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December 19, 2018

His Excellency Governor Christopher T. Sununu  
and  
The Honorable Council

Dear Governor and Councilors:

### REQUESTED ACTION

Holding of a public hearing and passage of a Resolution entitled: A RESOLUTION UNDER RSA 162-I:9 WITH RESPECT TO THE FINANCING OF AN UP TO \$32,000,000 LOAN FOR A COMMERCIAL FACILITY BY THE BUSINESS FINANCE AUTHORITY FOR BAE SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION, INC. IN MANCHESTER AND THE AWARD OF AN UNCONDITIONAL STATE GUARANTEE OF \$12,000,000 PRINCIPAL AMOUNT REVENUE BOND (For the text of the requested Resolution see Tab #1 below this letter of transmittal.)

The Business Finance Authority (the "Authority") respectfully requests that you hold a hearing, and, if you consider such action appropriate, make the statutory findings under RSA 162-I:9 with respect the proposed financing by the Authority of an up to \$32,000,000 loan, comprised of a commercial loan in the amount of \$9,000,000 (the "Commercial Loan"), a loan of certain funds of the Authority in the approximate amount of \$10,000,000 (the "Authority Loan"), and a revenue bond issued by the Authority in the approximate principal amount of \$12,000,000 (the "Bond," and collectively with the Commercial Loan and the Authority Loan, the "Loan"), which bond to be supported by the award of a guarantee by the State of New Hampshire (the "State"), which will finance the purchase by the Authority of an approximately 34.2-acre parcel of land improved by a building structure of approximately 192,520 square foot building and related appurtenances located in the City of Manchester (the "Project") and the lease to and use by BAE Systems Information and Electronic Systems Integration, Inc. (the "Borrower"). The Authority recommends your favorable action and submits in support thereof the following materials with item numbers the same as the tab numbers for the attached documents.

1. A suggested form of resolution for adoption by the Governor and Council.
2. A letter from Hinckley, Allen & Snyder LLP, bond counsel, explaining this transaction.
3. Materials with respect to the Borrower and the facility submitted by the Borrower.

### *Financing for New Hampshire's Future*

2 Pillsbury Street, Suite 201, Concord, NH 03301

Tel: (603) 415-0190 Fax: (603) 415-0194 [www.nhbfa.com](http://www.nhbfa.com)



4. The COMMITMENT LETTER from Service Credit Union as to its purchase of the Commercial Loan and the Bond.
5. The proposed BOND PURCHASE AND LOAN AGREEMENT.
6. The proposed AGREEMENT OF LEASE.
7. The proposed MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (LOAN 1 - COMMERCIAL LOAN).
8. The proposed MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (LOAN 2 - BOND).
9. The proposed GUARANTEE AGREEMENT.
10. Information from the New Hampshire Employment Security, Economic and Labor Market Information Bureau as to unemployment in Manchester.
11. The resolution adopted by the Authority.
12. A summary of required statutory findings of the Governor and Council with reference to materials supporting each finding.

The Authority will be glad to furnish any additional documentation and information which you may request.

Respectfully submitted,

BUSINESS FINANCE AUTHORITY OF  
THE STATE OF NEW HAMPSHIRE

By:



James Key-Wallace  
Executive Director

A RESOLUTION UNDER RSA 162-I:9 WITH RESPECT TO THE FINANCING  
OF A COMMERCIAL FACILITY BY THE BUSINESS FINANCE AUTHORITY FOR BAE  
SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION, INC.  
IN THE CITY OF MANCHESTER, NEW HAMPSHIRE AND THE AWARD OF AN  
UNCONDITIONAL STATE GUARANTEE OF UP TO \$12,000,000 OF PRINCIPAL  
OF THE FINANCING

WHEREAS, the Governor and Council have received from the Business Finance Authority (the "Authority") its written recommendation that the Governor and Council make certain findings and a determination pursuant to RSA 162-I:9 with respect to the financing of a commercial facility for BAE Systems Information and Electronic Systems Integration, Inc. (the "Borrower") in the City of Manchester, New Hampshire (the "Location"), by the Authority's purchase and lease of an approximately 34.2 acre parcel of land with a building structure thereon through an up to \$32,000,000 taxable loan under RSA 162-I (the "Act"), comprised of an approximately \$12,000,000 revenue bond (the "Bond") to be supported by a State guarantee (the "State Guarantee"), a commercial loan in the approximate amount of \$9,000,000 (the "Commercial Loan") and a loan of certain funds of the Authority in the approximate amount of \$10,000,000 (the "Authority Loan," and collectively with the Bond and the Commercial Loan, the "Loan"), and the award of an unconditional State Guarantee of up to \$12,000,000 of principal of the Bond under RSA 162-I:9-b;

WHEREAS, the Governor and Council have received all the documentation and information with respect to the transaction that they have requested; and

WHEREAS, further action by the Authority with respect to the transaction is subject to the passage of this resolution and cannot be taken until after its passage;

IT IS HEREBY RESOLVED THAT:

Section 1. Findings. On the basis of the Authority's recommendation and the documentation and information received by the Governor and Council, and after a public hearing, the Governor and Council find:

(a) Special findings:

(1) The Project (as completed, the "Facility") consists of an approximately 34.2-acre parcel of land improved by a building structure of approximately 192,520 square foot building and related appurtenances located in the City of Manchester. The Facility will be owned by the Authority and used by the Borrower for products and services for air, land and naval forces, and advanced electronics, security, information technology solutions and customer support services.

The Project is within the definition of “commercial facility” in the Act and may be financed under the Act.

(2) The establishment and operation of the Facility creates and preserves employment opportunities directly and indirectly within the State of New Hampshire (the “State”) and will likely be of general benefit to the community as a whole.

(b) General findings:

(1) The Project and the proposed financing of the Project are feasible;

(2) The Borrower has the skills and financial resources necessary to operate the Facility successfully;

(3) The Bond, the Commercial Loan, the Authority Loan, the Bond Purchase and Loan Agreement, the Guarantee Agreement, the Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (Loan 1 - Commercial Loan) and the Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (Loan 2 - Bond) (collectively, the “Agreements”) contain provisions so that under no circumstances will the Authority be obligated directly or indirectly to pay Project costs, debt service or expenses of operation, maintenance and upkeep of the Facility except from Loan proceeds or from funds received under the Agreements, exclusive of funds received thereunder by the Authority for its own use and exclusive of the Authority’s equity contribution evidenced by the Authority Loan; and

(4) The proposed financing of the Project by the Authority and the proposed operation and use of the Facility will serve one or more needs and implement one or more purposes set forth in RSA 162-I:1, will preserve or increase the social or economic prosperity of the State and one or more of its political subdivisions, and will promote the general welfare of the State’s citizens.

(c) Findings with respect to the State Guarantee:

(1) The award of the State Guarantee will contribute significantly to the success of the financing; and

(2) Reasonable and appropriate measures have been taken to minimize the risk of loss to the State and to ensure that any private benefit from an award of a State Guarantee will be only incidental to the public purpose served thereby.

Section 2. Award of State Guarantee. The Governor and Council hereby award an unconditional guarantee of \$12,000,000 principal of and interest on the Bond pursuant to RSA 162-I:9-b and authorize the State Treasurer to execute by his/her manual or facsimile signature the endorsement appearing on the Guarantee Agreement, the Bond Purchase and Loan Agreement and/or the Bond to evidence such guarantee.

Section 3. Authorization of Guarantee Agreement. The State may be a party to the Guarantee Agreement between the Authority and the State (the “Guarantee Agreement”) and the

Governor and the State Treasurer are together authorized to execute and deliver the Guarantee Agreement on behalf of the State substantially in the form presented to this meeting but subject to such changes as the Governor and State Treasurer may approve, their signatures being conclusive identification of the Guarantee Agreement, with approved changes, if any, authorized by this resolution.

Section 4. Ultimate Finding and Determination. The Governor and Council find that the proposed financing, operation and use of the Facility and award of the State Guarantee will serve a public use and provide a public benefit; and the Governor and Council determine that the Authority's financing of the Project and the State's Guarantee of up to \$12,000,000 of principal of the Bond will be within the policy of, and the authority conferred by, the Act.

Section 5. Approval. The Governor and Council approve the Authority's, the Governor's and State Treasurer's taking such further action under the Act with respect to the transaction as may be required.

Section 6. Effective Date. This resolution shall take effect upon its passage.

Passed and Agreed to December 19, 2018.

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Governor Christopher T. Sununu

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Councilor Joseph D. Kenney

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Councilor Andru Volinsky

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Councilor Russell E. Prescott

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Councilor Christopher C. Pappas

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Councilor David K. Wheeler



28 State Street  
Boston, MA 02109-1775  
p: 617-345-9000 f: 617-345-9020  
hinckleyallen.com

December 19, 2018

His Excellency Governor Christopher T. Sununu  
and  
The Honorable Council

Dear Governor and Councilors:

(BFA – BAE Systems Information and Electronic Systems Integration, Inc.)

In this transaction Service Credit Union (together with other financial institutions, the “Lender”) will lend up to \$21,000,000 via the Business Finance Authority of the State of New Hampshire (the “Authority”) to BAE Systems Information and Electronic Systems Integration, Inc. (the “Borrower”) to finance an approximately 34.2-acre parcel of land improved by a building structure of approximately 192,520 square foot building and related appurtenances located in the City of Manchester, New Hampshire (the “Project”), that will owned by the Authority and used by the Borrower for products and services for air, land and naval forces, and advanced electronics, security, information technology solutions and customer support services. A commercial loan in the approximate principal amount of \$9,000,000 (the “Loan”) for the transaction will be made pursuant to a Bond Purchase and Loan Agreement dated as of December 1, 2018 (the “Loan Agreement”) and a revenue bond in the approximate principal amount of up to \$12,000,000 (the “Bond”) will be issued pursuant to the Loan Agreement. The Authority will also enter into a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (Loan 1 - Loan) and a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (Loan 2 – Bond) for the benefit of the State of New Hampshire (the “State”) in connection with the financing. The remaining \$10,000,000 of the purchase price of the Project will be financed with a loan of the Authority’s own funds (the “Authority Loan”).

The Lender is prepared to make the Loan on the terms set forth in the Commitment Letter, which is included in Tab #4. The Loan will be secured by the Loan Agreement. The term of the Loan is ten (10) years and may be prepaid at any time without penalty. The Borrower is obligated to make debt service payments to the Authority in amounts sufficient to repay the Loan.

The Lender is also prepared to purchase the Bond on the terms set forth in the Commitment Letter, which is included in Tab #4. The Bond will be issued pursuant to and secured by the Loan Agreement. The term of the Bond is ten (10) years, depending on market conditions at the time of sale. The Bond is expected to be a fixed interest rate bond, with an anticipated interest rate of four and fifty-hundredths percent (4.50%); interest on the Bond, however, will not exceed ten percent (10.00%). The Borrower may prepay principal of the Bond at its option without penalty. The principal of the Bond will be further secured by an unconditional State guarantee.

▶ ALBANY ▶ BOSTON ▶ HARTFORD ▶ MANCHESTER ▶ NEW YORK ▶ PROVIDENCE

The Authority's obligation to pay the Bond is actually to be performed by the Borrower, which is unconditionally responsible for that performance. As in all transactions under RSA 162-I, neither the Authority's money nor other public funds will or can be used to pay the Bond. Provisions appropriate for achieving this result, as required by RSA 162-I, are contained in the Loan Agreement.

In addition, the Authority expects to make a loan to the Borrower under the Lease in the approximate amount of \$10,000,000 from certain unencumbered funds of the Authority. This Authority Loan, the Loan and the Bond will be repaid by the Borrower through lease payments made by the Borrower to the Authority pursuant to the Lease Agreement dated as of December 1, 2018 between the Authority and the Borrower.

*Hinckley, Allen & Snyder LLP*

HINCKLEY, ALLEN & SNYDER LLP



Name: BAE Systems Information and Electronic Systems Inc.

Address: 65 Spit Brook Road, Nashua NH

Contact: William Biss

Title: Finance Director

Phone: 603-885-7324

Address of Project Site: 3000 Goff Falls Road, Manchester N3000 Goffs Falls Road, Manchester, NH

Briefly Describe the Project: 34.2+/- acre parcel of land improved by a building structure of 192,520+/- square feet and related appurtenances, as more fully described in the City of Manchester, New Hampshire's Assessor's office at Map/Page 750/0020, and as recorded with the Hillsborough County Registry of Deeds at Book 8653, Page 1156. H

Acquisition Est. Cost: \$30m

Building Renovation Est. Cost: TBD

Renovation Size (sq ft): entire building

Equipment Acquisition Est. Cost: TBD

Describe the effect the project has on the environment: NA, within existing building

Project Start Date: December 2018

Project Completion Date: December 2019

Jobs Created/Preserved 700-800 employees

Describe the types of jobs created/preserved, their wage and salary levels: High tech engineering and associated support. Average salary is ~\$115k / year

Names and Addresses of contractors and subcontractors of the project: TBD

Describe the Applicant (and if applicable the owner and the lessees). Include a brief history of the Applicant, its principal products and its consumers: See attached Electronic Systems Overview

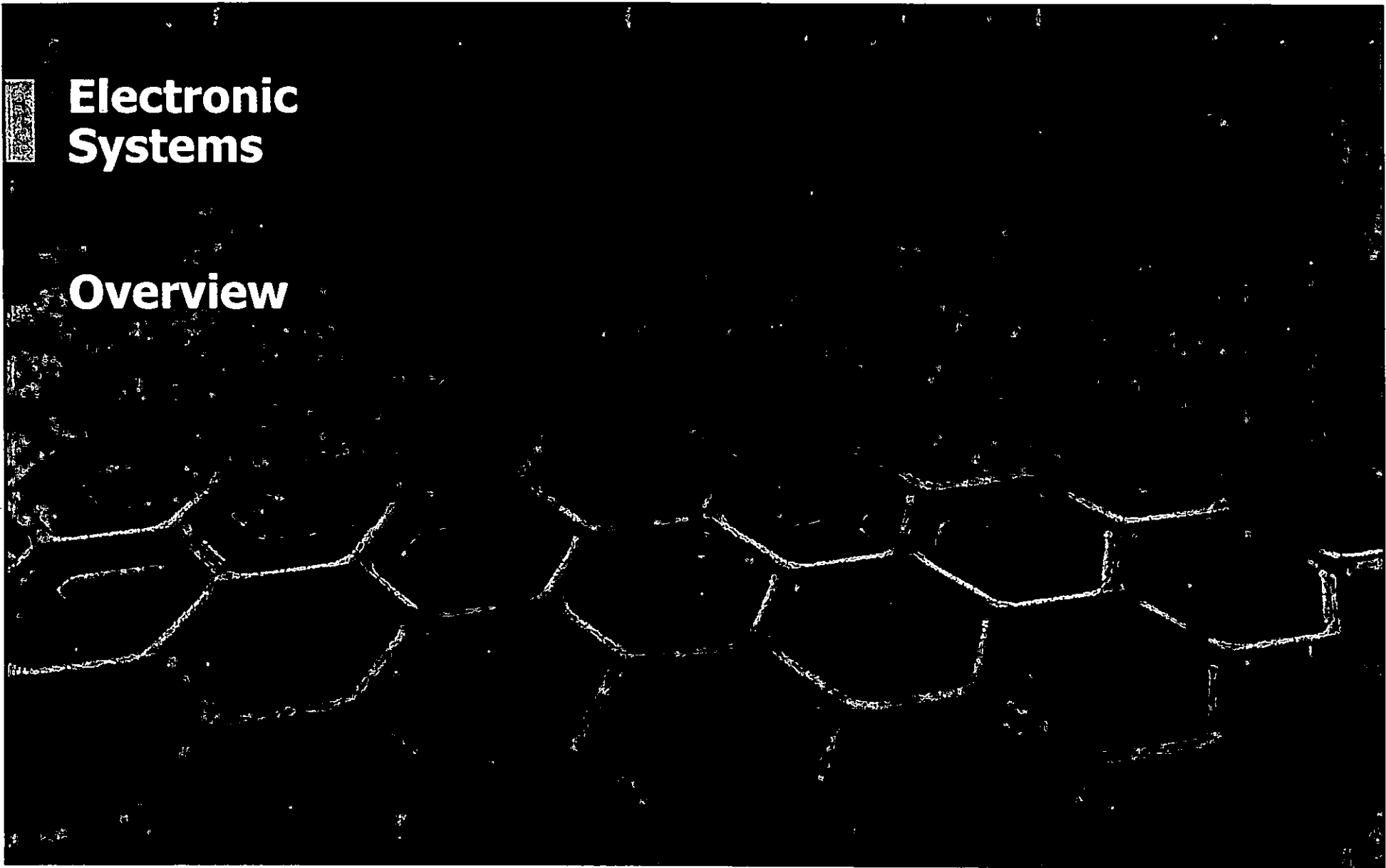
Briefly describe the Applicant (and if applicable the owner and the lessees) key management personnel: Included in the ES Overview

Applicant is equal opportunity employer: Yes



# Electronic Systems

## Overview



# BAE Systems, Inc. Senior Leadership Team

Office of the  
President & CEO

**Jerry DeMuro**  
President & CEO  
BAE Systems, Inc.



Executive Committee

**Tom Arseneault**  
Chief  
Operating Officer

**Erwin Bieber**  
President  
Platforms & Services

**Terry Crimmins**  
President  
Electronic Systems

**Al Whitmore**  
President  
Intelligence & Security

**Kristie Cunningham**  
SVP  
Communications

**Ian Graham**  
SVP &  
General Counsel

**Curt Gray**  
SVP  
HR & Administration

**Scott Howat**  
SVP  
Finance

**Frank Pope**  
President  
Enterprise Shared Services

**Frank Ruggiero**  
SVP  
Government Relations

**Tara Wilcox Olivet**  
VP  
Internal Audit

# Electronic Systems

**Terry Crimmins**  
President

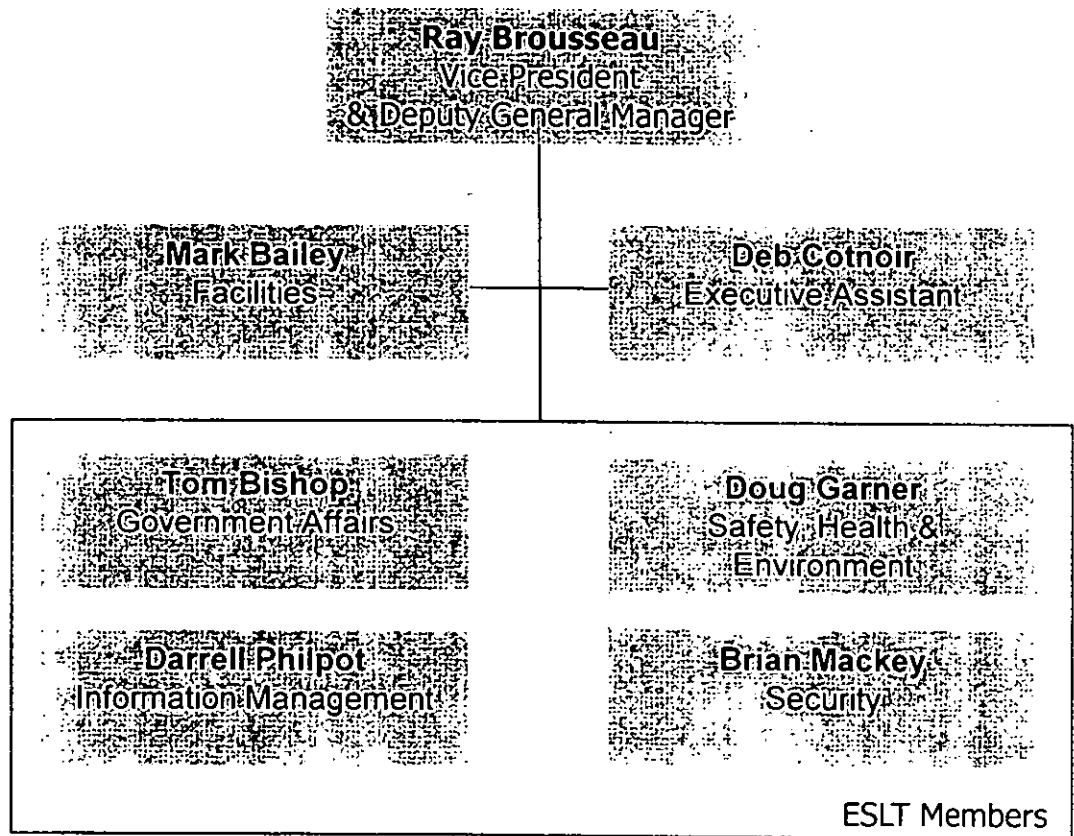
**Ray Brousseau**  
Vice President  
& Deputy General Manager

