after they are made or received by the Company. The Company will provide to the City for review only, any environmental assessment (“Assessments”) and reports regarding the correction or remediation of material environmental issues required by Environmental Laws to be addressed in the Assessment (“Reports”) concerning the Project; upon the completion of the City’s review of the Assessments and the Reports, the City shall immediately return to the Company all originals and copies of the Assessments and Reports.

(d) The Company warrants and represents that the Company has provided the City and the Trustee with copies of all emergency and hazardous chemical inventory forms (hereinafter “Environmental Notices”) showing Hazardous Substances on the Project Site given within 2 years preceding the date hereof, as of the date hereof, by the Company to any federal, state or local governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001 *et seq.*, or any other applicable Environmental Laws. The Company will provide the City and the Trustee with copies of all Environmental Notices concerning Hazardous Substances on the Project Site subsequently sent to any such governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986 or any other applicable Environmental Laws. Such copies of subsequent Environmental Notices shall be sent to the City and the Trustee concurrently with their being mailed to any such governmental authority or agency.

(e) The Company will comply with and operate and at all times use, keep and maintain the Project and every part thereof (whether or not such property constitutes a facility, as defined in 42 U.S.C. § 9601 *et seq.*) in conformance with all applicable Environmental Laws. Without limiting the generality of the foregoing, the Company will not use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the Project or any part thereof nor cause, suffer, allow or permit anyone else to do so except in compliance with all applicable Environmental Laws.

(f) The Company agrees to defend, indemnify, protect and hold harmless the City and the Trustee and their directors, officers, shareholders, officials or employees from and against any and all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys’ fees, arising from (i) any release (as defined in 42 U.S.C. § 9601 (22)), actual or alleged, of any Hazardous Substances, upon the Project Site or respecting any products or materials previously, now or thereafter located upon the Project Site, regardless of whether such release or alleged release has occurred before the date hereof or hereafter occurs and regardless of whether such release or alleged release occurs as a result of any act, omission, negligence or misconduct of the Company or any third party or otherwise, (ii) (A) any violation now existing or hereafter arising (actual or alleged) of, or any other liability under or in connection with, any applicable Environmental Laws relating to or affecting the Project, or (B) any violation now existing or hereafter arising, or any other liability, under or in connection with, any applicable Environmental Laws relating to any products or materials previously, now or hereafter located upon the Project Site, regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen before the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises, as the result of any act, omission, negligence or misconduct of the Company or any third party or otherwise, (iii) any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any Hazardous Substances on or allegedly on the Project Site, or (iv) any material breach, falsity or failure of any of the representations, warranties, covenants and agreements contained in this Section; The City shall cooperate with the Company in the defense of any matters included within the foregoing indemnity without any obligation to expend money. This subsection **10.9(f)** shall survive any termination of this Lease.

## ARTICLE XI

### OPTION AND OBLIGATION TO PURCHASE THE PROJECT

**Section 11.1. Option to Purchase the Project.** The Company shall have, and is hereby granted, the option to purchase all or any portion of the Project at any time, upon payment in full or redemption of the Outstanding Bonds to be redeemed or provision for their payment or redemption having been made pursuant to **Article XIII** of the Indenture. To exercise such option, the Company shall (a) give written notice to the City and to the Trustee, and shall specify therein the date of closing of such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, (b) provide evidence of payment of all real property taxes with respect to the Project Site and the Project Improvements, and (c) in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a "Remedies Notice"), the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said Remedies Notice has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Company may rescind such exercise by providing written notice to the City and the Trustee on or before the 29th day and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

- (a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all or a portion of the then-Outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus
- (b) an amount of money equal to the Trustee's and the Paying Agent's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus
- (c) an amount of money equal to the City's reasonable charges and expenses incurred in connection with the Company exercising its option to purchase all or a portion of the Project; plus
- (d) an amount of money equal to all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs; plus
- (e) the sum of \$10.00.

**Section 11.2. Conveyance of the Project.** At the closing of the purchase of the Project pursuant to this Article, the City will upon receipt of the purchase price deliver to the Company the following:

- (a) a release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and

(b) documents, including without limitation a special warranty deed as to the Project, conveying to the Company, or at the direction of the Company another Person, legal title to the Project, as it then exists, each in recordable form, subject to the following: (i) those liens and encumbrances, if any, to which title to the Project was subject when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreement on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture and this Lease; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

**Section 11.3. [Reserved]**

**Section 11.4. Obligation to Purchase the Project.** The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (i) the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, (ii) payment of the sum of the items set forth in sections **11.1(a)-(e)**, (iii) payment of all real property taxes with respect to the Project and (iv) the final payment due under the Performance Agreement. The amount of the purchase price under this Section shall be an amount sufficient to redeem all the then Outstanding Bonds, plus all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs, plus accrued interest and the reasonable fees and expenses of the City and the Trustee. The purchase price shall be paid by the Company within 90 days of the expiration of the Lease Term.

**Section 11.5. Right of Set-Off.** At its option, to be exercised at least 5 days before the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon. The Company may set-off any payment obligation under this Article by tendering a corresponding amount of the Bonds to the Trustee for cancellation.

**ARTICLE XII**

**DEFAULTS AND REMEDIES**

**Section 12.1. Events of Default.** If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an “Event of Default” under this Lease:

(a) default in the due and punctual payment of Basic Rent or Additional Rent within 10 days after written notice thereof from the City to the Company; or

(b) default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company’s part to be observed or performed, and such default continues for 60 days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default, provided that (i) the Company has commenced such cure within said 60-day period, and (ii) the Company diligently prosecutes such cure to completion); or

(c) the Company: (i) admits in writing its inability to pay its debts as they become due; or (ii) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the United States Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (iii) makes an assignment for the benefit of creditors; or (iv) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (v) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (vii) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside;

(d) an Event of Default under the Performance Agreement, as defined in **Section 6.1** thereof;  
or

(e) anything to the contrary contained in this Lease notwithstanding, following the date hereof and prior to expiration of this Lease, the Company vacates, abandons, ceases operations or otherwise fails to occupy the Project for 90 consecutive days, unless the Project Improvements have been subject to a casualty, condemnation or other event outside the Company's control and the Project Improvements are being reconstructed or the Company is otherwise required to temporarily vacate the Project or cease operations. Such events may include, but are not limited to, acts of war or terrorism, fires, floods, epidemics, riots, quarantine restrictions, strikes, earthquakes and acts or omissions of third parties.

**Section 12.2. Remedies on Default.** If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions, in addition to the remedies provided in **Section 12.5** hereof:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; or

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 60 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the Outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1** hereof, the Company's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may re-enter and take possession of the Project or the City may convey the Project to the Company and bring an action against the Company for the purchase price of the Project under **Section 11.1** hereof; provided, however, if the Company has paid all obligations due and owing under the Indenture, the Ground Lease, this Lease and the Performance Agreement, the City shall convey the Project in accordance with **Section 11.2** hereof. The Company's rights to cause the conveyance of the Project in accordance with **Section 11.2** hereof shall survive the expiration or termination of this Agreement.

**Section 12.3. Survival of Obligations.** The Company covenants and agrees with the City and Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent (to the extent the Bonds remain Outstanding) and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that except for the indemnification contained in **Article X** hereof, upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, and upon the Company's exercise of the purchase option contained in **Article XI** hereof, the Company's obligation under this Lease shall thereupon cease and terminate in full, except that obligations with respect to compensation and indemnification of the City and the Trustee shall not so terminate.

**Section 12.4. Performance of the Company's Obligations by the City.** Upon an Event of Default, the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 60 days after written notice of such failure is given the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, attorney's fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

**Section 12.5. Rights and Remedies Cumulative.** The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Company's option to re-purchase the property as provided in **Article XI** above shall not be terminated upon an Event of Default unless this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** hereof.

**Section 12.6. Waiver of Breach.** No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

**Section 12.7. Trustee's Exercise of the City's Remedies.** Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

## ARTICLE XIII

### ASSIGNMENT AND SUBLEASE

#### **Section 13.1. Assignment; Sublease.**

(a) The Company may sublease, assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act upon providing written notice to the City. Except as otherwise provided in this Section or **Section 10.4** hereof, the Company must obtain the City's prior written consent to any such disposition, unless such disposition is (i) to an entity controlled by or under common control with or controlling the Company or to an entity into which the Company is being merged or consolidated, (ii) an assignment to any Financing Party or (iii) a sublease of a portion of the Project Site or Project Improvements for a term not exceeding one year.

