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APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on April 16, 2024, at 8:00 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chair and upon the roll being duly called, the following members were:

PRESENT: Kathleen Murphy, Kenneth Kinsey, Rickey T. Brown, Steven Thompson, Dirk Sonneborn

THE FOLLOWING PERSONS WERE ALSO PRESENT: **Staff Present:** Eric Ennis, Susan Katzoff, Esq., Cole King, Lori McRobbie; **Others Present**: Eric Paparo, Barry Lentz, Aggie Lane

The following resolution was offered by Mr. Brown and seconded by Kenneth Kinsey:

RESOLUTION APPROVING AN EXTENSION OF THE APPOINTMENT OF THE COMPANY AS AGENT OF THE AGENCY UNTIL DECEMBER 31, 2024; AND AUTHORIZING THE EXECUTION OF ANY AND ALL NECESSARY DOCUMENTS

WHEREAS, the City of Syracuse Industrial Development Agency (the "***Agency***") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "***State***"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "***Act***"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, at the request of Symphony Tower, LLC (the "***Company***"), by resolution dated June 21, 2022 (the "***Inducement Resolution***"), the Agency agreed to undertake a project (the "***Project***") consisting of: (A)(i) the acquisition of an interest in approximately 60,504 square feet of real property improved by one (1) existing approximately 129,000 sq. ft. 15-story building (plus basement) located at 111-13 East Onondaga Street & Salina Street (tax map no. 101.-08-04.1) and 457 South Salina Street (tax map no. 101.-08-04.2), in the City of Syracuse, New York (the "***Land***"); the renovation and reconstruction of the Building to be comprised of: (a) approximately 108,000 sq.ft. of residential space containing 29 one-bedroom apartments and 46 two-bedroom apartments plus approximately 36,000 sq. ft. of common areas; and (b) approximately 40,000 sq.ft. of commercial/office space (the "***Facility***"); (iii) the acquisition and

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installation in and at the Land and Facility of furniture, fixtures, inventory and equipment (the "***Equipment***" and together with the Land and the Facility, the "***Project Facility***"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "***Financial Assistance***"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, in December 2022, the Company and Agency entered into a lease transaction to effectuate the undertaking of the Project and the conference of the approved Financial Assistance (the "***Lease Transaction***"). As part of the Lease Transaction for purposes of undertaking and completing the Project Facility, the Company was appointed as the agent of the Agency (the "***Appointment***") through December 1, 2023 ("***Original Appointment Date***"), and was awarded an amount not to exceed $640,000 in exemptions from State and local sales and use tax (the " ***Exemption***"); and

WHEREAS, the Company previously requested, and on December 19, 2023 the Agency approved, an extension of their Appointment from December 1, 2023 to March 31, 2024 to provide them an opportunity to complete the Project (the " ***Initial Extension***"); and

WHEREAS, by correspondence dated April 12, 2024, the Company advised that construction of the Project is not yet complete due to a slower than expected commercial lease up in 2023-2024. As such, the Company is requesting a retroactive extension of their Appointment from March 31, 2024 to March 30, 2025 to provide them an opportunity to complete the Project. Staff is recommending the board consider an extension through **December 1, 2024**. In the event the Company needs to request a further 90-day extension, they may update the board on the progress at the board's November or December board meeting and request additional time (the "***Extension***"); and

WHEREAS, the Company has advised that as of April 12, 2024, they have used approximately $200,000 of the Exemption leaving a balance of approximately $440,000 in unused State and local sales and use tax exemption available for the Project (the *"**Remaining Exemption**"*). The Company is <u>not</u> requesting any additional financial assistance; and

WHEREAS, the Extension is in furtherance of the Financial Assistance that was previously approved for the Project, which underwent an environmental review by the Agency pursuant to the State Environmental Quality Review Act ("***SEQRA***"), and the present sales tax appointment and document extension request is insubstantial and does not require reconsideration or further review by the Agency under SEQRA.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

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(1) Based upon the representations made by the Company to the Agency, as set forth in the recitals hereof and which are incorporated herein by reference, and there being no event of default under the Lease Documents (as defined hereinbelow), the Agency hereby makes the following findings and determinations:

(a) The granting of the Extension does not require reconsideration or further review by the Agency under SEQRA.

(b) The Agency authorizes the Extension for purposes of completing the Project through and including **December 31, 2024**, conditioned upon: (i) there being no events of default under any of the documents executed and delivered by the Company in conjunction with the Lease Transaction, including but not limited to a company lease, an agency lease, a project agreement, a payment in lieu of tax agreement and an environmental compliance and indemnification agreement, each dated as of December 1, 2022 (collectively, the "***Lease Documents***"); (ii) Company's confirmation that all insurance executed and delivered in conjunction with the Project and the Lease Transaction remains in full force and effect all in accordance with the Lease Documents and the Company submitting to the Agency proof of insurance naming the Agency as an additional insured pursuant to the Agency's requirements under the Lease Documents; (iii) Company's submission to the Agency of any applicable information requested by the Agency with respect to the Extension so that they can accurately track and report Project and Financial Assistance information as required under the Act; (iv) Company's submission of any applicable administrative fees and all legal fees incurred by the Agency in exchange for the Agency's grant of the Extension; and (v) submitting any proof required by the Agency demonstrating that the Company has not realized State and local sales and use tax exemptions in excess of what was authorized for the Project.

(2) The Agency is authorized to execute all documents necessary to effectuate the Extension (collectively, the "***Extension Documents***") including but not limited to revisions or amendments of the Lease Documents, issuance of a new Sales Tax Appointment Letter and an amendment or extension of the appropriate "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for each of the Company and any sub-agents in accordance with the Lease Documents; and each the Chair, the Vice Chair and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the documents, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein as the (Vice) Chair deems appropriate. The execution thereof by the Chair, the Vice Chair and/or the Executive Director constitutes conclusive evidence of such approval.

(3) The Company shall execute and deliver any and all documents required by the Agency in connection with the Extension and to carry out the intent of this Resolution.

(4) The Company shall provide or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and the Company shall, and cause each Additional Agent, to make such records available to the Agency and the State Commissioner of Taxation and Finance (the "***Commissioner***") upon request. The Agency shall, within thirty (30) days of providing any

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State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request.

(5) No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(6) Bousquet Holstein PLLC, as counsel to the Agency, is hereby authorized to work with the Company and others to prepare, for submission to the (Vice)Chair and/or the Executive Director, all documents necessary to carry out the intent of this Resolution and to finalize the Extension Documents.

(7) The Secretary of the Agency is hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(8) This Resolution shall take effect immediately. A copy of this Resolution, together with any attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	AYE	**NAY**
Kathleen Murphy	X	
Kenneth Kinsey	X	
Rickey T. Brown	X	
Steven Thompson	X	
Dirk Sonneborn	X	

The foregoing Resolution was thereupon declared duly adopted.

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STATE OF NEW YORK)
) **SS.:**
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the "***Agency***") held on April 16, 2024, with the original thereof on file in the office of the Agency, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that: (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency on 5/2/2024.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: DocuSigned by:
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Rickey T. Brown, Secretary

(S E A L)