**Deb Cothair**  
Executive Assistant

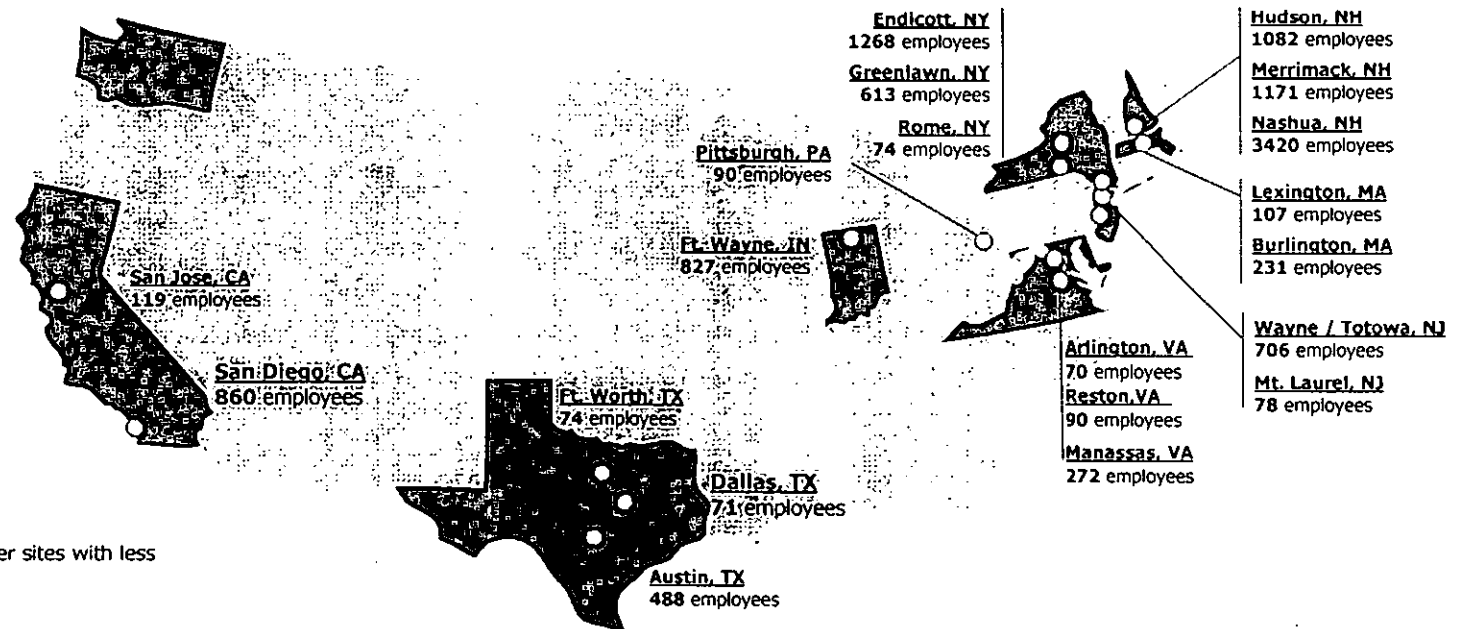
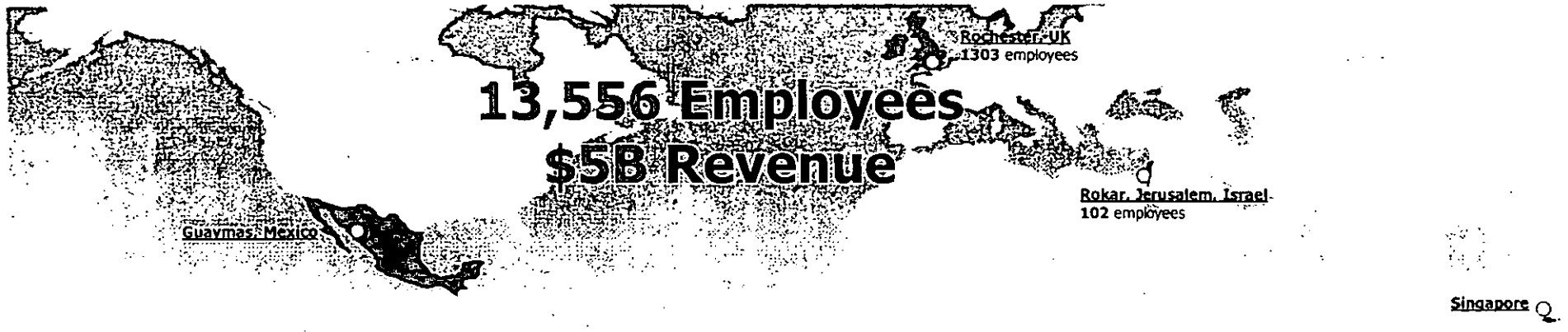
<b>Ehtisham Siddiqui</b> Controls & Avionics Solutions	<b>Steve Trichka</b> Power & Propulsion Solutions
<b>Brian Walters</b> Electronic Combat Solutions	<b>Paul Markwardt</b> Survivability, Targeting & Sensing Solutions
<b>Dave Logan</b> C4ISR Systems	<b>Jerry Wohletz</b> FAST Labs

<b>John Watkins</b> Business Development	<b>Ray Bradshaw</b> Human Resources
<b>Diana Martin</b> Communications	<b>Andy Mullin</b> Legal
<b>Chris Russell</b> Contracts	<b>Jeremy Tondreault</b> Operations
<b>John Bugeau (A)</b> Engineering	<b>Mike Lewis</b> Quality
<b>Dan Sallet</b> Finance	<b>Leslie Jelalian</b> Strategy & Planning

# Electronic Systems - Deputy

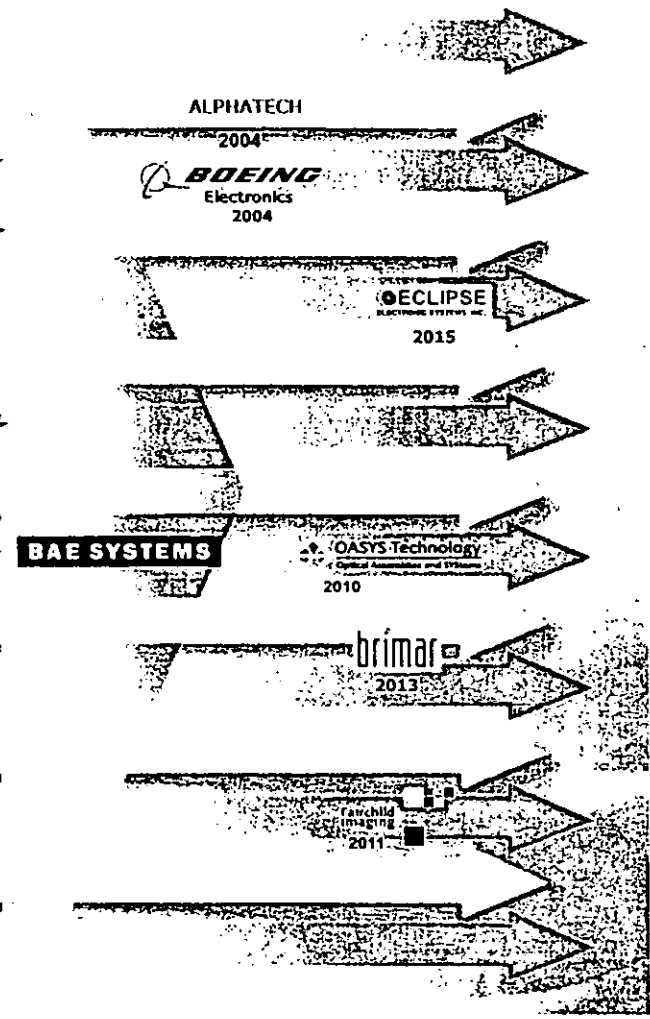
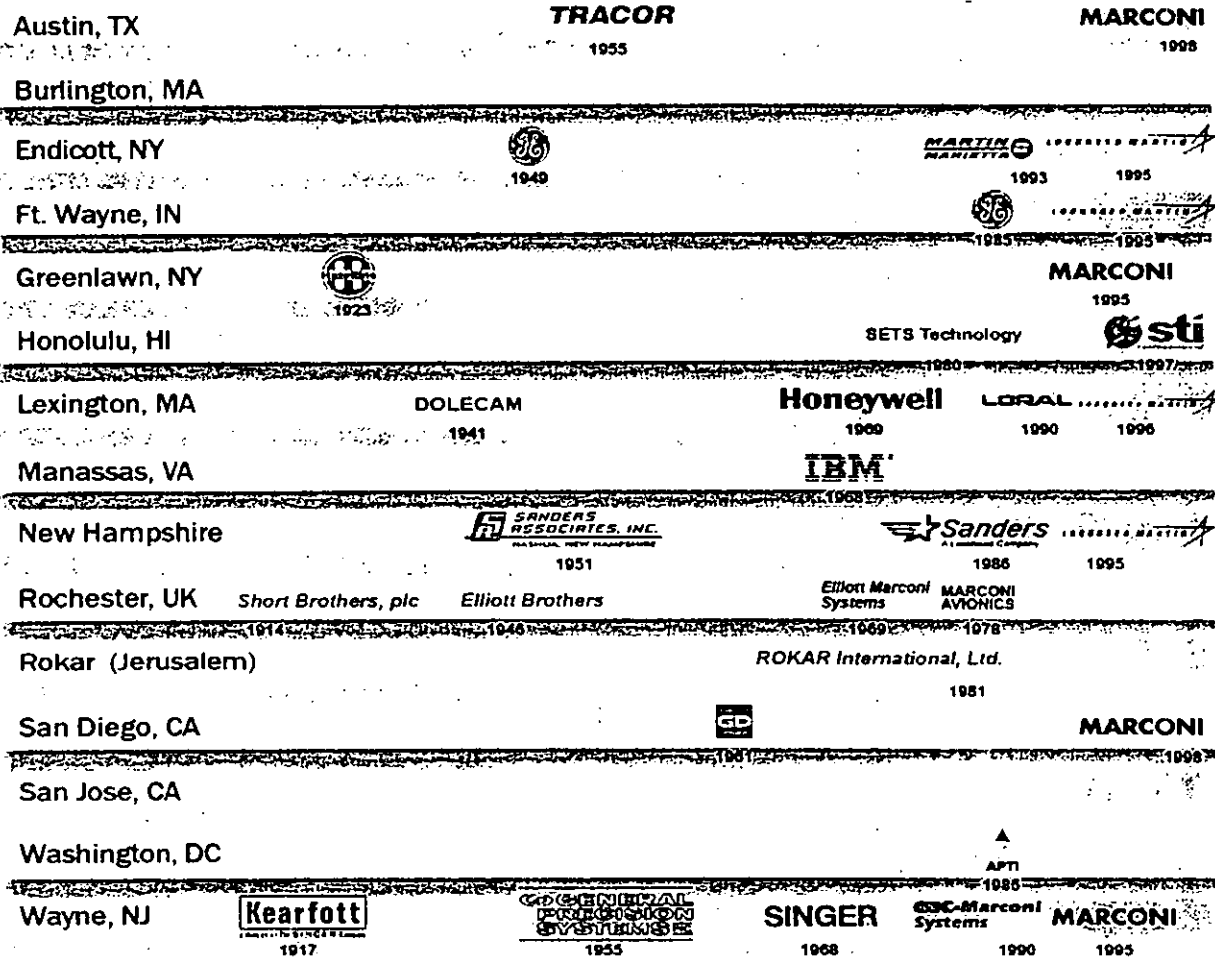


# Electronic Systems footprint

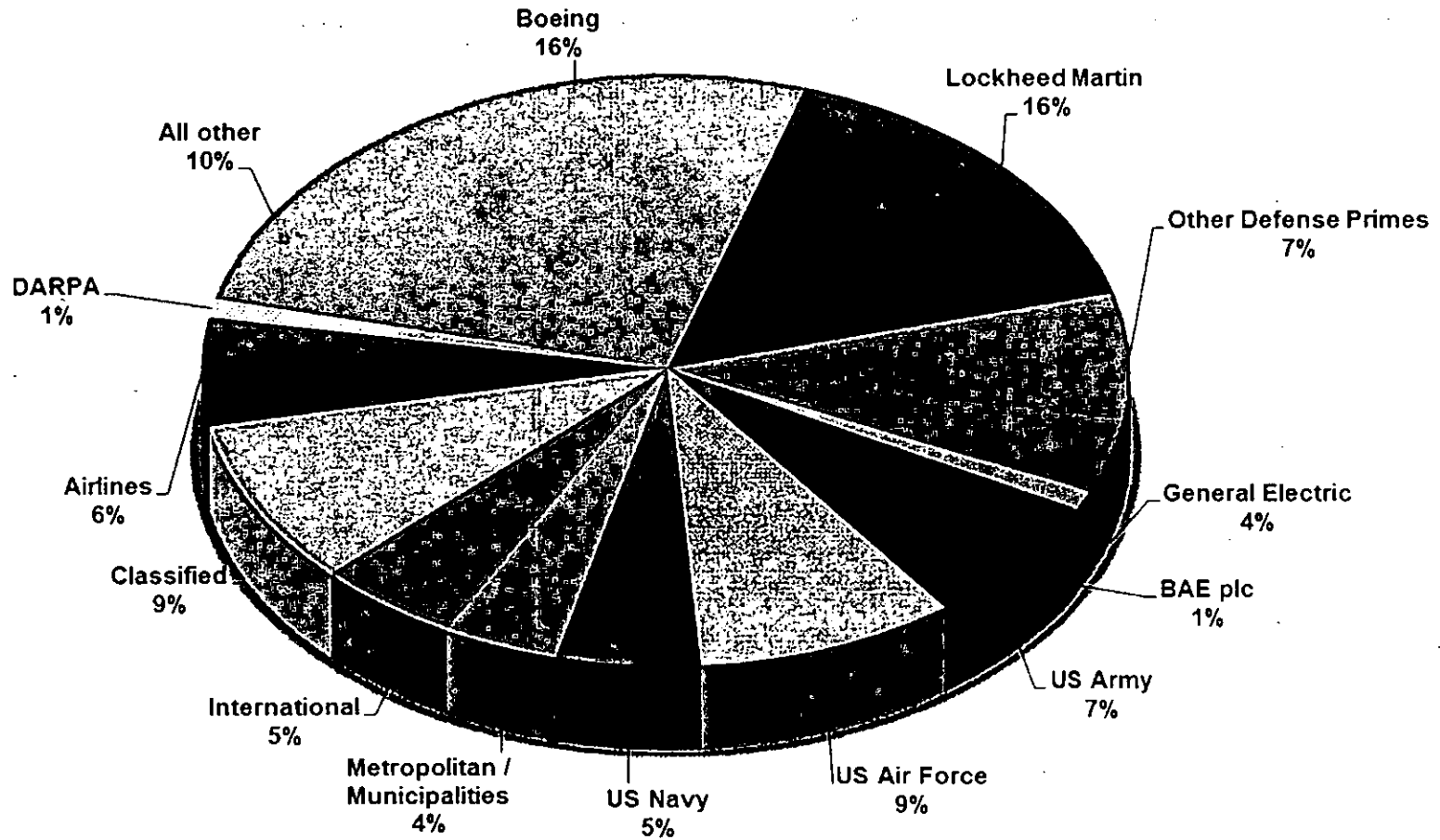


\* 777 people work at other sites with less than 50 employees

# Electronic Systems origins

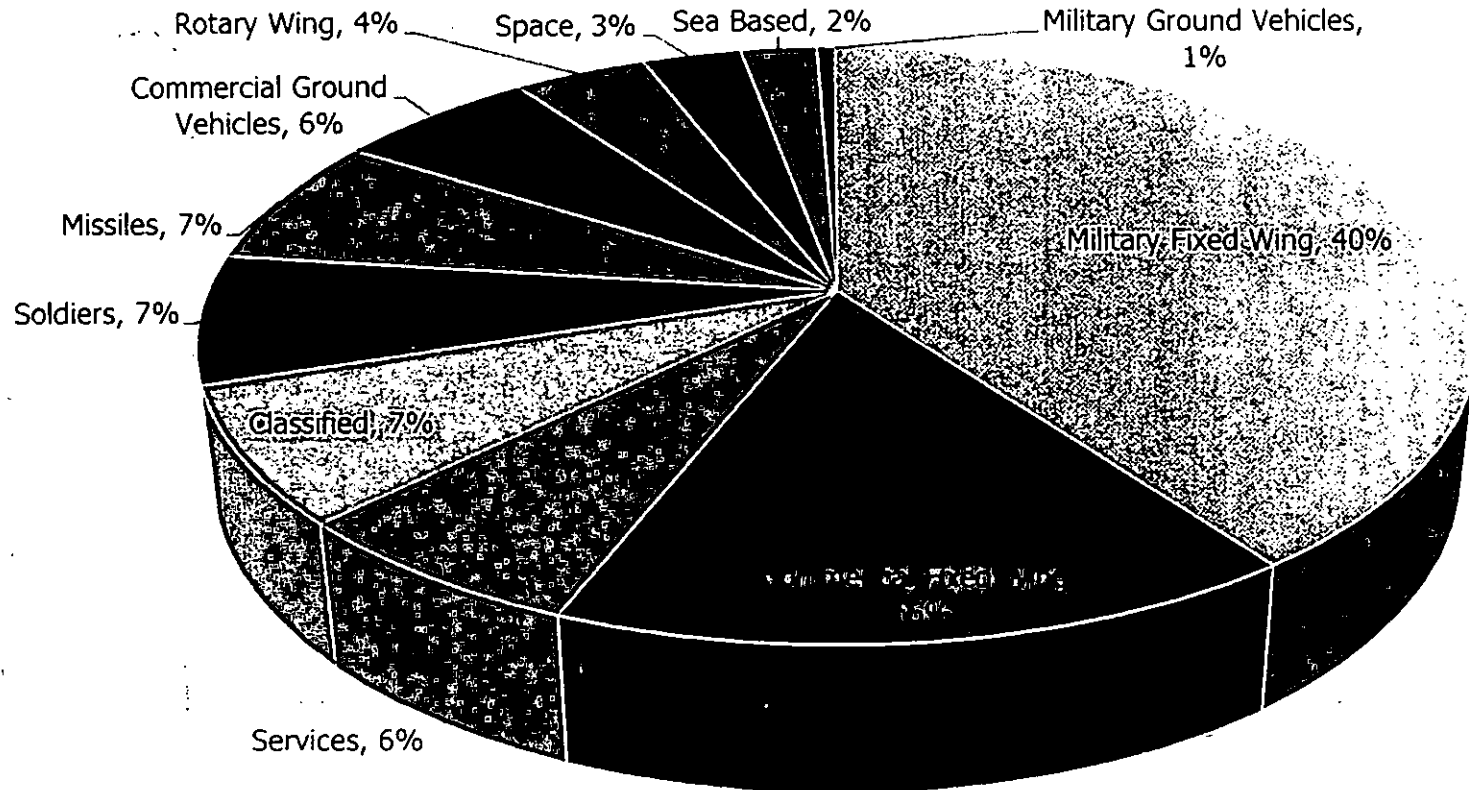


# Electronic Systems Customers





# ■ Electronic Systems Platforms



## ■ Our Portfolio

### Diverse Product/ Program Portfolio

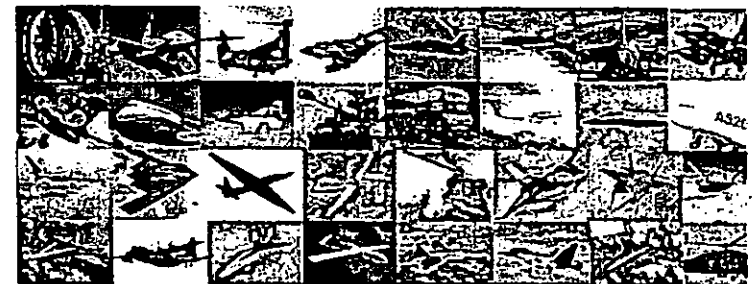
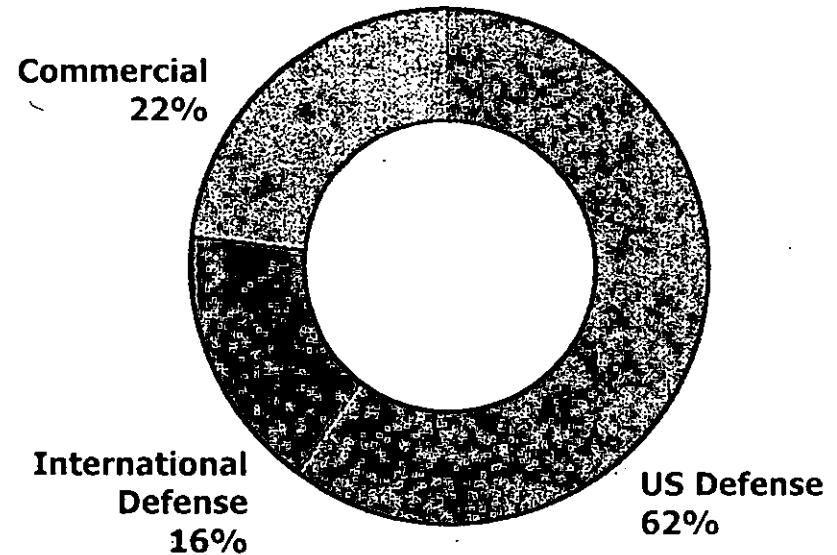
- Over 6,000 Active Contracts
  - Ranging in size from \$10k to a \$1.7B
  - 70% Firm Fixed Price Contracts
  - 30% Cost Reimbursable