(b) With respect to any assignment, the Company shall comply with the following conditions:

(i) the Company shall notify the City and the Trustee of the assignment in writing;

(ii) such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;

(iii) such assignment shall include the entire then unexpired term of this Lease; and

(iv) a duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee and in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed.

(c) Any assignee of all the rights of the Company shall agree to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the issuance of the Bonds. Upon such assignment of all the rights of the Company and agreement by the assignee to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the Bonds, the Company shall be released from and have no further obligations under this Lease, the Performance Agreement or any agreement related to the issuance of the Bonds.

**Section 13.2. Assignment of Revenues by City.** The City shall assign and pledge any rents, revenues and receipts receivable under this Lease, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment.

**Section 13.3. Prohibition Against Fee Mortgage of Project.** The City shall not mortgage its fee interest in the Project, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

**Section 13.4. Restrictions on Sale or Encumbrance of Project by City.** During the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture and except to enforce its rights under **Section 12.2(b)** hereof, it will not sell, assign, encumber, mortgage, transfer or convey the Project or any interest therein.

## ARTICLE XIV

### AMENDMENTS, CHANGES AND MODIFICATIONS

**Section 14.1. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the Trustee, given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld, and the written consent of all of the Owners and any Financing Party.

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

**Section 15.1. Notices.** All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when (a) mailed by registered or certified mail, postage prepaid, or (b) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(a) To the City:

City of St. Peters, Missouri  
City Hall  
One St. Peters Centre Boulevard  
St. Peters, Missouri 63376  
ATTN: City Administrator

with a copy to:

Hamilton Weber LLC  
200 N. 3<sup>rd</sup> Street  
St. Charles, Missouri 63301  
ATTN: Wm. Randolph Weber, Esq.

(b) To the Trustee:

BOKF, N.A.  
200 North Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

(c) To the Company:

Medline Industries, Inc.  
Three Lakes Drive

Northfield, Illinois 60093  
ATTN: Director, Tax Compliance and Audit

with copies to each of the following:

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: Vice President of Real Estate Operations

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: General Counsel

Reinhart Boerner Van Deuren s.c.  
1000 N. Water Street, Suite 1700  
Milwaukee, Wisconsin 53202  
ATTN: John M. Murphy, Esq.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided, however, that notice to the Trustee shall be effective only upon receipt. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 15.2. City Shall Not Arbitrarily Withhold Consents and Approvals.** Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City will not arbitrarily and capriciously withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project, and the Project remains subject to zoning, building permit or other regulatory approvals by the City.

**Section 15.3. Net Lease.** The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

**Section 15.4. Limitation on Liability of City.** No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the

breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

**Section 15.5. Governing Law.** This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

**Section 15.6. Binding Effect.** This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and permitted assigns.

**Section 15.7. Severability.** If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

**Section 15.8. Execution in Counterparts.** This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 15.9. Electronic Storage.** The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 15.10. City Consents and Approvals.** Pursuant to the Ordinance, the Mayor is authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing and refinancing of the Project by the Company, and such easements, licenses, rights-of-way, plats and similar documents as may be requested by the Company) as may be required to carry out and comply with the intent of the Ordinance, the Indenture, the Performance Agreement, the Ground Lease and this Lease. The Mayor is also authorized, unless otherwise expressly provided herein to the contrary, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Indenture, this Lease, the Ground Lease or the Performance Agreement, including extensions of the Completion Date, as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or adversely affect the tax exemption as provided for therein, waive an Event of Default, or materially change the nature of the transaction unless approved by an ordinance of the Board of Aldermen.

[Remainder of page intentionally left blank; signature pages to follow]

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

**CITY OF ST. PETERS, MISSOURI**

By: \_\_\_\_\_  
Len Pagano, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Patricia E. Smith, City Clerk

DRAFT

[Lease Agreement]

**MEDLINE INDUSTRIES, INC.**

By: \_\_\_\_\_  
Name: Dmitry Dukhan  
Title: Vice President of Real Estate Operations

DRAFT

**EXHIBIT A**

**PROJECT SITE**

The land situated in the County of St. Charles, State of Missouri, and described as follows:

**Description of Lot 38 – Portion in U.S. Survey No. 735**

All that part of Lot 38 of Premier 370 Business Park Plat One, according to the plat thereof recorded in St. Charles County Plat Book 45 at Pages 354-362;

Which lies in U.S. Survey 735, Township 47 North, Range 4 East of the Fifth Principal Meridian, in the City of St. Peters, St. Charles County, Missouri, containing 48.7 acres, more or less.

DRAFT

**EXHIBIT B**

**FORM OF REQUISITION CERTIFICATE**

Requisition No. \_\_\_\_\_  
Date: \_\_\_\_\_

**REQUISITION CERTIFICATE**

**TO: BOKF, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF APRIL 1, 2020, BETWEEN THE CITY OF ST. PETERS, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF APRIL 1, 2020, BETWEEN THE CITY OF ST. PETERS, MISSOURI, AND MEDLINE INDUSTRIES, INC.**

The undersigned Authorized Company Representative hereby states and certifies that (*capitalized words and terms used herein shall have the meanings given to such words and terms in the above-referenced Trust Indenture*):

1. A total of \$\_\_\_\_\_ is requested to pay for Project Costs (as defined in the Indenture), which amount is equal to the value of the property being transferred to the City or the amount of the Project Costs incurred. The total amount of this requisition and all prior requisitions are as follows:

<u><i>Date of Project Costs</i></u>	<u><i>Amount Submitted in this Requisition</i></u>	<u><i>Requisitions Submitted to Date (Including this Requisition)</i></u>

2. The Project Costs described on **Schedule 1** shall be paid in whole from Bond proceeds in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

3. Each of the items for which payment is requested are provided for in the Plans and Specifications, are desirable and appropriate in connection with the purchase and construction of the Project, have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Company or are justly due to the Persons whose names and addresses are stated on **Schedule 1**, and have not been the basis of any previous requisition from the Project Fund.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and construction of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

**MEDLINE INDUSTRIES, INC.**

By: \_\_\_\_\_  
Authorized Company Representative

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF ST. PETERS, MISSOURI**

By: \_\_\_\_\_  
Authorized City Representative

DRAFT

**SCHEDULE 1 TO REQUISITION CERTIFICATE**

**PROJECT COSTS**

<u>Payee and Address</u>	<u>Description</u>	<u>Amount</u>
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DRAFT

**EXHIBIT C**

**FORM OF SPECIAL WARRANTY DEED**

DRAFT

Exhibit E

**\$61,500,000**  
**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**  
**CITY OF ST. PETERS, MISSOURI**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(MEDLINE INDUSTRIES, INC. PROJECT)**  
**SERIES 2020**

**Dated as of April 1, 2020**

**BOND PURCHASE AGREEMENT**

Honorable Mayor  
and Board of Aldermen  
City of St. Peters, Missouri

On the basis of the representations and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Medline Industries, Inc., an Illinois corporation (the “Purchaser”), offers to purchase from the City of St. Peters, Missouri (the “City”), the above-referenced bonds (the “Bonds”), to be issued by the City under and pursuant to Ordinance No. \_\_\_ adopted by the Board of Aldermen on April 9, 2020 (the “Ordinance”) and a Trust Indenture dated as of April 1, 2020 (the “Indenture”) by and between the City and BOKF, N.A., as trustee (the “Trustee”). *Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture.*

**SECTION 1. REPRESENTATIONS AND AGREEMENTS**

(a) By the City’s acceptance hereof, the City hereby represents to the Purchaser that:

(1) The City is a fourth-class city duly organized and validly existing under the laws of the State of Missouri. The City is authorized pursuant to the Constitution, the laws of the State of Missouri, and the ordinances and resolutions of the City, and all necessary action has been taken to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by the Ordinance, this Bond Purchase Agreement, the Indenture, the Ground Lease dated as of April \_\_\_, 2020 (the “Ground Lease”) by and between the City and MRE SPMO, LLC (f/k/a MRE SPMI, LLC), a Missouri limited liability company and wholly-owned subsidiary of the Purchaser (“MRE SPMO”), the Lease Agreement dated as of April 1, 2020 (the “Lease”) by and between the City and the Purchaser, the Performance Agreement dated as of April 1, 2020 (the “Performance Agreement”) by and among the City, the Purchaser and MRE SPMO, and any and all other agreements relating thereto. The proceeds of the Bonds shall be used for the purpose of acquiring the Project Site and constructing the Project Improvements and paying the costs incurred in connection with the issuance of the Bonds.