### Diverse Customer Base

- 400 Different Commercial and Defense Customers
- 15 Different Defense (10) and Commercial (5) Market Segments
- 80+ Countries

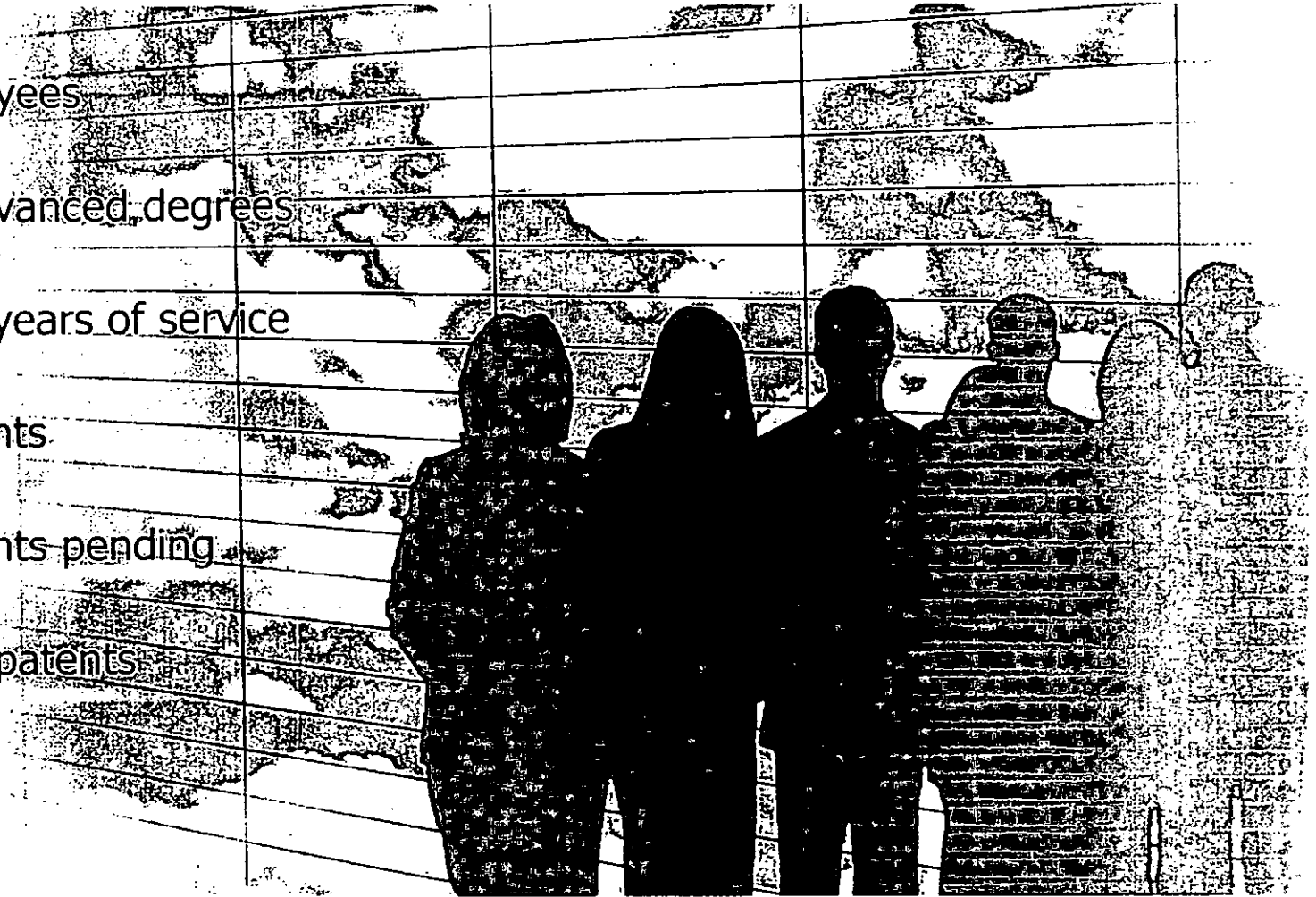
**Serving a \$50B market**

### Business Mix

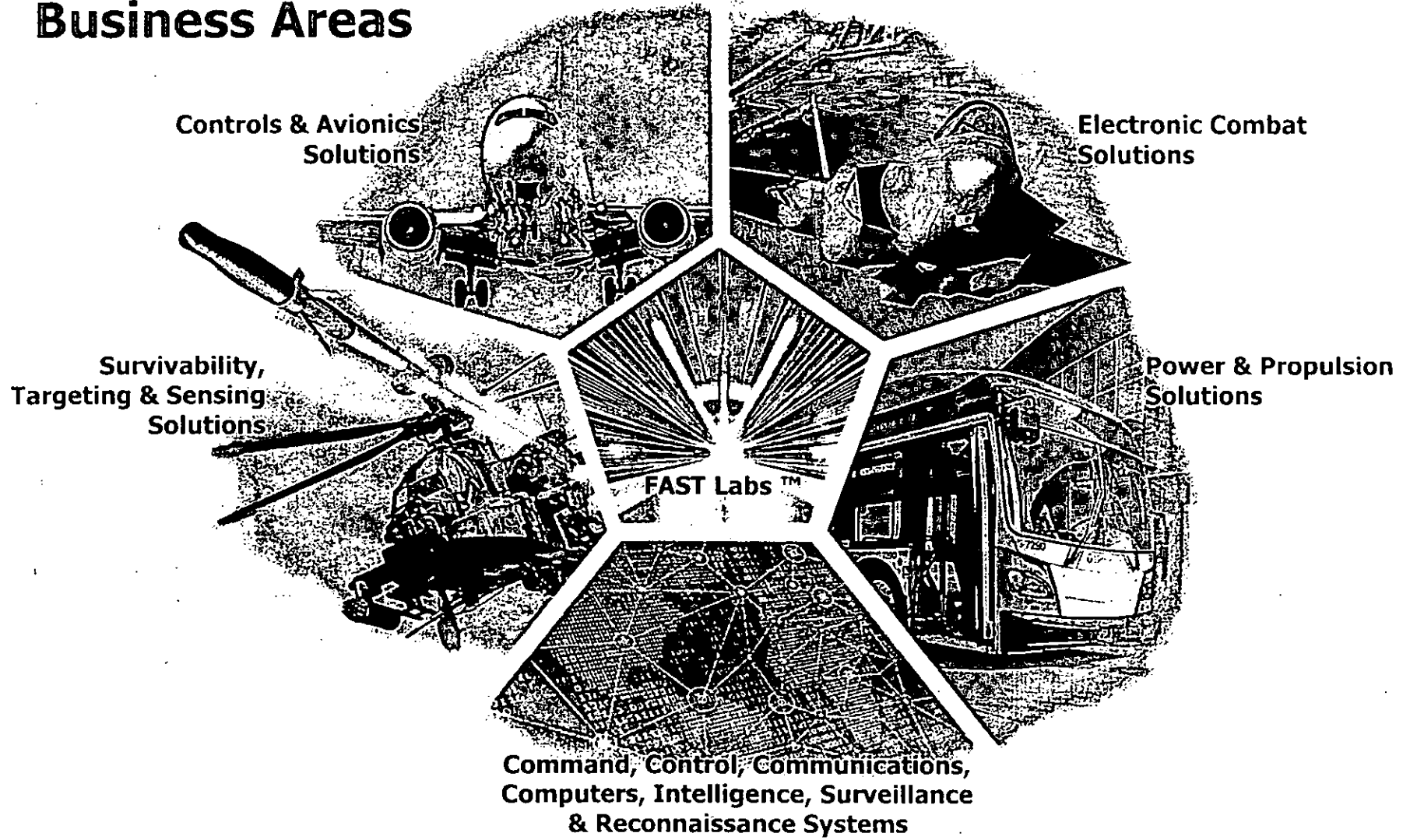


## ■ Strength of **People**

- **13,556** employees
- **1,845** hold advanced degrees
- **14.5** average years of service
- **966** U.S. patents
- **289** U.S. patents pending
- **274** non-U.S. patents

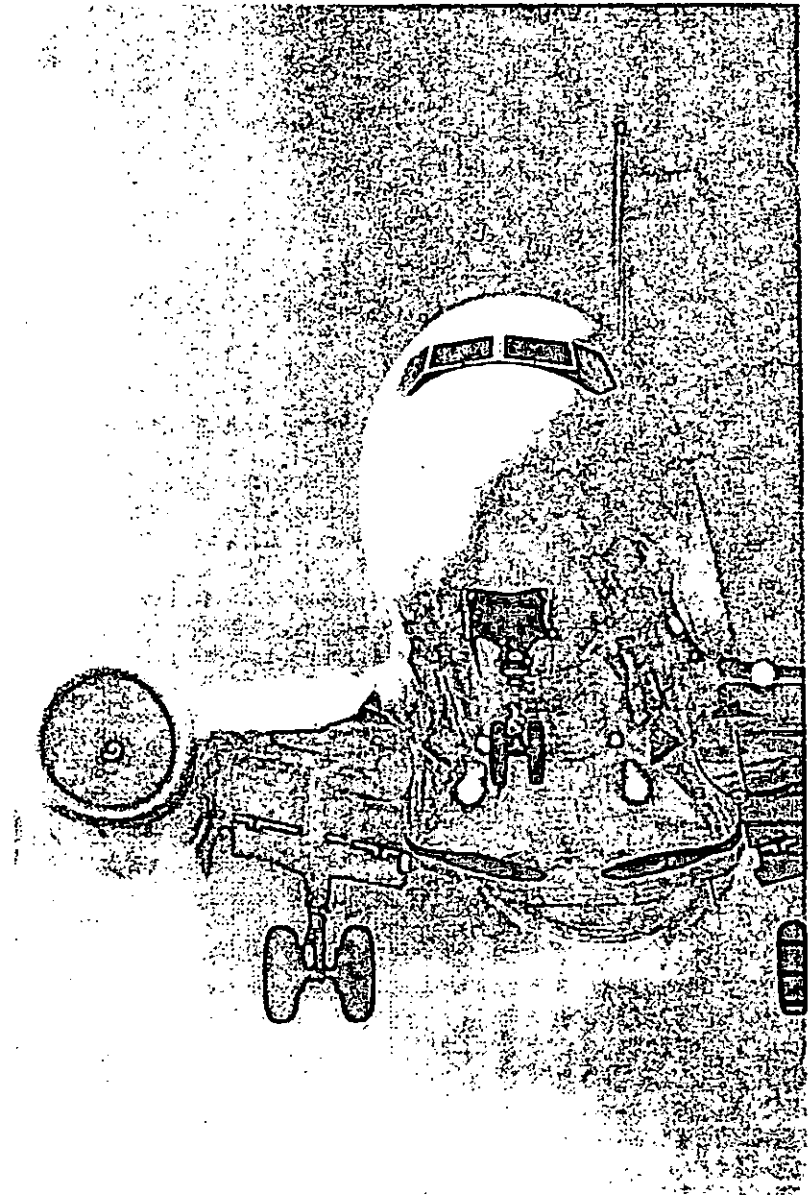


# Electronic Systems Business Areas



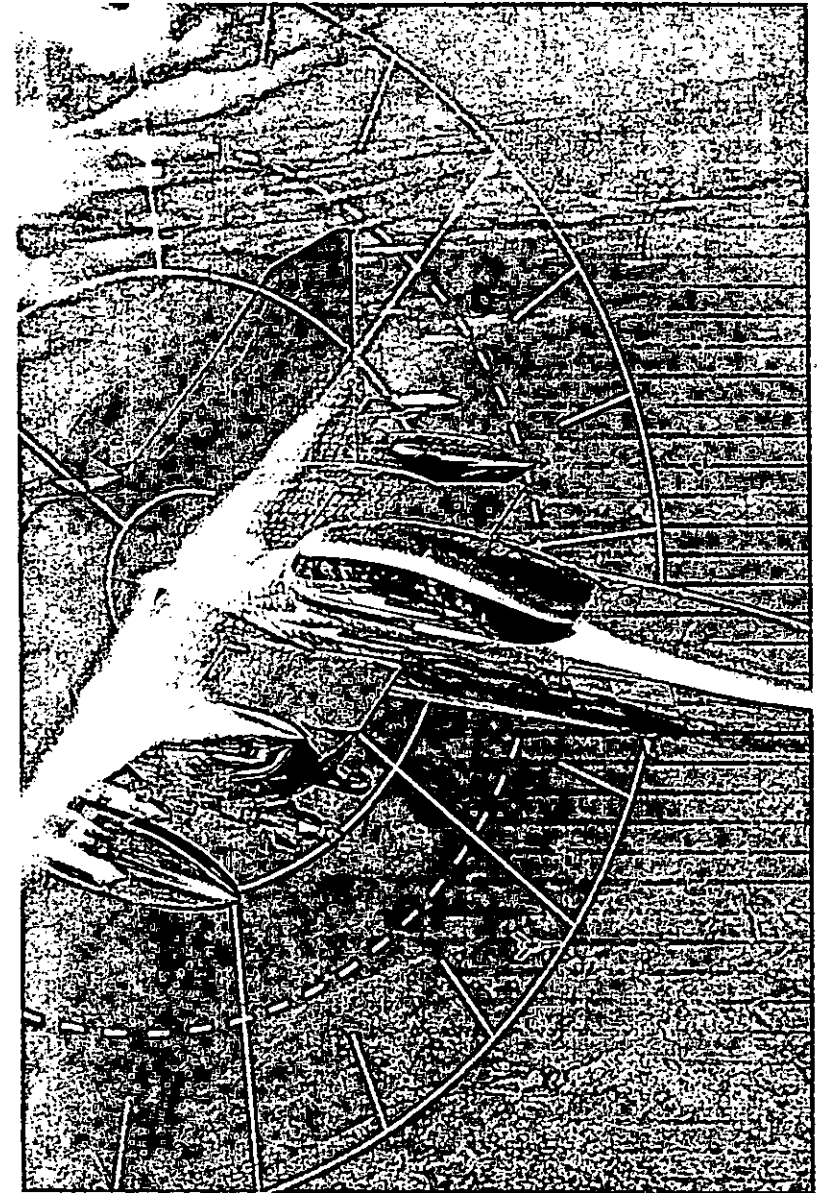
## ■ Controls & Avionics Solutions

- Flight Controls: Fly-by-wire systems, Active Inceptor Systems
- Engine Controls: Full Authority Digital Engine Controls (FADEC), Power Management Systems
- Flight deck systems: Instrument Control Panels, Detection and Alerting
- Cabin management systems: IntelliCabin™ - the cabin of the future
- Aftermarket Solutions: Maintenance, repair and overhaul, Technical service capabilities
- Advanced flight controls and mission avionics
- Advanced displays and inceptors
- Through-life support



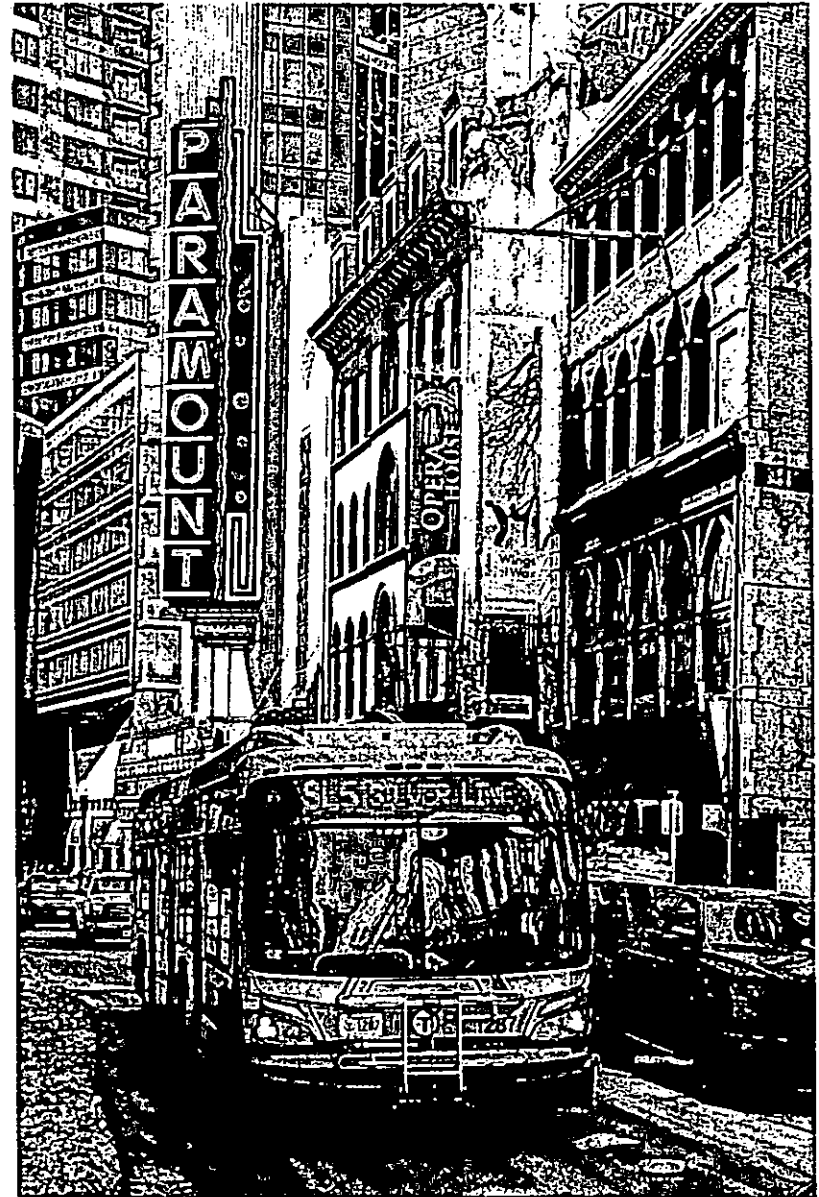
## ■ Electronic Combat Solutions

- Electronic Support
  - Rapid detection, identification and tracking
  - Precision direction finding and geolocation
  - Passive targeting support
- Electronic attack
  - Electronic attack of military and commercial communications, navigation and radar systems
  - Threat analysis and response
- Self Protection
  - Multispectral (RF/IR) Countermeasures
  - On Board & Off-Board technique generators
- Integrated EW
  - Multispectral, LPD/LPI communications, SIGINT
  - Mission and battle management
- Mission Support
  - Operational analysis
  - Mission planning and data file tools
  - Avionics test systems and maintenance aids



## ■ Power & Propulsion Solutions

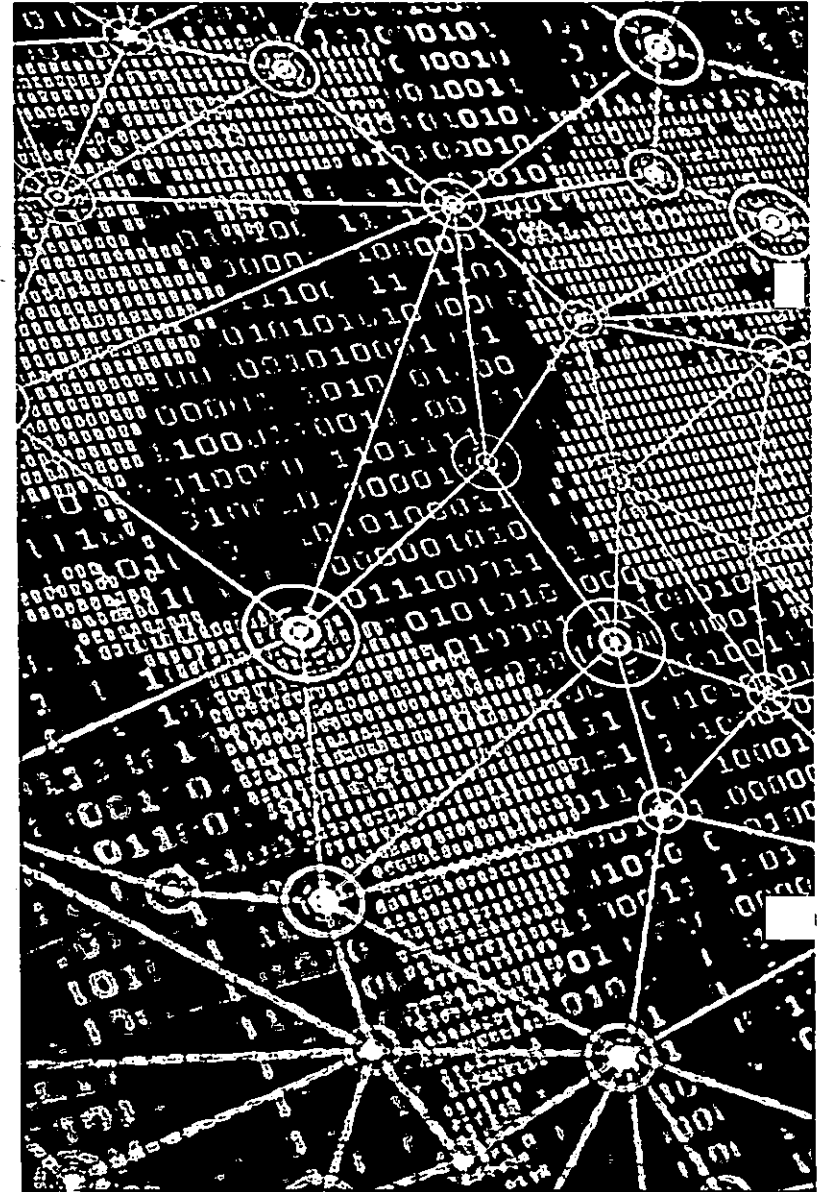
- Delivers propulsion and power management performance with innovative electric products and solutions
- Serves a diversified market footprint: Advancing vehicle mobility, efficiency, and capability in markets such as; transit, marine, military and truck
- Holds a significant IP portfolio; 300+ patents world-wide; using technology evolved from over 20 years of investment in aircraft controls and power systems
- More than 8,000 electric drive systems deployed worldwide
- Systems development and integration is a core competency – makes the difference between average performance and class-leading



## C4ISR Systems

Actionable intelligence for our warfighters through electronic products and innovative technical solutions from the depths of the ocean to outer space and everywhere in between

- SIGINT sensors
- EO/IR sensors
- Multi-INT sensors
- Hyperspectral sensors
- IFF systems
- Mission Workstations
- Space Processing
- Acoustics
- Geospatial exploitation and analytics tools
- Mission planning for aircraft, manned and UAVs
- Knowledge management and information sharing
- Big data management and data fusion
- Datalink Networks





## Survivability, Targeting & Sensing Solutions

Exploiting the EO/IR spectrum to provide unmatched IRCM, precision guidance and seeker solutions, advanced targeting solutions, and state-of-the-art tactical imaging systems

- Missile threat warning
- Infrared countermeasures
- Precision munitions guidance systems
- Strategic missile seekers
- Thermal targeting systems
- Laser targeting and range finder systems
- Fused vision systems
- Scientific / medical imaging sensors
- Helmet and Head Up display solutions
- International mission and support equipment



## ■ FAST Labs

Researching, developing, and integrating advanced electronic technologies that provide discriminating capabilities to BAE Systems' products and services.

- Advanced Electronics
- Autonomy
- Cyber
- Electronic warfare
- Sensors and processing



## ■ A Proud Tradition of **Community** Support

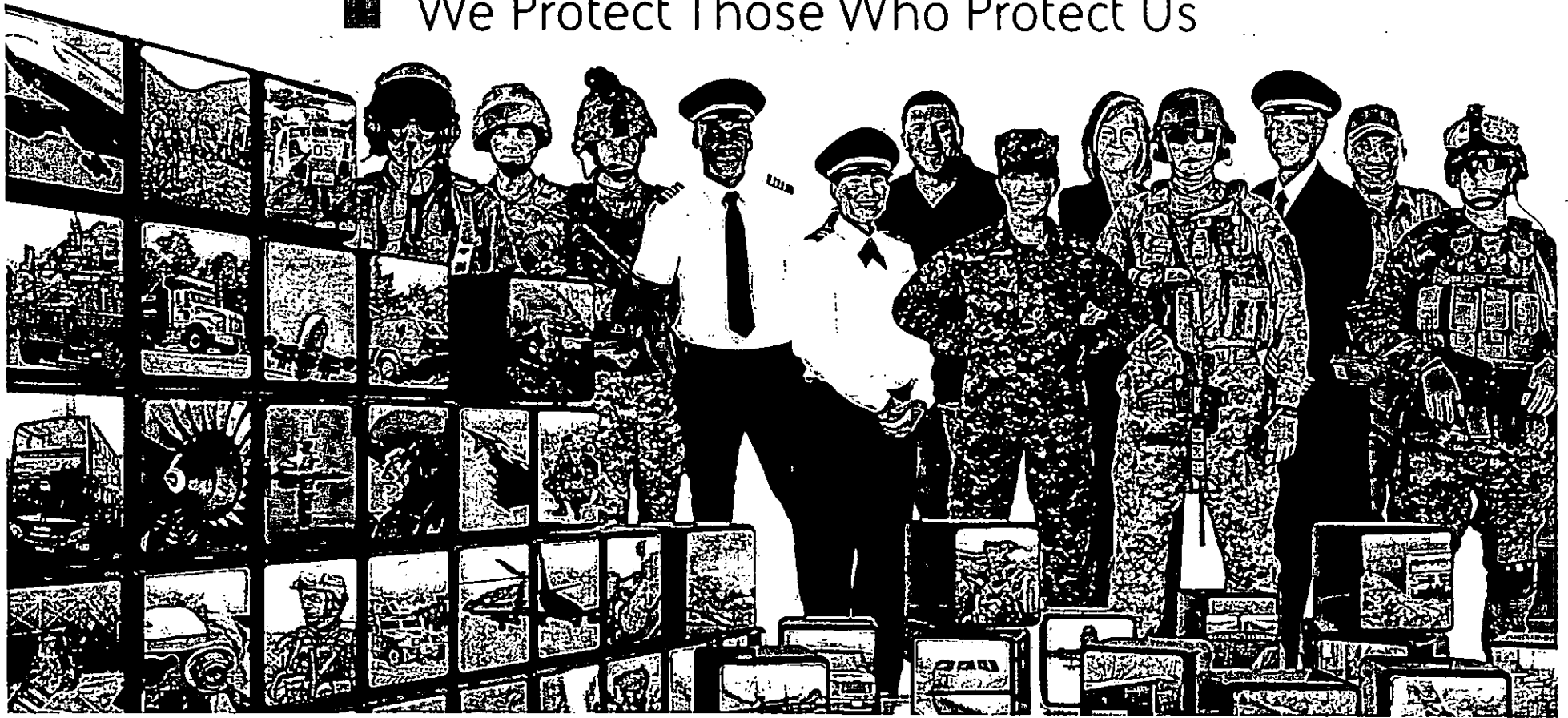
Investing in our community through:

- Community Investment – corporate partnerships with Run to Home Base, Fisher House Foundation, K-9 Soldiers ARGOS Project, For Inspiration and Recognition of Science and Technology (FIRST) and STEM Scholarships (Science, Technology, Engineering & Math)
- Employee giving programs – volunteerism, employee donations through payroll deductions, charity fundraising activities

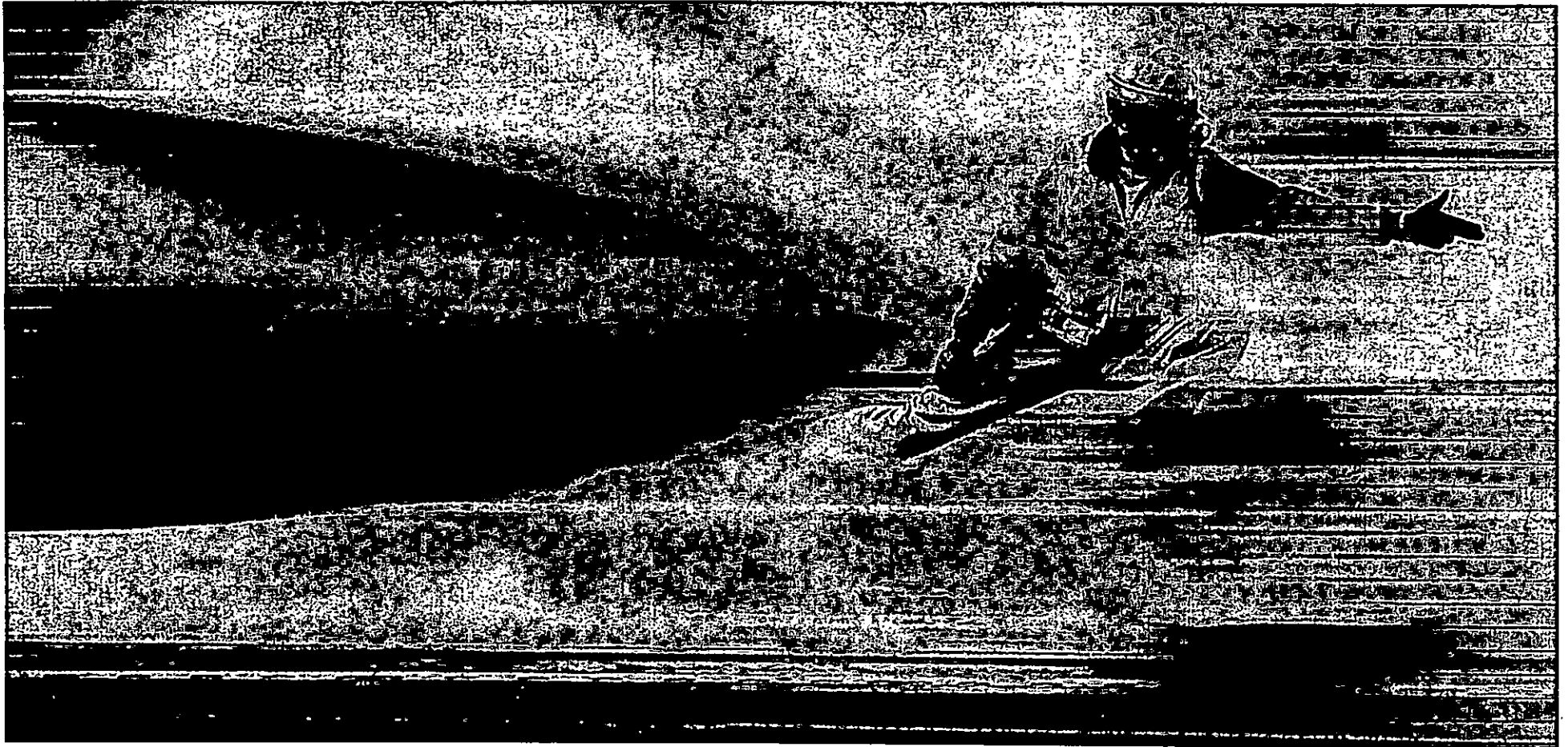


■ We are **inspired** by our missions

■ We Innovate for Those Who Move The World  
We Protect Those Who Protect Us



# ■ Electronic Systems – Moving Forward



# **SERVICE CREDIT UNION**



November 14, 2018

New Hampshire Business Finance Authority  
James Key-Wallace, Executive Director  
2 Pillsbury Street, Suite 201  
Concord, NH  
03301

**RE: \$ 9,000,000.00 and \$12,000,000.00 Commercial Mortgage Loans**

Dear James:

We have approved your request and this Commitment Letter ("Commitment"), when accepted and properly signed, will constitute an agreement between Service Credit Union ("Lender") which agrees to lend, and the New Hampshire Business Finance Authority ("Borrower"), which agrees to borrow, in accordance with the following terms and conditions ("Loan(s)"):

Loan # 1

1. Borrower: New Hampshire Business Finance Authority
3. Amount: \$9,000,000.00
4. Purpose/  
Use of Funds: To purchase 3000 Goffs Falls Road, Manchester, NH
5. Interest Rate: 4.25% fixed
6. Origination Fee: Waived
7. Term/Amortization: 10 year Term/No Amortization

1723554.1

13584805.1

Business Services  
14 Colby Court • Bedford, NH 03110

Loan # 2

3. Amount: \$12,000,000.00
4. Purpose/  
Use of Funds: To purchase a bond issued by the New Hampshire Business Finance Authority supporting the purchase of 3000 Goffs Falls Road, Manchester, NH
5. Interest Rate: 4.50% fixed
6. Guarantor: State of New Hampshire, – 100% of Loan 2  
Said guaranty to be in form acceptable to Lender.
7. Guaranty Fee: 1% of the loan amount due annually
8. Term/Amortization: 10 year Term/No Amortization
9. Repayment:  

Loan # 1 Interest on payments estimated at \$ 31,875 due monthly through the Term,

Loan # 2 Interest on payments estimated at \$45,000 due monthly through the Term.
10. Collateral:
  - (i) Blanket first and second mortgages, respectively, on loan # 1 and loan #2, on all real property; the land(s), the building(s) together with any improvements, located at 3000 Goffs Falls Road, Manchester, NH(“Premises”), to include provisions for assignment of leases , and rents, fixture and security.
  - (ii) A specific assignment by Borrower to Lender of right, title and interest as landlord or tenant in all leases and subleases and any and all rental income including BAE lease (“Assignment of Leases and Rents”);
  - (iii) Title Insurance: Lender will require Title Insurance with a National Title Insurance Company reflecting Lender’s interest with no unacceptable exceptions noted in the policy, by Lender’s counsel as agent.

- (iv) Satisfactory flood determination to be obtained. Should flood insurance be required, Lender will be named as loss payee.
  - (v) First Lien on all fixtures pursuant to a Security Agreement with UCC filings.
  - (vi) All loans through Lender will be cross collateralized and cross defaulted
  - (vii) Assignment of all plans and permits for the proposed subjects and its improvements
  - (viii) Standard Lender collateral requirements
11. Covenant(s): (i) Borrower agrees that they will not further encumber real estate or collateral either directly or indirectly with any additional loans, mortgages or encumbrances without prior written approval of Lender.
- (ii) Lender reserves the right to add additional covenant(s) necessary to fully protect its interest.
12. Prepayment Premium: None.
- Prepayments allowed at any time.
13. Late Charge: 5% of any payment which is 15 days or more past due
14. Default Interest Rate: 4% in excess of the highest applicable Note rate.
- |                                 |                   |              |  |
|---------------------------------|-------------------|--------------|--|
| 15. <u>Financial Covenant</u> : | <b>Covenant</b>   | <b>Ratio</b> | <b>Testing</b>   |
|                                 | Global DSC or DSC | ≥ 1.25:1.0   | To be tested <u>annually</u> based on the receipt of year- end financial information – project specific; no later than 120 days of year end. |
16. Financial Reporting: (a) Annual Rent Rolls, to be supplied within 120 days of year end
- (b) Financial Statement from the borrower and tenant.



(c) Such other information and reports as Lender shall reasonably request.

17. Environmental: A satisfactory Environmental Report has been received by ATC and was satisfactory.
18. Appraisal: A satisfactory appraisal has been received and did provide sufficient equity to meet the maximum LTV ratio of 70%.
19. Subject to review and approval of Purchase and Sale Agreement for the Premises, and Lease between Borrower and BAE Systems, and completion of closing pursuant to Closing checklist as of November 13, 2018, as may be amended.
20. Legal Services: The Lender's Counsel, will review and prepare all loan documents pertaining to this Loan. All documents or other instruments executed and delivered in connection with the closing of the Loan and all insurance binders, title policies, authorizing resolutions, constituent documents and opinion letters shall be in a form and substance satisfactory to the Lender and its Counsel.
21. Costs: Lender's out-of-pocket expenses, including without limitation, underwriting fees, attorneys' fees, appraisal fees, environmental fees, fees and expenses for title and lien searches, title commitment and insurance fees, filing and recording fees, and taxes, escrow agent fees and the like incurred by Lender in connection with (i) the negotiation, documentation, and closing of the financing contemplated hereby, and (ii) the perfection of Lender's security interest and lien(s) (the "Expenses"), shall be payable by the Borrower on demand, whether or not the transaction contemplated herein closes, unless the failure to close is due solely to Lender's gross negligence or willful misconduct. The Borrower hereby grants Lender a security interest in the collateral securing Borrower obligations hereunder including, but not limited to, the payment of Expenses set forth in this section.
22. Insurance: The Borrower will provide insurance policies, insurance binders, or certificates of insurance providing coverage for hazards (all risks), public liability, (builder's risk) and flood insurance, if applicable, in such amounts as the Lender may require from time to time, and other such insurance coverage shall be in form, substance, amounts, and with companies acceptable to the Lender. Insurance policies shall have premiums prepaid by the Borrower, shall have the Standard New Hampshire Mortgagee Clause with Lender's Loss Payable Endorsement attached to provide for any loss payable under the policy to be paid to the Lender, and shall provide that the policy may not be canceled without at least 30 days prior written notice to the Lender. Evidence of such coverage shall be deposited with the Lender throughout the life of the Loan.
23. Deposit Relationship: The Lender will require of Borrower a deposit relationship and membership to be established for the term of the Loan.

24. Borrower's Representations: The Borrower represents and warrant to the Lender as follows:

- A. The Borrower is fully authorized to execute this Commitment Letter and all other agreements and documents pertaining to the credit facility, and such execution will not violate any law, ordinance, regulation, bylaw, or articles of organization.
- B. The financial condition of the Borrower has not changed since the date of Borrower's loan application. All financial data submitted is true and correct.
- C. All taxes, whether federal, state, or local, due from the Borrower have been paid or accrued and appropriate tax returns have been filed.
- D. The Borrower will comply with and observe all laws and ordinances relating to the premises, and the current and proposed uses of the premises do not violate any law or ordinance.
- E. The Borrower will grant to the Lender all necessary mortgages, assignment, security instruments, titles, and interests as agreed herein.
- F. Neither the Borrower nor any company of which the Borrower are or were a principal owner have been in receivership, been adjudicated as bankrupt or insolvent, made an assignment for the benefit of creditors, or prosecuted in any criminal proceedings.
- G. The Borrower will make all payments of principal and interest on the Loan and will comply with every covenant, term, and condition of this Commitment Letter and Loan Documents.
- H. The Borrower agree not to enter into other financing arrangements whether secured or unsecured, without prior written consent of Lender.
- I. The Borrower will certify to Lender prior to closing the status of any actions, suits, proceedings, or investigations now pending or to the knowledge of Borrower threatened against or affecting Borrower and/or Guarantors.