(2) There is no controversy, suit or other proceeding of any kind pending and served or, to the City’s knowledge, threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the City or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the obligations

represented by the Bonds or the validity of the Bonds, the Ordinance, the Ground Lease, the Lease, the Indenture, the Performance Agreement or this Bond Purchase Agreement.

(b) The Purchaser represents as follows:

(1) *Organization.* The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois and duly authorized to conduct business in the State of Missouri.

(2) *No Conflict or Breach.* The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser has been duly authorized by all necessary action of the Purchaser and does not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound.

(3) *Documents Legal, Valid and Binding.* When executed and delivered by the Purchaser, this Bond Purchase Agreement will be, and is, a legal, valid and binding obligation, enforceable in accordance with its terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies.

(4) *Purchaser's Certificates.* Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to such parties as to the statements made therein.

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS**

On the basis of the representations and covenants contained herein and in the other agreements referred to herein, and subject to the terms and conditions set forth herein and in the Indenture, the Purchaser agrees to purchase from the City and the City agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be applied as provided in the Indenture and the Lease. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds ("Additional Payments") to the Trustee under the Indenture, which Additional Payments shall be applied to the payment of Project Costs or as provided in the Indenture and the Lease; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$61,500,000 plus the costs of issuance of the Bonds (if such costs of issuance are not paid with Bond proceeds).

As used herein, the term "Closing Date" shall mean April \_\_\_\_, 2020, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Purchaser from its own funds on or before the Closing Date, and, at the Purchaser's option, the costs of

issuance of the Bonds if such costs are not paid for from Bond proceeds. The Closing Price shall be transferred to the Trustee on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully-registered bond in the maximum aggregate principal denomination of \$61,500,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the records of the Trustee, absent manifest error, and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

### **SECTION 3. CONDITIONS TO THE OBLIGATIONS**

The obligations hereunder shall be subject to the due performance by the parties of the obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly certified copy of the Ordinance, the Indenture, the Ground Lease, the Lease, the Performance Agreement, this Bond Purchase Agreement and any other instrument contemplated thereby, and such documents shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser.

(b) The City shall confirm on the Closing Date by a certificate that at and as of the Closing Date the City has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending and served or, to its knowledge, threatened against the City wherein any question is raised affecting in any way the legal organization of the City or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the obligations represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof.

(c) The Purchaser shall execute a certificate, dated the Closing Date, to the effect that (1) no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or, to the knowledge of the Purchaser, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Purchaser, (2) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations under the Ground Lease, the Lease and the Performance Agreement, (3) the representations and warranties of the Purchaser herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (4) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds.

### **SECTION 4. THE PURCHASER'S RIGHT TO CANCEL**

The Purchaser may cancel its obligation hereunder to purchase the Bonds by notifying the City in writing at or before the Closing Date.

## **SECTION 5. CONDITIONS OF OBLIGATIONS**

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

## **SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY**

All of the representations and agreements by either party shall remain operative and in full force and effect, and shall survive delivery of the Bonds to the Purchaser.

## **SECTION 7. NOTICE**

Any notice or other communication to be given under this Agreement may be given in writing by mailing or delivering the same as follows:

(a) To the City:

City of St. Peters, Missouri  
City Hall  
One St. Peters Centre Boulevard  
St. Peters, Missouri 63376  
ATTN: City Administrator

with a copy to:

Hamilton Weber LLC  
200 N. 3rd Street  
St. Charles, Missouri 63301  
ATTN: Wm. Randolph Weber, Esq.

(b) To the Trustee:

BOKF, N.A.  
200 N. Broadway, Suite 1710  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

(c) To the Purchaser:

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: Director, Tax Compliance and Audit

with copies to each of the following:

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: Vice President of Real Estate Operations

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: General Counsel

Reinhart Boerner Van Deuren s.c.  
1000 N. Water Street, Suite 1700  
Milwaukee, Wisconsin 53202  
ATTN: John M. Murphy, Esq.

**SECTION 8. APPLICABLE LAW**

This Bond Purchase Agreement shall be governed by the laws of the State of Missouri.

**SECTION 9. EXECUTION OF COUNTERPARTS**

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[Remainder of page intentionally left blank; signature pages to follow]

Very truly yours,

**MEDLINE INDUSTRIES, INC.**

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

Name: Dmitry Dukhan

Title: Vice President of Real Estate Operations

DATE OF EXECUTION: April \_\_\_\_, 2020

DRAFT

Accepted and Agreed to this \_\_\_\_\_ day of April, 2020.

**CITY OF ST. PETERS, MISSOURI**

By: \_\_\_\_\_  
Len Pagano, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Patricia E. Smith, City Clerk

DRAFT

[Bond Purchase Agreement]

Exhibit F

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\_\_\_\_\_  
**PERFORMANCE AGREEMENT**

**Dated as of April 1, 2020**

\_\_\_\_\_  
**AMONG THE**  
**CITY OF ST. PETERS, MISSOURI,**  
**MRE SPMO, LLC**  
**AND**  
**MEDLINE INDUSTRIES, INC.**

**Relating to:**

**\$61,500,000**  
**(Aggregate Maximum Principal Amount)**  
**City of St. Peters, Missouri**  
**Taxable Industrial Revenue Bonds**  
**(Medline Industries, Inc. Project)**  
**Series 2020**

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## PERFORMANCE AGREEMENT

**THIS PERFORMANCE AGREEMENT**, dated as of April 1, 2020, as from time to time amended and supplemented in accordance with the provisions hereof (this “Agreement”), among the **CITY OF ST. PETERS, MISSOURI**, a fourth-class city organized and existing under the laws of the State of Missouri (the “City”), **MEDLINE INDUSTRIES, INC.**, an Illinois corporation (the “Company”) and **MRE SPMO, LLC** (f/k/a MRE SPMI, LLC) (“MRE SPMO”), a Missouri limited liability company and wholly-owned subsidiary of Medline.

### RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), to purchase, construct, extend and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing, office industry and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the Board of Aldermen of the City passed Ordinance No. \_\_\_\_ (the “Ordinance”) on April 9, 2020, authorizing the City to issue its Taxable Industrial Revenue Bonds (Medline Industries, Inc. Project), Series 2020, in the maximum principal amount of \$61,500,000 (the “Bonds”) for the purpose of acquiring (a) upon the issuance of the Bonds, a leasehold interest and (b) upon completion of the herein-defined Project Improvements, a fee interest, in certain real property known as Lot 38 of the Premier 370 Business Park in the City (as legally described in the hereinafter defined Lease Agreement, the “Project Site”) and constructing an approximately 800,000 square foot distribution center thereon (the “Project Improvements”).

3. Pursuant to a Lease Agreement dated as of the date hereof between the City and the Company (the “Lease”), the City will cause the Company to acquire the Project Site and construct the Project Improvements and will lease the City’s interest in the Project Site and the Project Improvements (collectively, the “Project”) to the Company.

4. Pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of their desire to cause the purchase, construction and equipping of the Project, upon the terms and subject to the conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereby represent, covenant and agree as follows:

### ARTICLE I

#### DEFINITIONS

**Section 1.1. Definitions of Words and Terms.** In addition to the words and terms defined in the Recitals or in the Indenture, the following words and terms as used herein shall have the following meanings:

**“Agreement”** means this Performance Agreement dated as of April 1, 2020, among the City, the Company and MRE SPMO, as from time to time amended and supplemented in accordance with the provisions hereof.

**“Collector”** means the City Administrator of the City or his designee or, at the direction of the City, the Collector of Revenue of St. Charles County, Missouri.

**“Completion Date”** means the date of execution of the certificate required by **Section 4.5** of the Lease and **Section 504** of the Indenture or December 31, 2021, whichever is earlier, subject to the exception provided in **Section 4.5** of the Lease.

**“County Assessor”** means the Assessor of St. Charles County, Missouri.

**“Environmental Laws”** shall mean any and all laws, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution, the protection of the environment and/or the release of any materials into the environment, including those related to Hazardous Materials, air emissions and discharges to waste or public systems.

**“Event of Default”** means any Event of Default as provided in **Section 6.1** hereof.

**“Ground Lease”** means the Ground Lease dated as of April \_\_\_, 2020 between the City and the Company, as may be amended from time to time.

**“Hazardous Materials”** shall mean all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

**“PILOT Payments”** means the payments in lieu of taxes provided for in **Article III** hereof.

**“Project”** means, collectively, the Project Site and the Project Improvements.

**“Project Costs”** shall have the meaning set forth in **Section 101** of the Indenture.

**“Quality Jobs”** means full-time equivalent positions with the Company, (1) the duties of which position shall be performed in the City, (2) who shall be scheduled to work an average of at least 35 hours per week, (3) who shall be offered health insurance whereby the Company pays at least 50% of the insurance premiums, and (4) that collectively have an average total paid wage of not less than \$12.50/hour. The total paid wage per employee will be calculated as the total of base pay (excluding overtime wages, commissions and performance bonuses), divided by 2,080 hours per year.

**“Test Date”** means October 1 of each year, beginning the calendar year following the Completion Date.

**“Transfer Date”** means the date that the City obtains fee title to the Project pursuant to **Section 4.5** of the Lease.

## ARTICLE II

### ISSUANCE OF BONDS

**Section 2.1. Issuance of the Bonds.** As described herein, the City intends to issue the Bonds (to be purchased by the Company) under the Act for the purpose of paying a portion of the Project Costs. In connection with the issuance of the Bonds, the City will initially obtain a leasehold interest in the Project Site pursuant to the Ground Lease and, subsequently, as of the Transfer Date, acquire fee title to the Project.

## ARTICLE III

### PROPERTY TAX EXEMPTION; PILOT PAYMENTS

**Section 3.1. Property Tax Exemption.** So long as the City owns title to the Project, the City expects that the Project Site and the Project Improvements will be exempt from ad valorem taxes on real property. Accordingly, the parties acknowledge that no property tax exemption will exist until the transfer to the City of fee title to the Project is completed on the Transfer Date, as described in the Lease.

**Section 3.2. Payments in Lieu of Taxes.**

(a) The Company covenants and agrees that, during each year the Project is exempt from ad valorem real property taxes by reason of the City's ownership thereof, the Company will be liable for the PILOT Payments in such amounts and at such times set forth in this **Article III** to the appropriate authorities.

(b) The City shall obtain from the County Assessor, as soon as reasonably available, the County Assessor's most recent assessed valuation with respect to the Project in accordance with Article X, Section 4(b) of the Missouri Constitution and Section 137.115 of the Revised Statutes of Missouri, as amended. The City shall promptly notify the Company of such assessed valuations in writing, and shall provide copies of any supporting documentation provided by the County Assessor to the City relating to such valuation.

(c) Upon receiving the most recent assessed valuation of the Project from the County Assessor and the certificate of the Company referenced in **Section 3.3** hereof, the City shall notify the Company of the amount of PILOT Payments due hereunder. The Company shall notify the City if it has not received such notice from the City by December 1. Except as otherwise provided in **Sections 3.2(f)** and **(h)** hereof, the PILOT Payments shall be calculated as follows:

(1) For each of the calendar years (expected to be 2020 and 2021) prior to and including the Completion Date (i.e., those years the Project Site is leased to the City pursuant to the Ground Lease, including the year of the Transfer Date), 100% of the actual real property taxes payable on the Project; plus

(2) For each of the 10 calendar years (expected to be 2022-2031) following the Completion Date (i.e., those years the Project is owned by the City pursuant to the Deed), 100% of the actual real property taxes that would have otherwise been payable on the Project Site (land only) but for the City's ownership thereof; plus

(3) For each of the 10 calendar years (expected to be 2022-2031) following the Completion Date (i.e., those years the Project is owned by the City pursuant to the Deed) in which the Company has at least 50 Quality Jobs, a PILOT Payment equal to the amount that would have otherwise been payable with respect to the Project Improvements (but for the City's ownership thereof) multiplied by the following (which amount shall not be less than 50%):

**[100 – (0.5 multiplied by the number of Quality Jobs)]%**

(4) For each of the 10 calendar years (expected to be 2022-2031) following the Completion Date (i.e., those years the Project is owned by the City pursuant to the Deed) in which the Company has less than 50 Quality Jobs, 100% of the actual real property taxes that would have otherwise been payable on the Project Improvements, if any, but for the City's ownership thereof.

(d) If this Agreement is terminated due to any Event of Default under **Section 6.1** hereof, then:

(1) the abatement will terminate;

(2) in the year of termination, the Company will make a PILOT Payment in an amount equal to 100% of the actual real property taxes that would have otherwise been payable on the Project, but for the City's ownership thereof; and

(3) for each year thereafter until title to the Project is transferred by the City to the Company, the Company will make a PILOT Payment in an amount equal to 100% of the actual real property taxes that would have otherwise been payable on the Project, but for the City's ownership thereof.

(e) Each PILOT Payment shall be payable to the Collector. The Company covenants and agrees to make such PILOT Payments on or before December 31 of each year. The Company's failure to receive the notice pursuant to this **Section 3.2** does not relieve the Company of its obligations to make the applicable PILOT Payments by December 31 as provided herein.

(f) No later than December 31<sup>st</sup> of the 10<sup>th</sup> calendar year following the Completion Date, the Company shall exercise its option pursuant to **Section 11.1** of the Lease to purchase the Project. If title to the Project has not been transferred by the City to the Company before the earlier of (1) January 1 of the year following the 10<sup>th</sup> calendar year following the Completion Date or (2) the expiration of the term of this Agreement, then by no later than December 31 of such year and each year thereafter until title to the Project is transferred to the Company, the Company shall pay to the Collector a PILOT Payment equal to 100% of the amount that would otherwise be payable to each taxing jurisdiction but for the City's ownership thereof, including any prior year PILOT Payment then remaining unpaid.

(g) Within 30 days after receipt of each PILOT Payment, the Collector shall, after deducting its customary fee for collection thereof or reimbursing the Collector for costs pursuant to the Act, and any other deductions generally provided by law as if the PILOT Payment were a "property tax collection", if applicable, divide each PILOT Payment among the taxing jurisdictions in proportion to the amount of the then current ad valorem tax levy of each taxing jurisdiction; provided, any additional PILOT Payment paid pursuant to **Section 3.2(h)** shall be paid to the ambulance district, fire district or St. Charles County, Missouri for emergency or dispatch services, as applicable.

(h) Notwithstanding any provision of this Agreement to the contrary, the Company shall make such additional PILOT Payment as may be required to satisfy any obligations to an ambulance district, a fire district or St. Charles County, Missouri for emergency or dispatch services pursuant to the Act.

(i) If the County Assessor fails to perform at least a bi-annual assessment of the value of the Project, the City and the Company will perform an assessment of the value of the Project using the following procedures:

(i) The City shall appoint a real estate appraiser licensed by the State of Missouri who is a member of the Appraisal Institute carrying the designation of "M.A.I."

(ii) The appointed appraiser shall examine the plans and specifications of the Project and, using the same methodology and factors that would be used by the County Assessor, render an opinion as to the market value of the Project Site and the Project Improvements. The Company will cooperate in all respects to enable the appointed appraisers to perform the duties specified herein.

(iii) The City shall present the appraisal to the Company. At the Company's discretion, the Company can also appoint a real estate appraiser meeting the requirements of subparagraph (i) to perform an appraisal as provided by subparagraph (ii).

(iv) If the opinions rendered by each appointed appraiser are within 10% of each other, the market value for purposes of this section shall equal the average market value of the two appraisers' opinions.

(v) If the opinions rendered by each appointed appraiser are not within 10% of each other, the two appraisers shall mutually appoint a third appraiser meeting the requirements of subparagraph (i). This appraiser shall perform a third appraisal based solely upon the information included in the City's appraisal and the Company's appraisal, excluding the stated opinion values from each, and the market value for the purposes of this section shall equal the average market value of the two highest appraiser opinions.

(vi) The Company will pay the costs and expenses incurred by all appraisers appointed pursuant to this section.

### **Section 3.3. Chapter 100 Annual Compliance Report.**

(a) On or before October 15 of each year, beginning on October 15 of the calendar year following the Completion Date, the Company shall file with the City (1) an executed copy of the Chapter 100 Annual Compliance Report in substantially the form attached hereto as **Exhibit A** and (2) supporting documentation in sufficient detail so as to enable the City to verify the highest number of Quality Jobs during the 90-day period ending on the Test Date for such year. Upon request of the City, the Company shall also provide documentation in sufficient detail to enable the City to verify the number of Quality Jobs at any time during any such year.

(b) Within 15 business days of a request by the City, the Company shall file with the City (1) an executed copy of the Chapter 100 Annual Compliance Report in substantially the form attached

hereto as **Exhibit A** and (2) supporting documentation in sufficient detail so as to enable the City to verify the number of Quality Jobs provided in the Chapter 100 Annual Compliance Report.

(c) The City Administrator or his designee shall monitor the requirements of this Section and shall promptly notify the Collector of the amount of the PILOT Payments due.