25. Incorporation into Loan Documents: The Lender and the Borrower agree that this Commitment shall survive the Loan closing contemplated hereby, and that each and every one of the obligations and undertakings of the Borrower set forth in this Commitment shall be continuing obligations and undertakings, and shall not cease or terminate until this Loan, together with all interest, fees, and any other amounts which may accrue shall have been paid in full.

26. Acceptance: This Commitment is issued in response to the Borrower's request for the Loan, and in reliance upon the representations made in the application. In consideration for the expenses incurred by the Lender in processing the Loan, for its issuance of this Commitment, and for the holding of funds for disbursement, the Borrower agrees that, upon its acceptance of this Commitment, it shall become binding and the Loan will be closed in accordance with the provisions hereof.
27. General Conditions:
- A. The provisions of this Commitment cannot be waived or modified unless such waiver or modification is by a written agreement signed by the Lender and the Borrower. This Commitment shall not be assignable by operation of law or otherwise.
  - B. This Commitment may be terminated by the Lender at any time prior to closing upon discovery by the Lender of a material adverse change in or any misrepresentations or erroneous statements about the proposed Loan or in or about Borrower position with respect to solvency, creditworthiness, ability to repay the credit facility, government regulations, those representations herein, or any substantial factor. In the event of such termination, the Lender is entitled to collect all fees herein required of Borrower. Such termination shall become effective upon the mailing of Notice of Termination by the Lender by certified first-class mail to Borrower at the address shown on this Commitment.
  - C. The foregoing summarizes certain of the terms and conditions relating the Loan. The Lender's undertaking to extend the Loan is, conditioned upon the execution of various loan and security documents containing additional terms and conditions which are satisfactory to the Lender and its Counsel, and upon all other matters relating to the Loan and the collateral being satisfactory to Lender. If the parties are unable to agree on the loan documentation and such other matters, then Lender shall not be required to extend the Loan by the date provided hereafter.
  - D. Under New Hampshire law, no promise, contract, or agreement to lend money, extend credit, forbear from collection of a debt, or make any other accommodation for the repayment of a debt may be enforced in court against Lender unless the promise, contract or agreement is in writing and signed by Lender. Accordingly, Borrower cannot enforce any oral promise unless it is in writing signed by Lender. Borrower also understands that all future promises, contracts, or agreements of the Lender relating to any other transaction between Borrower and Lender cannot be enforced in court unless they are in writing signed by Lender. Borrower further agrees that the requirement of writing described in this paragraph shall apply to this Commitment, the Loan described therein, any extension, modification, renewal, forbearance, or other accommodation relating the transactions contemplated by this Commitment, and to any other credit


relationship between Borrower and Lender, (whether existing now or created in the future).

28. Commitment Acceptance and Expiration: This Commitment has been issued in response to Borrower's request and shall not become effective until such time as the Lender has received Borrower's unconditional written acceptance hereof. If this Commitment Letter is not countersigned and returned by October 26, 2018, it shall be of no further force or effect. This Commitment Letter is intended only for the Borrower and is not assignable or transferable to any other party or entity. The terms and conditions of this Commitment may not be modified, changed, waived, or extended unless agreed to in writing and executed by all parties. The credit facility must close on or before December 31, 2018 or this Commitment shall be of no further force and effect.

If the foregoing is acceptable, please sign and return a copy of this Commitment Letter by November 19, 2018 and provide a check totaling \$ 10,000.00. This letter and deposit will serve as your authorization to proceed with preparation of the necessary Loan documentation. The deposit will be applied towards closing costs. The signed Commitment and check shall constitute our commitment to provide, and your commitment to accept, the terms and conditions set forth herein.

Very truly yours,

SERVICE CREDIT UNION

By:   
Name: David A. Weed  
Title: AVP, Business Services

**ACCEPTED:**

The terms of this Commitment Letter are hereby accepted by the undersigned as Borrower and Guarantors who hereby agree to be bound by its terms and provisions.

**BORROWER: New Hampshire Business Finance Authority**

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

Date: \_\_\_\_\_

Name: James Key-Wallace

Title: Executive Director

**BOND PURCHASE AND LOAN AGREEMENT**

by and between

the BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW  
HAMPSHIRE, as Borrower and Bond Issuer

- and -

SERVICE CREDIT UNION, as Lender

Dated as of December \_\_\_\_, 2018

EXCEPT AS EXPRESSLY PROVIDED IN THE STATE GUARANTEE, THIS AGREEMENT DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE BUSINESS FINANCE AUTHORITY EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA CHAPTER 162-I. ALL AMOUNTS OWED HEREUNDER ARE PAYABLE ONLY FROM THE SOURCES EXPRESSLY PROVIDED HEREIN, AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE.

**BOND PURCHASE AND LOAN AGREEMENT**

THIS BOND PURCHASE AND LOAN AGREEMENT (as the same may be amended, restated, replaced, supplemented or otherwise modified and in effect from time to time, this “**Agreement**”) is made as of this \_\_\_ day of December, 2018 (the “**Effective Date**”), between the **BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE** (the “**State**”), a body corporate and politic of the State of New Hampshire with a principal office at 2 Pillsbury Street, Suite 201, Concord, NH 03301 (“**Authority**”), and **SERVICE CREDIT UNION**, a New Hampshire Credit Union, with an address of 3003 Lafayette Road, Portsmouth, New Hampshire, 03801 (“**Lender**”).

WHEREAS, the Authority is authorized and empowered under the laws of the State, including New Hampshire RSA Chapter 162-I (the “**Act**”), to enter into financing documents and security documents with respect to indebtedness of the Authority to be used to finance eligible projects as described in the Act;

WHEREAS, in furtherance of the purposes of the Act, the Authority proposes to obtain loans from Lender, in the amount of \$9,000,000 (“**Loan 1**”) and \$12,000,000 (“**Loan 2**,” and together with Loan 1, the “**Loans**”) to finance the Authority’s purchase of commercial land and improvements in Manchester, New Hampshire (the “**Property**” or the “**Premises**,” as more particularly defined in Schedule 1.1), which Property will be leased by the Authority to BAE Systems Information and Electronic Systems Integration, Inc. (“**BAE**”), with payments due from BAE under the Lease (as defined in Schedule 1.1) to be used by the Authority to repay the Loans;

WHEREAS, repayment of the Loans will be secured by first and second mortgages, assignments of rents, and security agreements granted to Lender with respect to the Property;

WHEREAS, to further induce Lender to make the Loans, the Authority will cause the provisions of this Agreement and financing documents and security instruments with respect to Loan 2 to constitute an Authority-issued and State-guaranteed bond under the Act, as specified below; and

WHEREAS, this Agreement shall not be deemed to constitute a debt or liability or moral obligation of the State (except as provided in Section 2.3 hereof) or any political subdivision thereof, or a pledge of the faith and credit or taxing power of the State (except as provided in Section 2.3 hereof) or any political subdivision thereof, but shall be a special obligation of the Authority payable solely from the payments to be made by BAE in accordance with BAE’s lease of the Property.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises contained in this Agreement, the Authority and Lender hereby agree as follows:

## 1. DEFINITIONS

**1.1. Defined Terms.** As used in this Agreement, unless previously defined above or elsewhere in the body of this Agreement, all capitalized terms shall be as defined in Schedule 1.1 (“**Definitions**”). The Definitions shall be applicable to both the singulars and plurals of the items therein defined.

**1.2. Other Terms.** Any accounting term used but not specifically described in the Definitions shall be construed in accordance with GAAP, as defined. The definition of each agreement, document, and instrument set forth shall be deemed to mean and include such agreement, document, or instrument as amended, restated, or modified from time to time. Any term used in the New Hampshire Uniform Commercial Code, RSA 382-A (“**UCC**”), and not defined herein, shall have the meaning given to the term in the UCC.

## 2. LOANS & BOND

**2.1. The Loans.** Lender hereby agrees, subject to the terms and conditions of this Agreement, to extend to Authority the following commercial credit facilities, which together with all of the Loan Documents, and their resulting terms, conditions and requirements constitute the “**Obligations**”:

(a) A term loan in the amount of Nine Million and 00/100 Dollars (\$9,000,000.00), on the terms set forth herein and in Schedule 2a and the Term Loan Note of even date herewith (the “**Loan 1 Note**”).

(b) A term loan in the amount of Twelve Million and 00/100 Dollars (\$12,000,000.00), on the terms set forth herein and in Schedule 2b and the Term Loan Note of even date herewith (“**Loan 2 Note**”).

**2.2. The Bond.** The Loan 2 Note and the payment obligations thereunder, together with all provisions of this Agreement and the security instruments related thereto (collectively, the “**Bond**”), shall, pursuant to the Authority’s issuing powers under the Act, be deemed “financing documents,” “security documents,” and a “bond” as defined in the Act and purchased by and issued for the benefit of Lender, and any references to Loan 2 in this Agreement or the financing and security instruments related thereto shall be deemed references to the Bond.

**2.3 State Guarantee of Bond.** Pursuant to RSA 162-I:9-b, the State has guaranteed payment of all principal and interest payable under the Loan 2 Note, which guarantee (the “**State Guarantee**”) is endorsed thereon and hereon. Under no circumstances shall the Authority be obligated directly or indirectly to pay expenses of operation, maintenance and upkeep of the Project except from Loan Proceeds, Lease Payments or proceeds of the State Guarantee, exclusive of funds received hereunder by the Authority for its own use. Except as expressly provided in the State Guarantee, this Agreement does not create any debt of the State with respect to the Property other than a special obligation of the Authority acting on behalf of the State pursuant to the Act. Except as expressly provided in the State Guarantee, nothing contained herein shall in any way obligate the State to raise any money by taxation or use other public funds for any purpose in relation to the Property. Except as expressly provided



in the State Guarantee, neither the State nor the Authority shall pay or promise to pay any debt or meet any financial obligation to any person at any time in relation to the Property except (i) from monies received or to be received under the provisions hereof or derived from the exercise of the Authority's rights under the Lease, other than moneys received for its own purposes, or (ii) as may be required by law other than the provisions of the Act. Nothing contained in this Agreement shall be construed to require the Authority to operate the Property itself or to conduct any business enterprise in connection therewith.

### 3. GENERAL LOAN PROVISIONS

3.1. **Loan Account.** Lender shall maintain on its books a record of account in which Lender shall make entries for each repayment made in connection with each of the Obligations. Lender shall provide Authority with monthly statements of Authority's account, which statement shall be considered to be correct and conclusively binding on Authority unless Authority notifies Lender to the contrary within thirty (30) days after Authority's receipt of any such statement which Authority deems to be incorrect.

3.2. **Advances and Prepayments Made on Business Days.** Lender shall, to the extent applicable, not be required to accept any request for any Loan advance except on a Business Day and except in accordance with this Agreement and Loan Documents.

3.3. **Auto-Debit of Loan Payments.** Authority hereby authorizes Lender to automatically deduct from any deposit account of Authority the amount of any Loan payment ("Automatic Payments"). If the funds in the account are insufficient to cover any Automatic Payment, Lender shall not be obligated to advance funds to cover the payment. Lender may terminate Automatic Payments at any time for any reason or for no reason and will give Authority written notice of such termination. The Automatic Payment will be processed on the date Authority's payment is due, but if the due date falls on a non-Business Day, then the Automatic Payment will be processed on the first Business Day AFTER the payment due date. Lender will not process any Automatic Payment if it would cause the Authority's account to become overdrawn. If a line of credit is tied to the Authority's account, the account will not be considered as overdrawn until after the amount available under the line of credit has been fully advanced.

3.4. **Application of Payments.** All payments shall be applied first to the payment of all fees, reasonable out-of-pocket expenses and other amounts earned, due and owing to the Lender (excluding principal and interest), second to accrued interest and third to outstanding principal balance; provided, however, that following an Event of Default, payments will be applied to the obligations of Authority to Lender as Lender determines in its sole discretion.

3.5. **Loan Purpose.** No Loan proceeds shall be used for any purpose other than the Authority's purchase of the Property and, subject to Lender's prior written approval, customary and reasonable closing expenses in connection therewith.

3.6. **Interest Rate Calculation.** Interest shall be computed pursuant to a 365/360 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding.

**3.7. Additional charges for Late Payment.** Authority shall pay to Lender, for each payment of principal or interest not paid in full within fifteen (15) days after its due date, a late fee (“**Late Fee**”) equal to five percent (5%) of the amount of such payment. The Late Fee, and the period of time from the due date through fifteen (15) days, shall not be considered a grace period, or a waiver by Lender of any of its other rights with respect to this Agreement and the Loan Documents.

**3.8. RSA 399-B Disclosures.** Pursuant to RSA 399-B, requiring a written disclosure from Lender to Authority of financing and other loan charges, reference is made to Schedule 2, the other provisions of this Agreement, the Settlement Statement and the Loan Documents. Authority acknowledges that said statutory disclosure requirements have been satisfied, and that Authority has had a full opportunity to review all financing provisions and accepts such. At Closing Authority shall sign a 399-B Disclosure form reflecting the provisions as referenced herein.

**3.9. Loan Commitment.** The terms of the Commitment Letter to Authority dated the 14<sup>th</sup> day of November, 2018 shall survive the Closing. In the event of any conflict between any provision of the Commitment Letter, this Agreement, and any Loan Document, the provisions of this Agreement and any Loan Document shall control, with this Agreement being primary.

#### **4. REPRESENTATIONS AND WARRANTIES**

Authority represents and warrants to Lender (which representations and warranties will survive the Closing) that:

**4.1. Existence and Legal Authority.** Authority is a statutory agency of the State, validly existing as a body corporate and politic under the laws of the State and has all requisite power and authority under the Act to own property and to carry on its business as now being conducted, to enter into the Loan Documents to which it is a party and the other agreements referred to herein and transactions contemplated thereby, and to carry out the provisions and conditions of such Loan Documents to which it is a party.

**4.2. Due Execution and Delivery.** The Authority has full power, authority and legal right to incur the obligations provided for herein, and to execute and deliver and to perform and observe the terms and provisions of the Loan Documents to which it is a party, each of which has been duly executed and delivered and authorized by all required action; the Authority has obtained all requisite consents to the transactions contemplated thereby and under any instrument to which it is a party; and the Loan Documents constitute the legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by the Act, the Insolvency Laws or other similar laws affecting creditors' rights generally.

**4.3. No Breach of Other Instruments.** Neither the execution and delivery of the Loan Documents, nor the compliance by Authority with the terms and conditions of the Loan Documents, nor the consummation of the transactions contemplated thereby, will conflict with or result in a breach of the terms, conditions or provisions of any agreement or instrument or law,

regulation, rule or order of any governmental body or agency to which Authority is now a party or is subject to, or the imposition of a lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Authority pursuant to the terms of any such agreement or instrument.

**4.4. Government Authorization.** Other than the requisite approval of the New Hampshire Governor and Council, no consent, approval, authorization or order of any court or governmental agency or body is required for the consummation by the Authority of the transactions contemplated by the Loan Documents.

**4.5. Ownership of Property.** Except for Permitted Encumbrances or as otherwise permitted in the Security Instruments or this Agreement, Authority has and will have good and marketable fee title to the Property, subject, however, to title defects and restrictions which do not materially interfere with the operations conducted thereon by Authority or BAE as are included in the Title Policy acceptable to Lender or affirmatively covered in a manner acceptable to Lender. Except for Permitted Encumbrances, the Property and all other property and assets of the Authority are free from any liens or encumbrance securing Indebtedness and from any other liens, encumbrances, charges or security interests of any kind. The Lease is in full force and effect, and no material default on the part of Authority or, to its knowledge, any other party thereto exists.

**4.6. Absence of Defaults, Etc.** Except as previously disclosed to Lender, the Authority is not (i) in material default under any indenture or contract or agreement to which it is a party or by which it is bound, (ii) in violation of the Act, (iii) in default with respect to any order, writ, injunction or decree of any court, or (iv) in default under any order or license of any federal or state governmental department. There exists no condition, event or act which constitutes, or after notice or lapse of time or both would constitute, an Event of Default.

**4.7. Financial Condition.** The Authority has furnished to the Lender the Financial Statements of BAE which, to the best of Authority's knowledge, fairly and accurately reflect the financial condition and assumptions for the operations of BAE. The Authority has no knowledge of a material adverse change in BAE's financial condition or prospects since that date which would require revision of the same.

**4.8. Litigation.** Except as set forth in Schedule 4.8, there are no actions, suits or proceedings pending, or to the best of Authority's knowledge, threatened against or affecting Authority or its assets in any court, or before or by any federal, state or municipal or other governmental department, commission, board, bureau, agency or other instrumentality, domestic or foreign, and no claim that Authority has asserted against any other party is subject to a counterclaim or cross-claim against Authority.

**4.9. Environmental Matters.** To the best of its knowledge, Authority is in compliance with all Environmental Laws and all applicable federal, state and local health and safety laws, regulations, ordinances or rules, and affirms and represents compliance and agreement as to all terms and conditions of the Environmental Indemnification Agreement.

**4.10. Solvency.** The Authority is not insolvent as defined under any Insolvency Laws, nor will Authority be rendered insolvent by the execution and delivery of this Agreement or any of the Loan Documents to Lender. The Authority is not engaged or about to engage in any business or transaction for which the assets retained by it shall constitute an unreasonably small capital, taking into consideration the obligations to Lender incurred hereunder. Authority does not intend to, nor does it believe that it will, incur debts beyond its ability to pay them as they mature. Authority is not contemplating filing of a petition under any federal or state Insolvency Laws, nor does Authority have any knowledge of any Person contemplating filing any claim against it. If any condition should arise that might render the representations of this Section 4.10 untrue, Authority shall forthwith give Lender notice as to such.

**4.11. Federal Reserve Regulations; Use of Loan Proceeds.** Authority is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the Loans will be used, directly or indirectly, for a purpose which violates any law, rule or regulation of any governmental body, including without limitation the provisions of Regulations T, U, or X of the Board of Governors of the Federal Reserve System, as amended. No part of the proceeds of the Loans will be used, directly or indirectly, to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock.

**4.12. OFAC/USA PATRIOT Act Restrictions.** To the best of its knowledge, neither the Authority nor any of its officers:

- (a) is in violation of:
  - (i) any applicable anti-money laundering laws, including, without limitation, those contained in the PATRIOT Act and/or the Bank Secrecy Act (Titles I and II of Pub. L. No. 91-508, 84 Stat. 1114 (1970));
  - (ii) any applicable economic sanction laws administered by OFAC, including, without limitation, Executive Order No. 13224; or
  - (iii) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal; or
- (b) is a person that:
  - (i) is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws;
  - (ii) has been convicted of any violation of, been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws;

- (iii) is named on the list of “Specially Designated Nationals or Blocked Persons” maintained by the OFAC (or any successor U.S. government office or list);
- (iv) is otherwise identified by any U.S. government office or legal authority as a person with whom a U.S. person is prohibited from transacting business under any other applicable law;
- (v) is owned, controlled by, or affiliated with any person identified in clause (i), (ii), (iii) and/or (iv) hereof; or
- (vi) is engaged in any dealings or transactions for or on behalf of or otherwise associated with any person identified in clause (i), (ii), (iii) and/or (iv) hereof.

**4.13. Not a Foreign Person.** Authority is not a “foreign person” within the meaning of §1445(f)(3) of the Internal Revenue Code and confirms that any affidavit as to such submittal as a Loan Document is true and correct.

**4.14. No Bankruptcies or Judgments.** The Authority is not currently:

- (a) the subject of or a party to any Bankruptcy Event;
- (b) preparing or intending to voluntarily commence a Bankruptcy Event; or
- (c) the subject of any judgment unsatisfied of record or docketed in any court.

**4.15. Broker’s Commission.** Except as disclosed by Authority to Lender in writing, and in the Settlement Statement, the making, execution or delivery of the Loan Documents, and any funding thereof, will not subject Lender to any claim for a brokerage commission, or any owned fee by any party, and except as disclosed and shown on the Settlement Statement, none is due from Authority to any person or party. In the event that any claim is made against Lender for a broker’s or similar commission arising out of the Obligations, Authority shall defend and hold Lender harmless with respect to any such claims and indemnify, to the extent permitted by law, Lender in full for any and all damages or losses in connection therewith, including costs and attorneys’ fees.

## 5. CONDITIONS OF LENDING

**5.1. Loan Funding.** The obligation of the Lender to close the transactions contemplated by this Agreement shall be subject to satisfaction of the following conditions, unless waived in writing by the Lender: (a) all legal matters and Loan Documents incident to the transactions contemplated hereby shall be reasonably satisfactory, in form and substance, to Lender’s counsel; (b) the Lender shall have received (i) certificates by an authorized officer or representative of Authority upon which the Lender may conclusively rely until superseded by similar certificates delivered to the Lender, certifying (1) that all requisite action taken in connection with the

transactions contemplated hereby has been duly authorized and (2) the names, signatures, and authority of Authority's authorized signers executing the Loan Documents, and (ii) such other documents as the Lender may reasonably require to be executed by, or delivered on behalf of, Authority; (c) the Lender shall have received the Loan Documents, with all blanks appropriately completed, executed by an authorized signer for Authority; (d) the Authority shall have paid to the Lender the fee(s) then due and payable under this Agreement and the other Loan Documents, including all filing fees, recording fees, due diligence costs of Lender, and all legal and professional fees associated with the Obligations; (e) Authority shall have maintained its financial condition in a manner satisfactory to the Lender, and no material adverse change shall have occurred in Authority's financial condition or prospects; (f) the Lender shall have received the written opinion(s) of legal counsel for the Authority selected by the Authority and satisfactory to the Lender, dated the date of this Agreement, confirming the validity and enforceability of the Loan Documents (including the Bond) and such other matter(s) as the Lender may reasonably require; (g) the Lender shall have received written instructions from the Authority with respect to disbursement of the proceeds of the Loans consistent with this Agreement; and (h) the Lender shall have received all Security Instruments duly executed by all parties thereto, in form satisfactory for recording or filing, as may apply.

**5.2. The Loans.** The obligation of the Lender to fund the Loans shall be subject to Authority's compliance with Section 5.1 herein and contingent upon (a) there being no Event of Default and (b) each representation and warranty set forth in Section 4 and elsewhere in this Agreement and the Loan Documents being true and correct.

## 6. COVENANTS AND CERTAIN REQUIREMENTS

**6.1. (a) Accounting; Financial Statements and Other Information.** As long as credit is available hereunder or until all principal of and interest and costs and charges on the Obligations have been paid, the Authority covenants and agrees that it will comply with the reporting requirements set forth in Schedule 6.1(a).

(b) **Financial Covenants.** Authority covenants and agrees that, as long as any amount is unpaid with respect to either Loan, and while any commitment of Lender to make any Loan is in effect, it will meet or exceed the Financial Covenants set forth in Schedule 6.1(b).

(c) **No Assignment.** Authority will not pledge, mortgage or assign this Agreement or the State Guarantee (except for the pledge, mortgage or assignment of rights or privileges not assigned to Lender) or its duties and obligations hereunder to any person, firm or corporation, except as provided under the terms hereof; and

(d) **Other.** Authority shall cause BAE to provide to Lender such financial information concerning the Property or certifications as to BAE's financial condition as Lender may reasonably request.

### **6.2. Insurance; Maintenance of Properties.**

(a) **Insurance Requirements.** Authority shall require BAE, in the Lease:

- (i) to keep all Collateral insured at all times with financially sound and reputable insurers with coverage and limits as may be required by law and of such character and amounts as are usually maintained by companies engaged in like business against such hazards and in such coverage amounts as Lender may from time to time require, which insurance may include, but not be limited to, coverage against loss by fire and allied perils, builders' risk, general boiler and machinery coverage, business income coverage and flood (if any of the Collateral is located in an area identified by the Federal Emergency Management Agency (or any successor) as an area having special flood hazards and to the extent flood insurance is available in that area), and may include sinkhole insurance, mine subsidence insurance, earthquake insurance, and, if the Collateral does not conform to applicable building, zoning or land use laws, ordinance and law coverage;
- (ii) to maintain at all times commercial general liability insurance, product liability insurance and such other liability, errors and omissions and fidelity insurance coverages as Lender may from time to time require;
- (iii) to maintain workers' compensation insurance, builder's risk, and public liability insurance and other insurance required by Lender and/or applicable law; and
- (iv) cause Lender to be named as additional insured on all liability insurance policies.

(b) Delivery of Policies, Renewals and Notices. Authority shall promptly provide to Lender copies of all proof of insurance and renewals or modifications thereof that BAE is required to provide to the Authority under the Lease.

**6.3. Existence; Business.** Authority shall cause to be done all things necessary to preserve and keep in full force and effect its existence and rights as a body politic and agency of the State, to conduct its business in a prudent manner, to maintain in full force and effect, and renew from time to time, all franchises, permits, licenses, and trademarks, if any, that are necessary to operate its business. Authority will comply in all material respects with all valid laws and regulations now in effect or hereafter promulgated by any properly constituted governmental authority having jurisdiction; provided, however, that Authority shall not be required to comply with any law or regulation which it is contesting in good faith by appropriate proceedings as long as either the effect of such law or regulation is stayed pending the resolution of such proceedings or the effect of not complying with such law or regulation would not reasonably be expected to result in a Material Adverse Change.

**6.4. Dispositions.** While the Obligations remain unpaid or unsatisfied Authority shall not convey, sell, lease, license, transfer or otherwise dispose of all or any part of the Premises or

move cash balances on deposit with Lender to accounts opened at another financial institution without Lender's prior written consent.

**6.5. Encumbrances.** While the Obligations remain unpaid or unsatisfied Authority shall not create, incur, assume or allow any Lien with respect to the Premises, except for Permitted Liens, without the prior written consent of Lender.

**6.6. Payment of Taxes.** While the Obligations remain unpaid or unsatisfied Authority shall cause to be timely paid all taxes, assessments, and other governmental charges levied upon the Premises, except that no such taxes, assessments, or other charges need be paid if contested in good faith and by appropriate proceedings promptly initiated and diligently conducted and if proper amounts, determined in accordance with GAAP, have been set aside for the payment of all such taxes, charges, and assessments, including but not limited to any tax payments due the City of Manchester with respect in connection with the Premises.

**6.7. Adverse Changes.** While the Obligations remain unpaid or unsatisfied Authority shall not fail to notify the Lender in writing of (a) the occurrence of any event which, if it had existed on the date of this Agreement, would have required qualification of the representations and warranties set forth in Section 3 hereof and (b) any Material Adverse Change.

**6.8. Notice of Default.** While the Obligations remain unpaid or unsatisfied Authority shall promptly notify Lender of any Event of Default under the Loan Documents.

**6.9. Inspection.** While the Obligations remain unpaid or unsatisfied Authority shall make available for inspection by duly authorized representatives of the Lender, or its designated agent, Authority's books, records, and properties upon Lender's reasonable request, and shall furnish to Lender such information regarding its business affairs and financial condition within a reasonable time after written request therefor.

**6.10. Environmental Matters.** Authority shall include in the Lease environmental indemnities from BAE acceptable to Lender, and shall at all times comply with the Environmental Indemnification Agreement.

**6.11. Health and Safety.** Authority shall require in the Lease that BAE maintain compliance with all requirements of applicable federal, state, foreign, provincial and local environmental, health and safety and workplace laws, regulations, ordinances or rules with respect to the Premises which would, in the aggregate, if not complied with, result in a Material Adverse Change.

**6.12. Extraordinary Services.** In the event extraordinary circumstances arise due to an Event of Default or Lender's reasonable belief that an Event of Default is in prospect which require post-closing Lender follow up, Loan review and monitoring and related due diligence other than routine Loan Servicing ("**Extraordinary Services**"), Lender may conduct or require such for inspections, appraisals, tests or reviews, or other due diligence as it then reasonably deems necessary, upon which Lender may deduct the reasonable expense of such Extraordinary Services ("**Extraordinary Expenses**") from any account maintained by Authority with Lender



and available for such purpose, or charge Authority for such, which upon request Authority shall pay in full, or add to the principal of the subject Loan, with such duty to pay Extraordinary Expenses being included in the Obligations.

**6.13. Commercial Operating Account.** So long as credit is available hereunder or until all principal of and interest on the Loans have been paid in full, the Authority shall, unless waived fully or partially by Lender, maintain with Lender an operating account. At the option of Lender, all Loan payments and fees will automatically be debited from such operating account and all disbursements of any Loan proceeds shall be made by the Lender's crediting of such disbursements directly into the appropriate Authority's account.

**6.14. Membership.** To the extent permitted by law, Authority shall take all steps necessary to become a Member of Lender.

**6.15. Further Assurances.**

(a) Other Documents As Lender May Require. Authority shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers and assurances as Lender may require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Agreement and the other Loan Documents.

(b) Corrective Actions. Authority shall provide, or cause to be provided, to Lender, at Authority's cost and expense, such further documentation or information deemed necessary or appropriate by Lender in the exercise of its rights under the related commitment letter between Authority and Lender or to correct patent mistakes in the Loan Documents or Loan funding.

**6.16. Mortgages, Security Interests and Liens.** Authority shall not, directly or indirectly, create, incur, assume, or permit to exist or, under the terms of the Lease, allow BAE to permit any Lien with respect to the Premises other than:

A. Liens for taxes, assessments, or governmental charges or levies the payment of which is not at the time required by Section 6.9 hereof;

B. Liens imposed by law, such as Liens of landlords, carriers, warehousemen, mechanics, and materialmen arising in the ordinary course of business for sums not yet due or being contested by appropriate proceedings promptly initiated and diligently conducted, provided other appropriate provision, if any, as shall be required by GAAP shall have been made therefor;

C. Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance, and other types of social security, or to secure the performance of tenders, statutory obligations, and surety and appeal bonds, or to secure the performance and return of money bonds and other similar obligations, excluding obligations for the payment of borrowed money;

D. Any judgment Lien, provided that the judgment it secures shall, within thirty (30) days after the entry thereof, have been discharged or execution therefor stayed pending appeal, or shall have been discharged within thirty (30) days after the expiration of any such stay;

E. Liens that secure the repayment of Indebtedness of Authority to Lender; or

F. Liens evidenced by or permitted under the terms of the Loan Documents, Permitted Encumbrances, and the Loan Title Insurance Policy.

**6.17. General Provisions as to Authority.** Lender acknowledges that Authority is itself a financing entity. As such, while in the course of its business any action or inaction taken by Authority, in accordance with its authority and procedures, with respect to its borrowers or parties to which it has a lending or contractual relationship shall not create an Event of Default with respect to the provisions of this Agreement or the Loan Documents which might otherwise restrict such action or inaction. Notwithstanding such Authority shall at all times meet its Financial Covenants under Schedule 6.1(b).

## 7. EVENTS OF DEFAULT

The occurrence of any one or more of the following events shall constitute an Event of Default under this Agreement:

**7.1. Payments.** If (a) the interest on the Note or any commitment or other fee shall not be paid in full punctually when due and payable or within fifteen (15) days thereof, or (b) the principal of the Note shall not be paid in full punctually when due and payable, or within fifteen (15) days thereof.

**7.2. Covenants.** If Authority fails to perform or observe any covenant or agreement contained in this Agreement or in any other of the Loan Documents.

**7.3. Representations and Warranties.** If any representation, warranty or statement made in or pursuant to this Agreement or any Loan Document or any other material information furnished by Authority shall be false or materially erroneous or fraudulent.

**7.4. Validity Of Loan Documents.** If (a) any material provision, in the sole opinion of Lender, of any Loan Document shall at any time for any reason cease to be valid, binding and enforceable against Authority; (b) the validity, binding effect or enforceability of any Loan Document against Authority shall be contested by Authority; (c) Authority shall deny that it has any or further liability or obligation thereunder; or (d) any Loan Document shall be terminated, invalidated or set aside, or be declared ineffective or inoperative or in any way cease to give or provide to Lender the benefits contemplated thereby.

**7.5. Loan Document Default.** If any Event of Default or default shall occur under any other Loan Document, or if under any Loan Document any payment is required to be made by Authority on demand of Lender, and such demand is made.

7.6. **Material Adverse Change.** There shall have occurred any Material Adverse Change without compliance with any notice or consent requirement of this Agreement.

7.7. **Bankruptcy Event.** The occurrence of a Bankruptcy Event.

7.8. **Transfer.** The occurrence of any Transfer not permitted by this Agreement.

7.9. **Fraud; Material Misrepresentation.** Fraud or material misrepresentation or material omission by Authority, or any of its officers, in connection with:

- (a) the application for or creation of the Indebtedness;
- (b) any financial statement, rent roll, or other report or information provided to Lender during the term of the Indebtedness; or
- (c) any request for Lender's consent to any proposed action.

7.10. **Cross Default.** Not in limitation of any Loan Document providing for cross default, if Authority shall be in default of either Loan, beyond any period of grace provided with respect thereto, or in the performance or observance of any other agreement, term or condition contained in any agreement under which such obligation is created, if the effect of such default is to allow the acceleration of the maturity of such Indebtedness or to permit the holder thereof to cause such Indebtedness to become due prior to its stated maturity, both Loans shall be deemed in default, and Lender shall have such rights of demand and acceleration with respect to both Loan 1 and Loan 2. **Notwithstanding the foregoing, in the event that an Event of Default with respect to Loan 1 or an Event of Default with Respect to Loan 2 (the Bond) authorizes Lender to accelerate the maturity of and demand payment of Loan 2 (the Bond) and Lender makes such demand, Authority shall have the right to continue making monthly interest payments on the Bond, and provided that such interest payments are timely made, Lender, notwithstanding its right to immediate payment in full of all outstanding principal and interest on the Bond pursuant to the State Guarantee, shall defer the exercise of its right to require payment in full of all outstanding principal and interest on the Bond until Lender has completed (or has made, in its sole discretion, reasonable efforts to complete) any Lien Enforcement Action.**

7.11. **Insecure.** If as a result of any action or inaction by Authority, or any condition relative to the Obligations, Lender, in good faith, reasonably determines that the Obligations cannot be repaid according to the terms of the Loan Documents, or that such action, inaction or condition renders the Lender insecure as Lender may reasonably determine based upon its review under the then available facts and circumstances of Authority's ability to repay, Lender shall give Authority notice of its determination, with the written basis for such determination and means of curing such, and Authority shall have twenty (20) Business Days to cure such issue or provide information to Lender sufficient to demonstrate said determination is incorrect, or provide a corrective plan, acceptable to Lender, in its reasonable discretion, to cure such issue. If Authority provides such a plan, reasonably acceptable to Lender, the failure of Authority to comply therewith shall be an Event of Default. Upon Lender giving notice as above, Lender shall be entitled to withhold the advance of any Loan funds until the determination of Lender is

satisfied by one of the above means. The right to cure in Section 7.12 below shall not apply to this Section 7.11.

**7.12. Non-Monetary Default.** Any failure by Authority to perform any of its non-monetary obligations under this Agreement (including but not limited to those set forth in Sections 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, and 7.9) as and when required, which failure continues for a period of thirty (30) days after written notice of such failure by Lender to Authority; provided, however, such period may be extended for up to an additional sixty (60) days if Authority, in the discretion of Lender, is diligently pursuing a cure of such; provided, further, however, no such notice, grace period or extension shall apply if, in Lender's discretion, immediate exercise by Lender of a right or remedy under this Agreement is required to avoid actual and material harm to Lender or material impairment of repayment of the Obligation or of the Collateral given as security therefore.

**7.14. Subrogation.** At any time after the State has made any payments to the Lender under the State Guarantee that have not been reimbursed to the State (the "**Guaranty Payments**"), the State shall be subrogated to the rights of the Lender with respect to such Guaranty Payments, and such Guaranty Payments shall be secured by all Collateral securing the Authority's obligations to the Lender.

(a) Unless and until the Lender has been paid in full all obligations owed to it by the Authority under the Bond, the State will not enforce or exercise, or seek to enforce or exercise, any rights or remedies with respect to any Collateral or commence or join with any Person (other than the Lender) in commencing any action with respect to such rights or remedies (including any foreclosure action); provided, that, the State may, acting as subrogee of the Lender, enforce or exercise any or all such rights and remedies with respect to the Collateral, or commence or petition for any such action or proceeding, after a period ending one hundred and eighty (180) days after Lender receives written notice from State that the Guaranty Payments remain outstanding and have not been reimbursed so long as such Guaranty Payments remain outstanding and unpaid as of the expiration of such one hundred and eighty (180) day period (the "**Standstill Period**"); provided, that, notwithstanding the expiration of the Standstill Period, in no event shall the State enforce or exercise any rights or remedies with respect to any Collateral, or commence or petition for any such action or proceeding (including any foreclosure action or proceeding or action in any Insolvency Proceeding), if the Lender shall have commenced a Lien Enforcement Action and shall be diligently pursuing the same in good faith; and provided, further, that all actions by the State in taking actions as subrogee of the Lender to enforce the Lender's rights to the Collateral shall be undertaken by the State in a commercially reasonable fashion, and the State shall keep the Lender reasonably informed of its planned enforcement actions.

(b) In the event that the Lender or the State receives any proceeds of Collateral securing the Loans and the Guaranty Payments, the parties hereto agree that the Lender shall be entitled to receive all such proceeds until its Loans and all other obligations owed by the Authority secured by such Collateral are paid in full, and any additional proceeds after such payment in full to the Lender shall be paid to the State to be applied to the unpaid Guaranty Payments. The Lender also agrees that when all obligations owed to it by the Authority have been paid in full, and if the State is still owed any Guaranty Payments, the Lender and the Authority shall execute such

documents as the State may reasonably request to assign to the State all of the Lender's remaining rights to the Collateral.

## 8. REMEDIES UPON DEFAULT

**8.1. Rights of Lender.** If any Event of Default shall occur, Lender may, at its election, and without demand or notice of any kind, do any one or more of the following:

A. Declare all of the Authority's Obligations to Lender to be immediately due and payable, whereupon, subject to Section 7.10 hereof, all unpaid principal, interest and fees in respect of such Obligations, together with all of Lender's costs, expenses and attorneys' fees and professionals related thereto, under the terms of the Loan Documents or otherwise, shall be immediately due and payable;

B. Exercise any and all rights and remedies available to Lender under any applicable law;

C. Exercise any and all rights and remedies granted to Lender under the terms of this Agreement, the Note(s), the Security Instruments or any of the other Loan Documents;

D. Set off the unpaid balance of the Obligations against any debt owing to Authority by Lender, or in any time or demand deposit account maintained by Authority with Lender; and/or

E. Upon an Event of Default occurring, after all cure periods have expired, Lender may charge an additional rate of interest at a default rate of four percent (4%) over the then applicable Interest Rate(s). Failure to add the Default Rate at any one time shall not limit Lender from subsequently applying it.

**8.2. No Waiver.** The remedies in this Section 8 are in addition to, not in limitation of, any other right, power, privilege, or remedy, either in law, in equity, or otherwise, to which the Lender may be entitled. No failure or delay on the part of the Lender in exercising any right, power, or remedy will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right hereunder. The remedies in this Agreement are in addition to, not in limitation of, any other right, power, privilege, or remedy, either in law, in equity, or otherwise, to which the Lender may be entitled. All Lender's rights and remedies, whether evidenced by this Agreement or by any other agreement, instrument or document shall be cumulative and may be exercised singularly or concurrently.