**Section 3.4. PILOT Payments if the Company Purchases the Project.**

(a) If the Company exercises its option to purchase the Project pursuant to **Section 11.1** of the Lease before the City notifies the Company of the PILOT Payments due under this Agreement, the Company shall make a PILOT Payment to the Collector equal to 100% of the amount that would have been payable to each taxing jurisdiction for the preceding calendar year but for the City's ownership of the Project. Once the City notifies the Company of the amount due under **Section 3.2** for the calendar year in which the Company purchases the Project, the Collector will refund the difference between the amount paid and the amount due to the Company.

(b) If the Company exercises its option to purchase the Project pursuant to **Section 11.1** of the Lease after receiving notification of the PILOT Payment due under this Agreement for the calendar year in which the Company purchases the Project, the Company shall pay that amount to the Collector (to be distributed as provided in **Section 3.2(g)**) prior to closing on the purchase of the Project.

**Section 3.5. Obligation to Effect Tax Abatement.** The City shall not be liable for any failure of any other governmental taxing authority to recognize the tax exemption provided by the City's ownership of the Project or the percentage of abatement provided for herein. The City shall not be required to file or participate in any litigation to effect the exemption. The City covenants that it will not voluntarily take any action intended to cause or induce the levy or assessment of ad valorem taxes on the Project. If such a levy or assessment occurs, the City will, at the Company's request and at the Company's expense, cooperate with the Company in all reasonable ways to prevent and/or remove any levy or assessment against the Project. The City is not guaranteeing that the Company will receive a particular amount of abatement and the City is not liable to the Company if other taxing jurisdictions fail to recognize the agreement by the City to accept PILOT Payments in the amounts specified in this Agreement. If any ad valorem property taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Project during the period the City owns the Project, the amount of the PILOT Payments the Company is obligated to pay pursuant to this Agreement shall be reduced by the amount of ad valorem tax payments paid by the Company and received by the Collector with respect to the Project. The amount of PILOT Payments will in no event exceed 100% of the property taxes that would have otherwise been payable (but for the City's ownership) on the Project, based on the assessed value thereof determined by the County Assessor.

**Section 3.6. Other Property Taxes in Connection with the Project; Credits.** The property tax exemption provided by the City's ownership of the Project is expected to apply to all interests in the Project during the period it is owned by the City. The Company is responsible for any taxes related to any interest in the Project that the Company owns in its own name or granted to the Company other than pursuant to the Lease. Notwithstanding **Section 4.7** hereof, there shall be no reduction in PILOT Payments for any sales taxes imposed by any governmental authority, including the Missouri Department of Revenue, in connection with the Company's acquisition of construction materials for real property improvements at the Project Site.

**Section 3.7. No Abatement on Special Assessments, Licenses or Fees.** The City and the Company agree that the property tax exemptions described in this Agreement shall not apply to special

assessments and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project. The Company agrees to make payments with respect to all special assessments, licenses and fees that would otherwise be due with respect to the Project if the Project were not owned by the City.

**Section 3.8. Company's Right to Protest Taxes.** The Company agrees not to appeal, protest or otherwise contest any property tax valuation, assessment or classification of the Project during the term of this Agreement, provided the assessment thereof (excluding additions or improvements to the Project) does not increase at a greater percentage than other local business and industries.

**Section 3.9 Personal Property.** The parties hereto acknowledge that the Project Improvements may include the installation of fixtures. Said fixtures are intended to be subject to this Agreement as part of the Project Improvements and are not intended to constitute personal property. The Company may acquire personal property on its own accord; however, such personal property shall not be subject to the terms of this Agreement and shall be subject to ad valorem taxes, unless otherwise provided.

## ARTICLE IV

### COVENANTS, REPRESENTATIONS AND AGREEMENTS OF THE COMPANY

**Section 4.1. Inspection.** The City may conduct such periodic inspections of the Project as may be generally provided in the St. Peters City Code and as otherwise provided in **Section 10.3** of the Lease.

**Section 4.2. Representations and Warranties.**

(a) The Company represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois and is duly authorized to conduct business in the State of Missouri.

(2) The Company has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement.

(3) The execution, delivery and performance by the Company of this Agreement has been duly authorized by all necessary action, and does not violate the articles of incorporation or the bylaws of the Company, as the same may be amended and supplemented, or to the best of the Company's knowledge, any applicable provision of law, nor does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Company is now a party or by which the Company is now or may become bound.

(4) There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or to the best of the Company's knowledge, threatened or affecting the Company that would impair its ability to perform under this Agreement.

(5) The Company has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to purchase and construct the Project Improvements.

(6) The Project will comply in all material respects with all applicable federal, state and local laws, statutes, ordinances, rules, regulations and codes pertaining to or affecting the Project, including all building and zoning, health, environmental and safety orders and laws, subject to all rights of the Company to contest the same.

(7) The Project Improvements will be completed in a manner that is consistent with the description of the Project Improvements herein and in the Lease.

(b) The City represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The City is a municipal corporation duly organized and validly existing under the laws of the State of Missouri.

(2) The execution, delivery and performance by the City of this Agreement has been duly authorized by all necessary City actions.

(3) The City has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement.

(4) To the best of the City's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending and served, or to the best of the City's knowledge, threatened or affecting the City that would impair its ability to enter into or perform its obligations under this Agreement.

**Section 4.3. Environmental Warranties.** The Company represents and warrants to the City that, as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

The Company will not use or suffer or permit to be used on the Project Site, or any part thereof, in any manner inconsistent with the rights of the Trustee or the City hereunder, or in violation of the provisions of any insurance policy or any rules or regulations of insurance underwriters. The Company will comply with, and maintain, use and cause the Project to at all times be in compliance with all laws, including, without limitation, Environmental Laws, applicable to the Project or to the uses or purposes thereof, the non-compliance with which could reasonably be expected to have a material adverse effect on the value or usability of the Project. The Company shall pay immediately when due the cost of removal of any Hazardous Materials which may be located on, in, under or about the Project in violation of any applicable Environmental Law, and keep the Project free of any lien imposed pursuant to any such Environmental Law. In the event the Company fails to do so within a reasonable period of time after notice to the Company, the Trustee or the City may (but shall have no obligation to) cause the Project to be freed from and decontaminated of the Hazardous Materials or take or cause to be taken any other action with respect to any such Hazardous Materials or the Project to protect their interests therein. The Company shall give the City and the Trustee immediate written notice of any condition or occurrence on the Project Site or the Project Improvements which constitutes a violation of any Environmental Law or would justify a demand for removal or remediation under any Environmental Law. The Company hereby

grants to the City and the Trustee, their agents and employees access to the Project and the right to (but in no case shall the City or Trustee be in any way obligated or required to) remove any Hazardous Materials in violation of any applicable Environmental Law from the Project and to perform such investigation and/or remediation thereon, all at the Company's expense and as the City or Trustee shall see fit. The Company agrees to protect, indemnify, defend and hold harmless the Trustee and the City to the fullest extent allowed by law, from and against all claims, demands, causes of action, suits, losses, damages (including, without limitation, punitive damages), violations of any Environmental Law, environmental response and clean-up costs, fines, penalties and expenses (including, without limitation, reasonable counsel fees, cost and expenses incurred in investigating and defending against the assertion of such liabilities), of any nature whatsoever, which may be sustained, suffered or incurred by the Trustee and/or the Trustee or the City based upon, or in connection with, or relating to, (i) the City's lease or ownership or the Company's operations on the Project, and all activities relating thereto, (ii) any misrepresentation or breach of warranty by the Company, (iii) any compliance with or investigation, action or proceeding under or violations of any Environmental Law, (iv) the presence, remediation, clean-up or removal of any Hazardous Materials on the Project Site or in the Project Improvements or evaluation or investigation of any release or threat of release of any Hazardous Materials on the Project Site or in the Project Improvements, (v) any loss of or damage to natural resources, including damages to air, surface or ground water, soil and biota on the Project Site, and (vi) any private or governmental suits or court or administrative orders or injunctions relating in any way to any Hazardous Materials on, in, under or about the Project Site, or emanating therefrom. The specific indemnity and covenants contained in this paragraph are in addition to and shall not be construed to narrow or in any way restrict the application of the other indemnities and covenants contained in this Agreement, the Lease or in any other Document executed in connection with the issuance of the Bonds, notwithstanding any overlap in coverage.