## 9. MISCELLANEOUS

**9.1. Remedies; Waiver; Amendments.** No waiver of any provision of this Agreement or the Loan Documents, or consent to departure therefrom, shall be effective unless in writing and signed by the Lender. No such consent or waiver extends beyond the particular case and purpose involved. No amendment to this Agreement is effective unless in writing and signed by the

Authority and the Lender. If at any time or times, by assignment or otherwise, Lender transfers any of the Obligations or any part of the Collateral to another person, such transfer shall carry with it Lender's powers and rights under this Agreement with respect to the Obligation or Collateral so transferred and the transferee shall have said powers and rights, whether or not they are specifically referred to in the transfer. To the extent that Lender retains any other of the Obligations or any part of the Collateral, Lender will continue to have the rights and powers with respect to the Obligations and the Collateral as set forth in this Agreement.

**9.2. Expenses, Costs and Taxes.** The Authority shall pay on demand all costs and expenses of Lender, and all Related Expenses, including but not limited to, (a) administration, travel and out-of-pocket expenses, including but not limited to attorneys' fees and expenses, of Lender in connection with the preparation, negotiation and closing of the Loan Documents and the administration of the Loan Documents, the collection and disbursement of all funds hereunder and the other instruments and documents to be delivered hereunder, (b) Extraordinary Expenses of Lender in connection with the administration of this Agreement under Subpart 6.15 above, the Obligations and the other instruments and documents to be delivered hereunder, (c) the reasonable fees and out-of-pocket expenses of counsel for Lender, with respect to the foregoing, (d) all fees due hereunder or in any other Loan Documents, and (e) all costs and expenses, including reasonable attorneys' fees, in connection with the determination of Lender's lien priority in the Collateral securing the Obligations, or the restructuring or enforcement of the Obligations or any other Loan Document. In addition, Authority shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution and delivery of any Loan Document, and the other instruments and documents to be delivered hereunder, and agrees to hold Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes or fees. Authority after notice of at least five (5) Business Days, and after all right to cure periods have expired, authorizes Lender to debit such expenses, costs and taxes directly to Authority's Loan accounts or any account Authority maintains with Lender.

**9.3. Indemnification and Release.** To the extent permitted by law, Authority shall indemnify and hold the Lender harmless against any and all liabilities, losses, damages, costs, and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel in connection with any investigative, administrative or judicial proceeding, whether or not the Lender shall be designated a party thereto) which may be incurred by the Lender relating to or arising out of this Agreement or any actual or proposed use of proceeds of any Loan hereunder; provided, that the Lender shall have no right to be indemnified hereunder for its own gross negligence or willful misconduct as determined by a court of competent jurisdiction. Authority agrees that this Agreement and the Loan Documents are the lawful exercise of Lender's rights and conditions with respect to the credit facilities provided and described herein, freely accepted by Authority, and Authority shall make no assertion to the contrary, and hereby releases Lender with respect to any such claim or assertion.

**9.4. Jurisdiction; Construction; Time of the Essence.** The provisions of this Agreement and the respective rights and duties of Authority and Lender hereunder shall be governed by and construed in accordance with New Hampshire law and any applicable federal laws. Authority hereby irrevocably submits to the exclusive jurisdiction of any state or federal court sitting in

New Hampshire over any action or proceeding arising out of or relating to this Agreement, or any document related to the Obligations, and Authority hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such New Hampshire state or federal court. The several captions to different Sections of this Agreement are inserted for convenience only and shall be ignored in interpreting the provisions hereof. In this Agreement, unless the context otherwise requires, words in the singular number include the plural, and in the plural number include the singular.

9.5. Time is of the essence in the performance of the obligations under this Agreement. All grace periods in this Agreement and all other Loan Documents shall run concurrently.

9.6. **Notices.** All notices, requests, demands or other communications provided for hereunder shall be in writing and, if to Authority, mailed, delivered, or sent via a recognized overnight delivery service to it, addressed to it at the address specified at the beginning of this Agreement, or if to Lender, mailed, delivered, or sent via a recognized overnight delivery service to it, addressed to the address of Lender specified at the beginning of this Agreement. All notices, statements, requests, demands and other communications provided for hereunder shall be deemed to be given or made (i) when delivered by hand, (ii) forty-eight (48) hours after being deposited in the mails with postage prepaid by registered or certified mail, addressed as aforesaid, or (iii) upon recipient's acknowledgement of receipt if sent by facsimile or email.

Notices given shall be in accordance with the following:

If to Lender:

Service Credit Union  
3003 Lafayette Road  
Portsmouth, NH 03801  
Attention: David Weed, AVP Business Services

With a copy to:

Preti, Flaherty, Beliveau & Pachios, PLLP  
57 North Main Street, P.O. Box 1318  
Concord, NH 03302  
Attention: Simon C. Leeming, Esquire

If to Authority:

Business Finance Authority of the State of New Hampshire  
2 Pillsbury Street, Ste. 201  
Concord, NH 03301  
Attention: James Key-Wallace, Executive Director

With a copy to:

Hinkley, Allen & Snyder LLP  
650 Elm Street  
Manchester, NH 03101  
Attention: John H. Sokul, Jr., Esq.

**9.7. Survival of Agreements; Relationship.** All agreements, representations, and warranties made in this Agreement will survive the making of the extension of credit hereunder, and will bind and inure to the benefit of the Authority and the Lender and their respective successors and assigns. Lender may transfer and assign this Agreement, and the Obligations, or one or more of them hereunder, and deliver the Collateral to the assignee, who shall thereupon have all of the rights of the Lender, as assigned. Authority may not assign this Agreement or the right to receive any disbursements hereunder or any interest herein. The rights and powers given in this Agreement to the Lender are in addition to those otherwise created or existing in the other Loan Documents. The relationship between the Authority and the Lender with respect to this Agreement, the Obligations and any other Loan Document is and shall be solely that of debtor and creditor, respectively, and not in any other capacity, including as a joint venture, partner or any such similar capacity.

**9.8. Severability.** If any provision of this Agreement or any Loan Document, or any action taken hereunder, or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement or the Obligations, each of which shall be construed and enforced without reference to such illegal or invalid portion and shall be deemed to be effective or taken in the manner and to the full extent permitted by law.

**9.9. Entire Agreement.** This Agreement and any other Loan Document executed in connection herewith including the Commitment Letter integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral representations and negotiations and supersede, amend and restate prior writings with respect to the subject matter hereof.

**9.10. Participation/Syndication.** Authority acknowledges that the Lender reserves the right to syndicate and/or participate its interest in the Loans and Authority agrees to, at Lender's request, execute such additional instruments as may be appropriate to evidence its obligation under the Obligations, or one or more of them to such syndicate Lenders as may commit, in the future, to fund a portion of the Obligations, or one or more of them according to the terms of this Agreement.

**9.11. Pledge to Federal Reserve.** Lender may at any time pledge all or any portion of its rights under the Loan Documents, including any portion of the Notes, to any of the twelve (12) Federal Reserve Banks organized under Section 4 of the Federal Reserve Act, 12 U.S.C. § 341. No such pledge or enforcement thereof shall release Lender from its obligations under any of the Loan Documents.



**9.12. Cross-Default; Cross-Collateralization.** The Loans shall be cross-collateralized and cross-defaulted, in accordance with the terms of the Loan Documents and this Agreement.

**9.13. Waiver of Counterclaims.** Authority waives all rights to interpose any claims, deductions, setoffs or counterclaims of any nature (other than compulsory counterclaims) in any action or proceeding with respect to this Agreement, the Obligations, the Collateral or any matter arising therefrom or relating hereto or thereto with respect to the time period prior to the Effective Date.

**9.14. Statute of Frauds Notice.** The Authority cannot enforce any oral promise unless it is contained in any of the Loan Documents signed by the Lender, nor can any change, forbearance, or other accommodation relating to the Obligations, this Agreement or any of the Loan Documents be enforced unless it is in writing and signed by the Lender.

**9.15. Counterparts.** This Agreement may be signed in two or more counterparts, including execution by electronic mail or facsimile transmission, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, but Lender shall have the right to insist on original signatures on all Loan Documents.

**9.16. Binding Effect.** This Agreement shall be binding upon the Authority and upon Authority's respective heirs, legal representatives, successors and assigns, and shall inure to the benefit of the Lender and its successors, endorsees and assigns.

**9.17. Amendments.** Any amendment hereof must be in writing and signed by the party against whom enforcement is sought. Unenforceability of any provision hereof shall not affect the enforceability of any other provision. A photographic or other reproduction of this Agreement may be made by the Lender, and any such reproduction shall be admissible in evidence with the same effect as the original itself in any judicial or administrative proceeding, whether or not the original is in existence.

**9.18. No Waiver.** None of the following will be a course of dealing, estoppel, waiver, or implied amendment on which any party to this Agreement or any Loan Document may rely: (1) Lender's acceptance of one or more late or partial payments; (2) Lender's forbearance from exercising any right or remedy under this Agreement, or any other Loan Document; or (3) Lender's forbearance from exercising any right or remedy under this Agreement or any Loan Document on any one or more occasions. Lender's exercise of any rights or remedies or a part of a right or remedy on one or more occasions shall not preclude Lender from exercising the right or remedy at any other time. Lender's rights and remedies under this Agreement, the Loan Documents, and the law and in equity are cumulative to, but independent of, each other. Authority waives presentment, demand, notice, protest, and all other demands and notices in connection with delivery, acceptance, performance, default, or enforcement of this Agreement.

**9.19. Determinations by Lender.** Unless otherwise set forth herein, in any instance in this Agreement where the consent or approval of Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender under this Agreement, the granting, withholding or denial of such consent or approval and the rendering of such

determination, judgment or decision shall be made or exercised by Lender (or its designated representative) in its reasonable discretion.

**9.20. Counting of Days.** Except where otherwise specifically provided, any reference to a period of "days" means calendar days, not Business Days. If the date on which Authority is required to perform an obligation under this Agreement is not a Business Day, Authority shall be required to perform such obligation by the Business Day immediately preceding such date; provided, however, in respect of any Payment Date, or if the Maturity Date is other than a Business Day, Authority shall be obligated to perform by the Business Day immediately following.

**9.21. WAIVER OF JURY TRIAL.** AUTHORITY AND LENDER (BY ACCEPTANCE OF THIS INSTRUMENT) MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT TO ANY CLAIM BASED HEREON ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INSTRUMENT OR ANY OTHER LOAN DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF LENDER RELATING TO THE ADMINISTRATION OF THE OBLIGATIONS SECURED HEREBY OR ENFORCEMENT OF THE LOAN DOCUMENTS, AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, AUTHORITY HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. AUTHORITY CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY FOR LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT LENDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR LENDER TO ACCEPT THIS INSTRUMENT AND MAKE THE OBLIGATIONS SECURED HEREBY.

**9.22. CAUTION. READ BEFORE SIGNING.**

**GREAT EFFORT HAS BEEN SPENT TO MAKE SURE THAT THIS AGREEMENT AND THE LOAN DOCUMENTS FULLY AND ACCURATELY DOCUMENT THE UNDERSTANDINGS BETWEEN THE PARTIES. IF YOU BELIEVE THAT YOU HAVE AN IMPLICIT OR ORAL UNDERSTANDING OR AGREEMENT NOT FULLY AND ACCURATELY SET FORTH IN THIS AGREEMENT, DO NOT SIGN IT.**

**YOU SHOULD ALSO UNDERSTAND THAT NO OFFICER OR EMPLOYEE OF LENDER HAS ANY AUTHORITY TO MODIFY, ALTER OR AMEND THIS AGREEMENT OR THE LOAN DOCUMENTS ORALLY. RATHER, ANY AND ALL CHANGES WOULD HAVE TO BE PUT IN WRITING AND APPROVED BY APPROPRIATE OFFICIALS AT THE LENDER. IF AT SOME FUTURE DATE YOU BELIEVE THAT ANY LOAN DOCUMENT PROVISION NEEDS TO BE CHANGED IN**

**ANY RESPECT, INSIST THAT THE CHANGE BE IN WRITING AND SIGNED BY AN APPROPRIATE OFFICER OF LENDER; OTHERWISE, MISUNDERSTANDINGS MIGHT OCCUR.**

**FINALLY, ALL SIGNATORIES TO THIS AGREEMENT ARE URGED TO HAVE THEIR OWN LEGAL COUNSEL REVIEW IT ON THEIR BEHALF.**

**9.23. Notice.** The Authority cannot enforce any oral promise unless it is contained in any of the Loan Documents signed by the Lender, nor can any change, forbearance, or other accommodation relating to the Loans, this Agreement or any other Loan Documents be enforced unless it is in writing and signed by the Lender. Authority also understands that all future promises, contracts or agreements of the Lender relating to any other transaction between Authority and Lender cannot be enforced in court unless they are in writing and signed by the Lender.

**[NO FURTHER TEXT. SIGNATURE PAGES, SCHEDULES AND EXHIBITS FOLLOW.]**

**IN WITNESS WHEREOF**, the Authority and the Lender have each caused this Agreement to be executed by their duly authorized officers on the date first set forth above.

**AUTHORITY:**  
BUSINESS FINANCE AUTHORITY OF  
THE STATE OF NEW HAMPSHIRE

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name: James Key-Wallace  
Its: Executive Director, Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

December \_\_\_\_, 2018

On this \_\_\_ day of December, 2018 before me, the undersigned notary public, personally appeared James Key-Wallace as the Executive Director of the Business Finance Authority of the State of New Hampshire, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_ (source of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, in said capacity.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
Name: Simon C. Leeming  
My Commission Expires: 09/05/2023

**IN WITNESS WHEREOF**, the Authority and the Lender have each caused this Loan Agreement to be executed by their duly authorized officers on the date first set forth above.

**LENDER:**  
SERVICE CREDIT UNION

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name: David A. Weed  
Title: AVP, Business Services  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

December \_\_\_\_, 2018

Then personally appeared the above-named David A. Weed, being the duly authorized Assistant Vice President of Service Credit Union, known to me or satisfactorily proven to be the same, who executed the above as his free act and deed, on behalf of Service Credit Union, for the purposes stated therein. Before me,

\_\_\_\_\_  
Notary Public/Justice of the Peace  
Name: Simon C. Leeming  
My Commission Expires: 09/05/2023

**STATE GUARANTEE**

**The State of New Hampshire (the "State") hereby unconditionally guarantees the payment of Twelve Million Dollars (\$12,000,000.00) and all interest thereon in accordance with the terms of Loan 2 and this Agreement, and for the performance of such guarantee the full faith and credit of the State are hereby pledged.**

\_\_\_\_\_  
**Treasurer, State of New Hampshire**

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

December \_\_, 2018

Then personally appeared the above-named \_\_\_\_\_, being the duly-authorized Treasurer of the State of New Hampshire, known to me or satisfactorily proven to be the same, who executed the above as his free act and deed, on behalf of the State of New Hampshire, for the purposes stated therein. Before me,

\_\_\_\_\_  
Notary Public/Justice of the Peace

Name:

My Commission Expires:

## **SCHEDULE 1.1**

### **Definitions**

**1.1.1 “Affiliate”** of any specified entity means any other entity directly or indirectly controlling or controlled by or under direct or indirect common control with such specified entity and “control”, when used with respect to any specified entity, means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

**1.1.2 “Bankruptcy Event”** means any one or more of the following:

- (a) the commencement, filing or continuation of a voluntary case or proceeding under one or more of the Insolvency Laws by Authority or Guarantor;
- (b) the acknowledgment in writing by Authority or Guarantor (other than to Lender in connection with a workout) that it is unable to pay its debts generally as they mature;
- (c) the making of a general assignment for the benefit of creditors by Authority or Guarantor;
- (d) the commencement, filing or continuation of an involuntary case or proceeding under one or more Insolvency Laws against Authority or Guarantor; or
- (e) the appointment of a receiver, liquidator, custodian, sequestrator, trustee or other similar officer who exercises control over Authority or Guarantor or any substantial part of the assets of Authority or Guarantor;

provided, however, that any proceeding or case under (d) or (e), above, shall not be a Bankruptcy Event until the ninetieth (90th) day after the filing thereof (if not earlier dismissed) so long as such proceeding or case occurred without the consent, encouragement or active participation of Authority, Guarantor, Key Principal, Principal or any Authority Affiliate (in which event such case or proceeding shall be a Bankruptcy Event immediately).

**1.1.3 “Bank Secrecy Act”** means the Bank Secrecy Act of 1970, as amended (e.g., 31 U.S.C. Sections 5311-5330).

**1.1.4 “Business Day”** means a day of the year on which banks are not required or authorized to close in Portsmouth, New Hampshire; provided, however, that the term “Business Day” shall not include a day on which Lender is not actually open for business.

**1.1.5 “Collateral”** means the Property and any other collateral in which Authority has given the Lender a mortgage or security interest pursuant to the Security Instruments and any other instrument given to Lender to secure the Indebtedness and/or this Agreement. All Indebtedness and Obligations of Authority to Lender shall be cross-collateralized.

1.1.6 “**Closing Agenda**” means the document listing the parties, the Loan Documents, and other documents and materials Lender includes as necessary to the Obligations.

1.1.7 “**Environmental Law**” means any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability upon a Person in connection with the use, release or disposal of any hazardous, toxic or dangerous substance, waste or material.

1.1.8 “**Event of Default**” means any one or more of the occurrences described in Section 7 hereof.

1.1.9 “**Financial Statements**” means all financial records and analysis, prepared by or for the Authority, as may be submitted to Lender, in support of the Obligations.

1.1.10 “**GAAP**” means generally accepted accounting principles as in effect, which shall include the official interpretations thereof by the Financial Accounting Standards Board, consistently applied.

1.1.11 “**Indebtedness**” shall mean, for any Person (excluding in all cases trade payables payable in the ordinary course of business by such Person), (a) all obligations to repay borrowed money, direct or indirect, incurred, assumed, or guaranteed, (b) all obligations for the deferred purchase price of capital assets, (c) all obligations under conditional sales or other title retention agreements, (d) all obligations (contingent or otherwise) under any letter of credit, banker’s acceptance, currency swap agreement, or Interest Rate Agreement, (e) all synthetic leases, (f) all lease obligations that have been or should be capitalized on the books of such Person in accordance with GAAP, (g) all obligations of such Person with respect to asset securitization financing programs to the extent that there is recourse against such Person or such Person is liable (contingent or otherwise) under any such program, (h) all obligations to advance funds to, or to purchase assets, property or services from, any other Person in order to maintain the financial condition of such Person, and (i) any other transaction (including forward sale or purchase agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements.

1.1.12 “**Insolvency Laws**” means the United States Bankruptcy Code, 11 U.S.C. Section 101, et seq., together with any other federal or state law affecting debtor and creditor rights or relating to the bankruptcy, insolvency, reorganization, arrangement, moratorium, readjustment of debt, dissolution, receivership, liquidation or similar laws, assignment for the benefit of creditors, or other proceedings or equitable remedies affecting the enforcement of creditors’ rights.

1.1.13 “**Insolvency Proceeding**” shall mean (a) any voluntary or involuntary case or proceeding under Insolvency Laws respect to the Authority, BAE, or any other tenant under the Lease.

1.1.14 “**Insolvent**” means:

(a) that the sum total of all of a specified Person’s liabilities (whether secured or unsecured, contingent or fixed, or liquidated or unliquidated) is in excess of the value of such Person’s non-exempt assets (i.e., all of the assets of such Person that are available to satisfy claims of creditors); or



(b) such Person's inability to pay its debts as they become due.

1.1.15 "**Key Principal**" means, collectively:

(a) the natural person(s) or entity that controls and manages Authority that Lender determines is critical to the successful operation and management of Authority and the Collateral; or

(b) any natural person or entity who becomes a Key Principal after the date of this Agreement and is identified as such in an assumption agreement, or another amendment or supplement to this Agreement.

1.1.16 "**Lease**" means the Agreement of Lease between the Authority and BAE dated as of \_\_\_\_\_, 2018 and the assigned and authorized sublease to Circharo Acquisition, LLC d/b/a/ Core Medical Group described in Section 24 thereof, together with any and all leases and rental agreements, including unwritten tenancies at will with respect to the Premises.