**Section 4.4. Survival of Covenants.** The respective representations and warranties of the Company and the City contained in **Section 4.2** hereof will survive the execution and delivery of this Agreement and the issuance of the Bonds, as representations of facts existing as of the date of execution and delivery of this Agreement. The Company covenants and agrees that the obligations under **Section 4.5** hereof shall survive the cancellation and termination of this Agreement, for any cause, and that the Company shall continue to make the payments required hereunder and perform all other obligations specified herein, all at the time or times provided herein; provided, however, that when all payments required hereunder have been made, the Company's obligations under this Agreement (except for **Section 4.5** hereof) shall thereupon cease and terminate in full.

**Section 4.5. Indemnification of City.** The Company shall indemnify, defend and hold harmless the City from and against all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, by or on behalf of any person, firm or corporation arising from the City's ownership, conduct or management of the Project, or from any work or thing done in, or injury occurred on or about, the Project during the term of the Lease, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the term of the Lease from any event described in **Sections 10.5** and **10.9** of the Lease to the extent and subject to the limitations provided therein.

**Section 4.6. Costs of Issuance of the Bonds; Payment to City.**

(a) The Company agrees to pay or provide for the payment of, on the issuance date of the Bonds, all costs of issuance incurred in connection therewith as more fully defined in **Section 101** of the Indenture. The Company shall further pay all legal fees and bond counsel fees incurred by the City in connection with the transfer of fee title to the Project on the Transfer Date.

(b) If this Agreement is terminated before the payment in full of the Bonds or the expiration of the Lease Term or the rights and interests of the Company under this Agreement are assigned pursuant to **Article V** hereof, the Company shall pay any costs of the City in connection therewith, including the City's legal fees and bond counsel fees.

#### **Section 4.7. Sales Tax Exemptions.**

(a) In order to obtain an exemption from state and local sales taxes for construction materials incorporated into the Project Improvements, the City will provide a project exemption certificate to the Company in connection with the Company's acquisition of construction materials for the Project Improvements and the Company is permitted to purchase and pay for, exempt from sales tax, certain construction materials to be incorporated into or used up in the Project Improvements, pursuant to a Missouri Department of Revenue Project Exemption Certificate, Form 5060, to be delivered by the City to the Company. The Company agrees to make such purchases in compliance with the provisions of Section 144.062 of the Revised Statutes of Missouri, as amended. Such construction materials may only include tangible personal property and materials that will only be used for the Project Improvements and that are actually used up or consumed in constructing the Project Improvements. Examples provided by the Missouri Department of Revenue include sandpaper, fuel to run equipment and drill bits that are actually used up in the construction of the Project Improvements. Examples of items that are not consumed are hand tools, drinking water coolers, hardhats and bulldozers. The examples in the prior sentences are not intended to be exhaustive. Except as provided herein, the acquisition and construction of the Project Improvements shall not be exempt from any sales taxes imposed by any governmental authority by virtue of the City's ownership of the Project Improvements, and neither the City nor the Company will request any such exemption. Nothing herein shall limit the Company's right to any exemption of sales taxes not resulting from the City's lease or ownership of the Project Improvements.

(b) Upon a determination by the Missouri Department of Revenue that any purchase made by the Company using the project exemption certificate described in subsection (a) above was not exempt from sales tax, the Company shall pay to the Missouri Department of Revenue all sales taxes so determined to be due (whether by virtue of failure of the Company to comply with the terms of this Agreement or the procedures and requirements of the Missouri Department of Economic Development or otherwise). The Company shall indemnify and defend the City and its officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the project exemption certificate. There shall be no reduction in PILOT Payments for any sales taxes paid by the Company in connection with the Project.

#### **Section 4.8. Public Liability Insurance.**

(a) The Company shall, at its sole cost and expense, maintain or cause to be maintained, at all times during the Lease Terms, commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City, the Company and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set forth in Section 537.610 of the Revised Statutes of Missouri, as amended (subject to reasonable loss deductible clauses not to exceed \$25,000.00 without the City's prior written consent). The policies of said insurance shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 30 days after written notice of cancellation is given to the Company, the City, the Trustee and each other insured or loss payee named therein. Certificates of such policies shall be furnished to the City and the Trustee on the date of execution of this Lease and promptly after renewal of each insurance policy. The Company

shall provide the Trustee, on an annual basis, commencing on the effective date of the Lease with a certificate of an Authorized Company Representative certifying compliance with this **Section 4.8**.

(b) In the event of a general liability occurrence, the net proceeds of liability insurance carried pursuant to this section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

(c) The Company may satisfy the insurance requirements set forth in this section using blanket policies of insurance, provided each and all of the requirements and specifications of this section respecting insurance are complied with.

## ARTICLE V

### SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred, assigned, pledged or in any other manner hypothecated, except as provided in **Section 13.1** of the Lease.

## ARTICLE VI

### DEFAULT AND REMEDIES

**Section 6.1. Events of Default.** If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) the Company fails to make any PILOT Payment required to be paid hereunder within 10 business days after written notice and demand given by the City to the Company;

(b) the Company fails to perform any of its material obligations hereunder for a period of 30 days (or such longer period as the City and such party or parties may agree in writing) following written notice to the Company from the City of such failure, or if such failure is not subject to cure within such 30 days after such notice, such party or parties fail to initiate action to cure the default within such 30 days after such notice is given and fail to pursue such action diligently;

(c) any representation of any party contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (or such longer period as the City and such party may agree in writing) after the City has given written notice to such party specifying the false or erroneous representation and requiring it to be remedied; provided, that if such matter is not subject to cure within such 30 days after such notice, such party fails to initiate action to cure the default within such 30 days after such notice is given and fails to pursue such action diligently; or

(d) Chapter 100 Annual Compliance Reports show that the Company has failed to maintain at least 50 Quality Jobs for three consecutive years.

**Section 6.2. Remedies on Default.** As provided in the Lease, any Event of Default referred to in **Section 6.1** hereof shall also constitute an Event of Default under the Lease, affording the City the remedies specified therein.

**Section 6.3. Interest on Late Payments.** Any amounts due hereunder that are not paid when due shall bear interest at the interest rate of 18% per annum from the date such payment was first due.

**Section 6.4. Enforcement.** In addition to the remedies specified in **Section 6.2**, upon the occurrence of the Event of Default described in **Section 6.1(a)**, the City or any taxing jurisdictions that would benefit from the PILOT Payments provided for in this Agreement may bring an action for specific performance to enforce such payments. In any judicial or non-judicial proceeding to enforce any right or remedy of the Trustee under the Indenture or the City hereunder, there shall be allowed and included in the judgment or decree all expenditures and expenses (including without limitation, attorneys' fees and costs and the cost of obtaining title reports, title insurance, environmental reports, appraisal reports, insurance, past due taxes and assessments with respect to the Project) which may be paid or incurred in connection with the exercise by the Trustee or the City of such party's rights and remedies provided or referred to in this Agreement, the Indenture or the Lease, together with interest thereon at the statutory rate of interest, and the same shall be Additional Rent as defined in **Section 5.2** of the Lease.

## ARTICLE VII

### TERM OF AGREEMENT

**Section 7.1. Term of Agreement.** This Agreement shall become effective upon execution by the parties hereto and shall terminate upon the earliest to occur of the following:

- (a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;
- (b) the occurrence and continuance of an Event of Default beyond the cure period and the subsequent termination of this Agreement pursuant to the provisions of the Lease and this Agreement; or
- (c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease.

**Section 7.2. Payments in Last Year.** The foregoing provisions of **Section 7.1** shall not relieve the Company of its obligation to make any PILOT Payment owing during the year in which the Bonds are paid, to the extent the Company receives the ad valorem tax exemption contemplated for that year.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

**Section 8.1. Mutual Assistance.** The City and the Company agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent, to the extent providing such assistance and aid is commercially reasonable for the individual entity.

**Section 8.2. Notices.** All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when (a) mailed by registered or certified mail, postage prepaid, or (b) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(a) To the City:

City of St. Peters, Missouri  
City Hall  
One St. Peters Centre Boulevard  
St. Peters, Missouri 63376  
ATTN: City Administrator

with a copy to:

Hamilton Weber LLC  
200 N. 3rd Street  
St. Charles, Missouri 63301  
ATTN: Wm. Randolph Weber, Esq.

(b) To MRE SPMO and the Company:

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: Director, Tax Compliance and Audit

with copies to each of the following:

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: Vice President of Real Estate Operations

Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093  
ATTN: General Counsel

Reinhart Boerner Van Deuren s.c.  
1000 N. Water Street, Suite 1700  
Milwaukee, Wisconsin 53202  
ATTN: John M. Murphy, Esq.

**Section 8.3. Severability; Effect of Invalidity.** If for any reason any provision of this Agreement is determined to be invalid or unenforceable, such invalid or unenforceable term will be deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby. If this Agreement, or any portion hereof, or any agreements related hereto, are determined to be invalid, the City may not recover or recapture any taxes subject to abatement as

provided herein or benefits accruing to the Company prior to such determination if the Company has paid taxes in an amount at least equal to the PILOT Payments due under this Agreement.

**Section 8.4. Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

**Section 8.5. Execution in Counterparts.** This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 8.6. Bankruptcy.** The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court, and the filing of any such action not discharged within ninety (90) days of its filing shall constitute an Event of Default hereunder.

**Section 8.7 Entire Agreement.** This Agreement, together with the Lease, the Indenture and any other documents entered into of even date herewith in connection with the issuance of the Bonds, constitute the entire agreement of the parties with respect to the subject matter hereof. This Agreement shall not be modified except by written agreement signed on behalf of the parties hereto by their duly authorized representatives.

**Section 8.8. Electronic Storage.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 8.9. Employee Verification.** The Company shall comply with and satisfy the requirements of Section 285.530.2 of the Revised Statutes of Missouri, as amended, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavit and documentation to the City upon the issuance of the Bonds and thereafter on or before October 15 of each year during the term of this Agreement.

**Section 8.10. Date of this Agreement.** The dating of this Agreement as of April 1, 2020 is intended as and for the convenient identification of this Agreement only, and is not intended to indicate that this Agreement was executed and delivered on said date, this Agreement being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

**CITY OF ST. PETERS, MISSOURI**

By: \_\_\_\_\_  
Len Pagano, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Patricia E. Smith, City Clerk

DRAFT

[Performance Agreement]

**MEDLINE INDUSTRIES, INC.**

By: \_\_\_\_\_  
Name: Dmitry Dukhan  
Title: Vice President of Real Estate Operations

DRAFT

**MRE SPMO, LLC**

By: Medline Industries, Inc., an Illinois  
corporation

Its: Sole Member

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

Name: Dmitry Dukhan

Title: Vice President of Real Estate  
Operations

DRAFT

**EXHIBIT A**

**CHAPTER 100 ANNUAL COMPLIANCE REPORT**

To be filed on or before October 15 of each year during the term of the Lease beginning after the Completion Date

<b><i>Business Name and Address</i></b>  Medline Industries, Inc. Three Lakes Drive Northfield, Illinois 60093	<b><i>MO. Tax I.D. Number</i></b>
<b><i>Name, Title, and Contact Information for Certifier</i></b>	<b><i>Federal Employer I.D. Number (FEIN)</i></b>
<b><i>Highest number of Quality Jobs during the 90 day period ending on Test Date</i></b>	<b><i>Jobs Test Date</i></b>  October 1, 20__

*Attached hereto is a schedule listing the employees in the City on the date on which the highest number of Quality Jobs occurred, and hourly wage of those employees.*

**The undersigned, duly authorized representative of Medline Industries, Inc., hereby states and certifies that the information set forth in this report is true and correct.**

<b><i>Authorized Signature</i></b>	<b><i>Date</i></b>
------------------------------------	--------------------

For questions, please contact Cathy Pratt at (636) 477-6600 ext. 1203.

Please send form to:

City of St. Peters, Missouri  
City Hall  
One St. Peters Centre Boulevard  
St. Peters, Missouri 63376  
Attn: Manager, Staff Support Services

Exhibit G

-----  
(The above space is reserved for Recorder's Certification.)

TITLE OF DOCUMENT: SPECIAL WARRANTY DEED

DATE OF DOCUMENT: \_\_\_\_\_, 20\_\_\_\_

GRANTOR: MRE SPMO, LLC, f/k/a MRE SPMI, LLC,  
a Missouri limited liability company

GRANTOR'S MAILING ADDRESS: c/o Medline Industries, Inc.  
Three Lakes Drive  
Northfield, Illinois 60093

GRANTEE: CITY OF ST. PETERS, MISSOURI,  
a political subdivision and body corporate organized and  
existing under the laws of the State of Missouri

GRANTEE'S MAILING ADDRESS: One St. Peters Centre Boulevard  
St. Peters, Missouri 63376

RETURN DOCUMENTS TO: Jason S. Terry, Esq.  
Gilmore & Bell, P.C.  
211 North Broadway, Suite 2000  
St. Louis, Missouri 63102

LEGAL DESCRIPTION: See **Exhibit A**, at page A-1.

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED**, made as of \_\_\_\_\_, 20\_\_\_, from **MRE SPMO, LLC**, f/k/a MRE SPMI, LLC, a Missouri limited liability company and wholly-owned subsidiary of Medline Industries, Inc., with an address of Three Lakes Drive, Northfield, Illinois 60093 (the “Grantor”), to the **CITY OF ST. PETERS, MISSOURI**, a political subdivision and body corporate organized and existing under the laws of the State of Missouri, with an address of One St. Peters Centre Boulevard, St. Peters, Missouri 63376 (the “Grantee”).

**WITNESSETH**, that the Grantor, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to it paid by the Grantee (the receipt and sufficiency of which are hereby acknowledged) does by these presents, **BARGAIN AND SELL, CONVEY AND CONFIRM** unto the Grantee, its successors and assigns, the lots, tracts or parcels of land situated in the County of St. Charles, State of Missouri, and legally described in **EXHIBIT A** (the “Land”), which is attached hereto at page A-1 of this Special Warranty Deed and incorporated herein by this reference, **SUBJECT, HOWEVER**, to the Permitted Encumbrances described in the Trust Indenture dated as of April 1, 2020, between the Grantee and BOKF, N.A., as trustee.

**TO HAVE AND TO HOLD**, the same, together with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any way appertaining unto the Grantee and unto its successors and assigns forever; the Grantor hereby covenanting that the Land is free and clear from any encumbrance done or suffered by it, other than the Permitted Encumbrances; and, that it will **WARRANT AND DEFEND** the title to the Land unto the Grantee and unto the Grantee’s successors and assigns forever, against the lawful claims and demands of all persons claiming by, through or under the Grantor, but not otherwise.

**IN WITNESS WHEREOF**, the Grantor has executed this Special Warranty Deed as of the day and year above written.

**“GRANTOR”**

**MRE SPMO, LLC**

By: Medline Industries, Inc., an Illinois corporation

Its: Sole Member

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

Name: Dmitry Dukhan

Title: Vice President of Real Estate Operations



**GRANTEE'S ACCEPTANCE**

The conveyance by **MRE SPMO, LLC**, as Grantor, to the City of St. Peters, Missouri, as Grantee, by the Special Warranty Deed to which this Acceptance is attached, for the Land described therein, is hereby accepted by the City of St. Peters, Missouri pursuant to Section 49.292.2 RSMo., as amended, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**CITY OF ST. PETERS, MISSOURI**

By: \_\_\_\_\_  
Len Pagano, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Patricia E. Smith, City Clerk

DRAFT

[Special Warranty Deed]

**ACKNOWLEDGMENT**

STATE OF MISSOURI            )  
  ) SS.  
COUNTY OF ST. CHARLES    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public, appeared **LEN PAGANO**, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the **CITY OF ST. PETERS, MISSOURI**, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed by authority of its Board of Aldermen, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year first above written.

\_\_\_\_\_  
Name: Jason S. Terry  
Notary Public in and for said State

My Commission Expires:

*PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX*

**EXHIBIT A**

The land situated in the County of St. Charles, State of Missouri, and described as follows:

**Description of Lot 38 – Portion in U.S. Survey No. 735**

All that part of Lot 38 of Premier 370 Business Park Plat One, according to the plat thereof recorded in St. Charles County Plat Book 45 at Pages 354-362;

Which lies in U.S. Survey 735, Township 47 North, Range 4 East of the Fifth Principal Meridian, in the City of St. Peters, St. Charles County, Missouri, containing 48.7 acres, more or less.

DRAFT

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF ST. PETERS, MISSOURI TO EXECUTE A CONTRACT WITH CCIMW, LLC FOR THE ST. PETERS REC-PLEX IMPROVEMENTS - NATATORIUM PAINTING PROJECT

WHEREAS, the City of St. Peters owns and operates a recreation complex to promote the general health, safety and welfare of the community; and

WHEREAS, the City solicited bids for painting of the natatorium at the Rec-Plex North building; and

WHEREAS, one (1) bid was received on March 23, 2020, for said painting of the natatorium; and

WHEREAS, it is recommended that a contract be awarded to CCIMW, LLC for the St. Peters Rec-Plex Improvements - Natatorium Painting Project.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI, AS FOLLOWS:

SECTION 1. That the City Administrator of the City of St. Peters, Missouri be and he is hereby authorized to execute a contract with CCIMW, LLC in the initial amount of Five Hundred Twenty Nine Thousand Three Hundred Seventy Two (\$529,372.00) dollars for Base Bid Line Item numbers 1-6 and Alternate Bid Line Item numbers 7 through 15, 16, 19 and 21, on their Proposal submitted on March 23, 2020, for the St. Peters Rec-Plex Improvements - Natatorium Painting Project. Upon approval of the City Administrator, the initial contract amount shall be adjusted as necessary based on the final measured quantities at the unit prices in the contract.

SECTION 2. The City Administrator be and he is hereby authorized to negotiate, execute and administer said contract on behalf of the City of St. Peters.

SECTION 3. The Project approved by this Ordinance is subject to the requirements of Section 292.675, RSMo, which requires all contractors or subcontractors doing work on the Project to provide, and require its on-site employees to complete, a ten (10) hour course in construction safety and health approved by the Occupational Safety and Health Administration (“OSHA”) or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. The training must be complete within sixty (60) days of the date work on the Project commences. On-site employees found on the worksite

without documentation of the required training shall have twenty (20) days to produce such documentation. Non-compliance with this ordinance will be investigated and adjudicated by the Department of Labor and Industrial Relations pursuant to RSMo 292.675.

SECTION 4. Savings Clause. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 5. Severability Clause. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision, which had been held invalid, is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 6. This ordinance shall be in full force and take effect from and after the date of its final passage and approval.

Read two (2) times, passed and approved this 9<sup>th</sup> day of April, 2020.

\_\_\_\_\_  
Len Pagano, as Presiding Officer and as Mayor

Attest: \_\_\_\_\_  
Patricia E. Smith, City Clerk

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF ST. PETERS, MISSOURI TO EXECUTE A CONTRACT WITH CAPRI POOLS & AQUATICS FOR THE REC-PLEX 50 METER POOL, LEISURE POOL AND SPA REFURBISHMENT PROJECT

WHEREAS, the City of St. Peters owns and operates a recreation complex to promote the general health, safety and welfare of the community; and

WHEREAS, the City solicited bids for the refurbishment of a 50 Meter swimming pool, a leisure swimming pool and a spa in the natatorium at the Rec-Plex North building; and

WHEREAS, two (2) bids were received on April 2, 2020, for said refurbishment project of the natatorium 50 Meter pool, Leisure pool and Spa; and

WHEREAS, it is recommended that a contract be awarded to Capri Pools & Aquatics for the Rec-Plex 50 Meter Pool, Leisure Pool and Spa Refurbishment Project.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI, AS FOLLOWS:

SECTION 1. That the City Administrator of the City of St. Peters, Missouri be and he is hereby authorized to execute a contract with Capri Pools & Aquatics in the initial amount of Three Hundred Thirty Seven Thousand Seven Hundred Sixty Seven (\$337,767.00) dollars for Base Bid Line Item numbers 1 through 4, 6 through 11 and Bid Alternate 2, on their Proposal submitted on April 2, 2020, for the Rec-Plex 50 Meter Pool, Leisure Pool and Spa Refurbishment Project. Upon approval of the City Administrator, the initial contract amount shall be adjusted as necessary based on the final measured quantities at the unit prices in the contract.

SECTION 2. The City Administrator be and he is hereby authorized to negotiate, execute and administer said contract on behalf of the City of St. Peters.

SECTION 3. The Project approved by this Ordinance is subject to the requirements of Section 292.675, RSMo, which requires all contractors or subcontractors doing work on the Project to provide, and require its on-site employees to complete, a ten (10) hour course in construction safety and health approved by the Occupational Safety and Health Administration (“OSHA”) or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. The training must be complete within sixty (60) days of the date work on the Project commences. On-site employees found on the worksite

without documentation of the required training shall have twenty (20) days to produce such documentation. Non-compliance with this ordinance will be investigated and adjudicated by the Department of Labor and Industrial Relations pursuant to RSMo 292.675.

SECTION 4. Savings Clause. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 5. Severability Clause. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision, which had been held invalid, is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 6. This ordinance shall be in full force and take effect from and after the date of its final passage and approval.

Read two (2) times, passed and approved this 9<sup>th</sup> day of April, 2020.

\_\_\_\_\_  
Len Pagano, as Presiding Officer and as Mayor

Attest: \_\_\_\_\_  
Patricia E. Smith, City Clerk

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF ST. PETERS, MISSOURI TO EXECUTE A CONTRACT WITH BI-STATE FIRE PROTECTION CORPORATION FOR THE CENTRAL MATERIALS PROCESSING FACILITY FIRE SUPPRESSION SYSTEM RESTORATION PROJECT

WHEREAS, the City of St. Peters owns and operates a solid waste processing facility to promote the general health, safety and welfare of the community; and

WHEREAS, the City solicited bids for the restoration of the current fire suppression system at the Central Materials Processing Facility (CMPF); and

WHEREAS, two (2) bids were received on March 23, 2020, for said restoration of the fire suppression system at the Central Materials Processing Facility (CMPF); and

WHEREAS, it is recommended that a contract be awarded to Bi-State Fire Protection Corporation, for the City of St. Peters' Central Materials Processing Facility (CMPF) Fire Suppression System Restoration Project.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI, AS FOLLOWS:

SECTION 1. That the City Administrator of the City of St. Peters, Missouri be and he is hereby authorized to execute a contract with Bi-State Fire Protection Corporation in the initial amount of Two Hundred Four Thousand Three Hundred Thirty (\$204,330.00) dollars for Alternate 1 (Line Item numbers 1-10) on their Proposal submitted on March 23, 2020, for the Central Materials Processing Facility (CMPF) Fire Suppression System Restoration Project. Upon approval of the City Administrator, the initial contract amount shall be adjusted as necessary based on the final measured quantities at the unit prices in the contract.

SECTION 2. The City Administrator be and he is hereby authorized to negotiate, execute and administer said contract on behalf of the City of St. Peters.

SECTION 3. The Project approved by this Ordinance is subject to the requirements of Section 292.675, RSMo, which requires all contractors or subcontractors doing work on the Project to provide, and require its on-site employees to complete, a ten (10) hour course in construction safety and health approved by the Occupational Safety and Health Administration ("OSHA") or a similar program approved by the Missouri Department of Labor and Industrial Relations which is

at least as stringent as an approved OSHA program. The training must be complete within sixty (60) days of the date work on the Project commences. On-site employees found on the worksite without documentation of the required training shall have twenty (20) days to produce such documentation. Non-compliance with this ordinance will be investigated and adjudicated by the Department of Labor and Industrial Relations pursuant to RSMo 292.675.

SECTION 4. Savings Clause. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 5. Severability Clause. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision, which had been held invalid, is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 6. This ordinance shall be in full force and take effect from and after the date of its final passage and approval.

Read two (2) times, passed and approved this 9<sup>th</sup> day of April, 2020.

\_\_\_\_\_  
Len Pagano, as Presiding Officer and as Mayor

Attest: \_\_\_\_\_  
Patricia E. Smith, City Clerk

No.

RESOLUTION NO.

A RESOLUTION CONCERNING VOLUNTARY ANNEXATION  
MICHAEL AND JUDY MIKULUS, 6 PATTY ANN COURT

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI, AS FOLLOWS:

SECTION 1. That there has been presented to the Board of Aldermen of the City of St. Peters, Missouri, on this date, one (1) verified petition signed by the owners of all fee interests of record of all tracts of real property located within the area described in the petition, which is proposed to be annexed to the City of St. Peters, and which petition requests annexation of such area into the City limits of the City of St. Peters, Missouri, a copy of which petition is attached hereto and made a part hereof.

SECTION 2. That no part of the said real property is now included in any incorporated municipality.

SECTION 3. That the said real property as a whole is contiguous to the existing corporate limits of the City of St. Peters, Missouri.

SECTION 4. That, in accordance with Section 71.012 RSMo, a public hearing shall be held concerning the matter, and this public hearing shall be held on the 23rd day of April, 2020, at 6:30 p.m. at the St. Peters Justice Center in the City of St. Peters, Missouri.

SECTION 5. The City Clerk is authorized and directed to cause a notice of such hearing to be published at least seven (7) days prior to the date of the hearing in a newspaper of general circulation in St. Charles County, Missouri, which is qualified to publish legal matters.

Read and adopted this 9th day of April, 2020.

---

Len Pagano, as Presiding Officer and as Mayor

Attest: \_\_\_\_\_  
Patricia E. Smith, City Clerk



Mikulus, 6 Patty Ann Ct.