1.1.17 "**Lender Affiliate**" means any one or more bank or non-bank subsidiaries of Lender and its successors.

1.1.18 "**Lessee**" shall mean any Lessee under a Lease.

1.1.19 "**Lien**" means any mortgage, security interest, lien, charge, encumbrance on, pledge or deposit of, or conditional sale or other title retention agreement with respect to any property or asset.

1.1.20 "**Lien Enforcement Action**" shall mean (a) any action by Lender to foreclose on the Property under a Mortgage or exercise rights against a tenant under the Lease or exercise any right of repossession, levy, attachment, setoff or liquidation against the Property or Lease, (b) any action by the Lender to take possession of, sell or otherwise realize (judicially or non judicially) upon all or a material portion of the Property subject to the Mortgage or Lease, (c) the commencement by the Lender of any legal proceedings against the Authority with respect to the Mortgage or against any lessee to facilitate the actions described in (a) or (b) above, or (d) any action to seek or request relief from or modification of the automatic stay or any other stay in any Insolvency Proceeding, or to recover from the proceeds of the Lease

1.1.21 "**Loan**" or "**Loans**" means the credit facilities extended to the Authority by the Lender in accordance with this Agreement.

1.1.22 "**Loan Documents**" means the collective reference to this Agreement and all other instruments, agreements and documents entered into from time to time, evidencing or securing the Obligations or any obligation of payment thereof or performance of Authority's or Guarantor's obligations in connection with the transaction contemplated hereunder, each as amended, including as set forth in the Closing Agenda.

1.1.23 "**Material Adverse Change**" shall mean (i) an Event of Default, (ii) the termination of any material agreement to which the Authority is a party which has a material adverse effect on

the operations or condition of the Authority, taken as a whole, or (iii) material impairment of the validity or enforceability of the rights of, or the benefits available to, the holder of the Loan. A Material Adverse Change shall be deemed to have occurred if the cumulative effect of an individual event and all other then-existing events would result in a Material Adverse Change.

1.1.24 “**Mortgage**” refers to each Mortgage, Assignment of Rents, Security Agreement, and Fixture Filing with respect to the Premises granted by the Authority to Lender of even date herewith as security for repayment of Loan 1 and Loan 2.

1.1.25 “**Note**” or “**Notes**” means, as the case may be, the promissory note(s) signed and delivered by the Authority to evidence its Indebtedness to Lender with respect to Loan 1 and Loan 2, as described on Schedule 2.

1.1.26 “**Obligation**” or “**Obligations**” means, collectively, (a) all Indebtedness and other obligations incurred by Authority to Lender pursuant to this Agreement and includes the principal of and interest on all Notes; (b) each extension, renewal or refinancing thereof in whole or in part; (c) the commitment and other fees, and any prepayment fees payable under this Agreement or any other Loan Document; (d) every other liability, now or hereafter owing to Lender or any Lender Affiliate by Authority, and includes, without limitation, and every other liability, whether owing by only Authority or by Authority with one or more others in a several, joint or joint and several capacity, whether owing absolutely or contingently, whether created by note, overdraft, guaranty of payment or other contract or by quasi-contract, tort, statute or other operation of law, whether incurred directly to Lender or any Lender Affiliate or acquired by Lender or any Lender Affiliate by purchase, pledge or otherwise and whether participated to or from Lender or any Lender Affiliate in whole or in part; and (e) all Related Expenses.

1.1.27 “**Obligor**” shall mean (a) a Person whose credit or any of whose property is pledged to the payment of the Obligations and includes, without limitation, any Guarantor, and (b) any signatory to a Loan Document.

1.1.28 “**Organization**” means a corporation, government or government subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, two or more Persons having a joint or common interest, and any other legal or commercial entity.

1.1.29 “**Permitted Encumbrances**” means, as of any particular time, (a) liens for ad valorem taxes and special assessments not then delinquent, (b) this Agreement, and any security interest or other lien created thereby, (c) any Permitted Encumbrances defined in any of the Loan Documents, including, without limitation, as defined in any Security Instrument, (d) any liens permitted by Section 5.15 hereof, and (e) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property similar in character to the Collateral and as do not materially interfere with or impair the use or value of the property affected thereby.

1.1.30 “**Person**” means an individual or an Organization.

**1.1.31 “Potential Default”** means any condition, action, or failure to act which, with the passage of time, service of notice, or both, will constitute an Event of Default under this Agreement.

**1.1.32 “Premises” or “Property”** means that certain parcel of land with all buildings and other improvements now or hereafter thereon situated at 3000 Goffs Falls Road, Manchester, New Hampshire and more particularly described in Exhibit A to the Lease.

**1.1.33 “Quarters” or “Quarterly”** means Authority’s fiscal quarters, being each of the periods ending March 31, June 30, September 30 and December 31 of each fiscal year.

**1.1.34 “Related Expenses”** means any and all costs, liabilities, and expenses (including, without limitation, losses, damages, penalties, claims, actions, reasonable attorney’s fees, legal expenses, judgments, suits and disbursements) reasonably incurred by, or imposed upon, or asserted against, Lender in any attempt by Lender:

A. to obtain, preserve, perfect, or enforce any security interest evidenced by (i) this Agreement, or (ii) any other pledge agreement, mortgage, deed of trust, hypothecation agreement, guaranty, security agreement, assignment, or security instrument executed or given by Authority to or in favor of Lender;

B. to obtain payment, performance, and observance of any and all of the Obligations;

C. to maintain, insure, audit, inspect, collect, preserve, repossess, and dispose of any of the Collateral, including, without limitation, costs and expenses for appraisals, assessments, and audits of Authority or the Collateral; or

D. incidental or related to (a) through (c) above, including, without limitation, interest thereupon from the date incurred, imposed, or asserted until paid at the rate payable as set forth in the Note, but in no event greater than the highest rate permitted by law.

**1.1.35 “Settlement Statement”** means the Loan Documents consisting of a summary of settlement charges necessary to the Obligations, as of Closing, along with flow of funds, and authorization by the parties.

**1.1.36 “Transfer”** means:

(a) a sale, assignment, transfer or other disposition (whether voluntary, involuntary, or by operation of law);

(b) a granting, pledging, creating or attachment of a lien, encumbrance or security interest (whether voluntary, involuntary, or by operation of law);

(c) an issuance or other creation of a direct or indirect ownership interest;

(d) a withdrawal, retirement, removal or involuntary resignation of any owner or manager of a legal entity; or

(e) a merger, consolidation, dissolution or liquidation of a legal entity.

The foregoing definitions shall be applicable to the singulars and plurals of the foregoing defined terms.

**Schedule 2(a)**  
**Term Loan 1**

1.1. Terms and Conditions. This Schedule to the Loan Agreement sets forth the terms and conditions for Loan 1 in the principal amount of up to Nine Million and 00/100 Dollars (\$9,000,000.00).

1.2. Loan Terms.

As of Closing, the total Loan Amount shall be advanced as shown on the Settlement Statement, with the repayment terms for the Loan being as set forth in the Note, which is by reference incorporated herein and includes the following provisions.

- i. Loan Amount: Nine Million and 00/100 Dollars (\$9,000,000.00).
- ii. Loan Purpose: The Loan is to provide acquisition financing for the purchase of 3000 Goffs Falls Road, Manchester, NH, as described in Exhibit A to the Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the “**Premises**” and “**Mortgage**”).
- iii. Maturity Date: The Maturity Date or Loan Term shall be the ten (10) year anniversary of the Effective Date.
- iv. Interest Rate: From the Effective Date until the Maturity Date or payment in full, whichever first occurs, interest on the Loan, while not in an Event of Default, shall be 4.25%, fixed. Interest for the Loan, after an Event of Default uncured after the expiration of any applicable cure period shall be 4% above the Interest Rate.
- v. Advances: The Loan, at the time of the Closing Date shall be fully advanced, except as shown in the Settlement Statement, and then as authorized by the Note and Loan Documents.
- vi. Repayment: Authority shall make monthly payments of Interest only. At the Maturity Date Authority shall make a balloon payment of all unpaid principal, accrued interest, and other costs and charges then due, so the Loan is then paid in full.
- vii. Loan Fees:
  1. Loan Fees are waived but are not in limitation of all other fees shown on the Settlement Statement, and required under this Agreement.
- viii. Prepayment Penalty: The Loan may be prepaid fully or partially, at any time, without penalty.

ix. Late Charge. Any payment received more than fifteen (15) days after the due date shall include a late charge of 15% of the amount then due.

1.3. Collateral.

i. Security Interests.

(a) Mortgage. Payment of the indebtedness of Authority resulting from this Agreement and the Loan, and any and all other indebtedness, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising under the Loan Documents, shall be secured by the Mortgage to which reference is made, incorporated herein, securing the Premises, and all improvements and appurtenant rights, benefits and easements.

(b) Assignment of Lease. Authority shall assign the Lease from BAE Systems, which shall be in form acceptable to Lender, and shall deliver those documents from the Closing Agenda, calling for BAE Systems as a party, fully executed.

(c) Security Agreement. The Mortgage shall include the Authority's grant to Lender of a security interest in all fixture, plans, and other personalty owned or to be owned by Authority as owner or the Premises and Landlord under the Lease.

(d) Closing Agenda Documents. Without limiting the Collateral, it shall include all pledges, conveyances, certificates, assignments, agreements and undertakings in the Loan Documents set forth in the Closing Agenda to which reference is made, incorporated herein.

\_\_\_\_\_  
Initial

**Schedule 2(b)**  
**Term Loan 2**

1.1. Terms and Conditions. This Schedule to the Loan Agreement sets forth the terms and conditions for Loan 2 in the principal amount of up to Twelve Million and 00/100 Dollars (\$12,000,000.00). Loan 2 shall constitute a Bond obligation issued by the Authority and backed by the State Guarantee, as an endorsement to the Loan 2 Note and Agreement.

1.2. Loan Terms.

As of Closing, the total Loan Amount shall be advanced as shown on the Settlement Statement, with the repayment terms for the Loan being as set forth in the Note, which is by reference incorporated herein and includes the following provisions.

- i. Loan Amount: Twelve Million and 00/100 Dollars (\$12,000,000.00).
- ii. Loan Purpose: The Loan is to provide acquisition financing for the purchase of 3000 Goffs Falls Road, Manchester, NH, as described in Exhibit A to the Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the “**Premises**” and “**Mortgage**”).
- iii. Maturity Date: The Maturity Date or Loan Term shall be the ten (10) year anniversary of the Effective Date.
- iv. Interest Rate: From the Effective Date until the Maturity Date or payment in full, whichever first occurs, interest on the Loan, while not in an Event of Default, shall be 4.50%, fixed. Interest for the Loan, after an Event of Default uncured after the expiration of any applicable cure period shall be 4% above the Interest Rate.
- v. Advances: The Loan, at the time of the Closing Date shall be fully advanced, except as shown in the Settlement Statement, and then as authorized by the Note and Loan Documents.
- vi. Repayment: Authority shall make monthly payments of Interest only. At the Maturity Date Authority shall make a balloon payment of all unpaid principal, accrued interest, and other costs and charges then due, so the Loan is then paid in full.
- vii. Loan Fees:
  2. Loan Fees are waived but are not in limitation of all other fees shown on the Settlement Statement, and required under this Agreement.

viii. Prepayment Penalty: The Loan may be prepaid fully or partially, at any time, without penalty.

ix. Late Charge. Any payment received more than fifteen (15) days after the due date shall include a late charge of 15% of the amount then due.

1.3. Further Conditions.

Authority shall:

(i) In accordance with the Settlement Statement, provide funds, in form acceptable to Lender, to pay for the Premises in full, after the application of this Loan 2, and Loan 1.

(ii) Provide the guaranty of the State of New Hampshire, fully approved, executed and delivered, in the form set forth in RSA 162-1:9-b.

1.4. Collateral.

i. Security Interests.

(a) Mortgage. Payment of the indebtedness of Authority resulting from this Agreement and the Loan, and any and all other indebtedness, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising under the Loan Documents, shall be secured by the Mortgage to which reference is made, incorporated herein, securing the Premises, and all improvements and appurtenant rights, benefits and easements.

(b) Assignment of Lease. Authority shall assign the Lease from BAE Systems, which shall be in form acceptable to Lender, and shall deliver those documents from the Closing Agenda, calling for BAE Systems as a party, fully executed.

(c) Security Agreement. The Mortgage shall include the Authority's grant to Lender of a security interest in all fixture, plans, and other personalty owned or to be owned by Authority as owner or the Premises and Landlord under the Lease.

(d) Closing Agenda Documents. Without limiting the Collateral, it shall include all pledges, conveyances, certificates, assignments, agreements and undertakings in the Loan Documents set forth in the Closing Agenda to which reference is made, incorporated herein.

\_\_\_\_\_  
Initial



**SCHEDULE 4.11**

**Litigation**

None.

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Initial

**SCHEDULE 6.1**

(a) **Accounting; Financial Statements and Other Information.** As long as credit is available hereunder or until all principal of and interest and costs and charges on the Obligations have been paid, the Authority covenants and agrees that it will comply with the reporting requirements set forth as follows:

**Financial Reporting:**

- (a) Annually, rent rolls for the Premises, within 120 days of calendar year end.
- (b) Annually, financial statements from Authority, BAE, and any other tenant of the Premises, in form acceptable to Lender.
- (c) Reviewed Level Consolidated Financial Statements for Authority, in a form reasonably acceptable to Lender, within 120 days of calendar year end on an annual basis.
- (d) Upon request of Lender, updated financial information from Authority as Lender may reasonably request.

(b) **Financial Covenants.** Authority covenants and agrees that, as long as any amount is unpaid with respect to either Loan, it will meet or exceed the Financial Covenants set forth as follows:

With respect to the Premises, Authority shall maintain a Debt Service Coverage ratio of  $\geq 1.25:1.00$ , to be tested annually based upon receipt of year-end Financial Statements related to the Premises only, but no later than 120 days of calendar year end. Debt Service Coverage shall be defined as (net operating income (prior to any discretionary management fees and equity withdrawals) + depreciation + amortization + interest expense and subordinated debt)  $\div$  annual debt service.

\_\_\_\_\_  
Initial

**SCHEDULE 6.30**  
**N/A**

\_\_\_\_\_  
Initial

## AGREEMENT OF LEASE

This Agreement of Lease ("Lease" or "Agreement") is entered into as of this first day of \_\_\_\_\_, by and between BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE, a body corporate and agency of the State of New Hampshire with a principal office at 2 Pillsbury Street, Suite 101, Concord, New Hampshire 03301-4959 (the "Landlord" or "BFA") and BAE SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION INC., a Delaware corporation with a principal place of business at 65 Spit Brook Road, P.O. Box 868, Nashua, New Hampshire 03061-0868 (the "Tenant").

### R E C I T A L S

WHEREAS, the BFA is authorized and empowered under the laws of the State of New Hampshire (the "State"), including New Hampshire RSA Chapter 162-I, as supplemented and amended (the "Act"), to issue bonds and to enter into loan agreements, contracts and other instruments and documents necessary to obtain loans for the purpose of facilitating the financing of certain projects as described in the Act;

WHEREAS, the aforesaid Act further authorizes the BFA to purchase and lease real property on such terms and conditions as it deems advisable;

WHEREAS, pursuant to and in accordance with the provisions of the aforesaid Act, the BFA was created and is empowered under the Act to purchase the Premises, as herein defined, and undertake this Lease;

WHEREAS, by deed of near or even date herewith the BFA acquired fee title interest in and to that certain parcel of land with all buildings and improvements now or hereafter thereon situated located at 3000 Goffs Falls Road, Manchester, New Hampshire and more particularly described in Exhibit A attached hereto (collectively, the "Premises"); and

WHEREAS, the Tenant desires to lease, and requests the exclusive right and option to purchase, the Premises from the Landlord and the Landlord desires to lease the Premises to the Tenant and to grant the Tenant the exclusive right and option to purchase the Premises, all as more fully described herein.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Landlord and the Tenant, intending to be legally bound, hereby covenant and agree as follows:

1. **Grant of Lease.** For the consideration and subject to the terms and conditions hereof, the Landlord does hereby lease, let and demise unto the Tenant the Premises, and the Tenant hereby agrees to accept, subject to the terms and conditions hereinafter set forth, the Premises.

2. **Term.** The term (the "Term") of this Lease shall commence on the date hereof ("Commencement Date") and shall end on the tenth (10<sup>th</sup>) anniversary of the Commencement Date, as same may be extended hereby ("Expiration Date").

3. **Rent During Term.** During the Term the Tenant agrees to pay without any offset or reduction whatsoever (except as made in accordance with the express provisions of this Lease) to the Landlord an annual rent ("Rent") in the initial amount of One Million Seven Hundred Thousand and 00/100 Dollars (\$1,700,000) to be paid in equal monthly installments in advance on the first day of each month during the Term, subject to adjustment from prepayments as set forth in Section 5 below. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or the fees hereunder, as the case may be.

4. **Purchase Option.** Subject to the terms and conditions hereof, the Landlord hereby grants unto the Tenant the right and option (the "Purchase Option") to purchase the Premises for the purchase price (the "Purchase Option Amount") equal to the lesser of: (i) Thirty-One Million and 00/100 Dollars (\$31,000,000) or (ii) the then outstanding principal balance of the Credit Facility (as defined herein). The Purchase Option shall be deemed exercised upon the receipt by the Landlord of a writing executed by the Tenant (the "Purchase Option Exercise Notice") and delivered to the Landlord in accordance with the notice provisions of this Agreement not less than sixty (60) days prior to the proposed Closing Date (as defined herein). If the Tenant has delivered the Purchase Option Exercise Notice, then, on a mutually agreeable date (the "Closing Date") that occurs on or prior to the Expiration Date, the Tenant shall purchase the Premises free and clear of all liens in consideration for the payment to the Landlord of the Purchase Option Amount, together with all Rent and other sums then due on such date, plus all taxes and charges due upon sale and all other reasonable and documented expenses incurred by the Landlord in connection with such sale, and upon receipt of the aforesaid payments, the Landlord will immediately transfer, AS IS, WHERE IS, with all faults, without recourse or warranty, express or implied, of any kind whatsoever, all of the Landlord's right, title and interest in and to the Premises free and clear of all liens by delivering to the Tenant a fully executed New Hampshire statutory form of limited warranty deed in recordable form along with any and all executed transfer tax forms and affidavits necessary to record such deed. The Landlord shall not be required to make and may specifically disclaim any representation or warranty as to the condition of the Premises. Failure to close by the Closing Date shall not be deemed to be a default by either party provided that the parties are working in good faith to effectuate a closing in which event Tenant shall continue to occupy the Premises until closing pursuant to the terms of this Lease. Failure to close by the Expiration Date shall be an Event of Default. For purposes herein, Credit Facility shall be deemed to be all capital obtained or provided by the Landlord for the purchase of the Premises not to exceed Thirty-One Million and 00/100 Dollars (\$31,000,000).

5. **Prepayment.** The Tenant has the right to make prepayments of principal, defined as any payment made above the current interest due, under the Credit Facility at any time during the term of the Credit Facility as follows and all principal prepayments shall also be credited against the Purchase Option Amount:

Each \$1.00 in prepayment shall reduce the principal balance by the same amount. Adjusted Rent due during the immediately following month is calculated by multiplying the remaining principal balance by the current interest rate, defined below, and dividing by 12 for a monthly Rent payment. The current interest rate is determined by the outstanding principal balance, adjusted accordingly:

PRINCIPAL BALANCE	ANNUAL INTEREST RATE
Greater than \$23,250,000 and less than or equal to \$31,000,000	5.48%
Greater than \$15,500,000 and less than or equal to \$23,250,000	5.27%
Less than \$15,500,000	5.09%

By way of example, if the outstanding principal balance is \$20,000,000, the monthly Rent due during the immediately following month is calculated as \$20,000,000 multiplied by 5.27%, equaling \$1,054,000, divided by 12, for a monthly Rent payment due of \$87,833.33.

6. **Lease Expiration.** In the event that Tenant has not exercised the Purchase Option on or before the date that is sixty (60) days prior to the Expiration Date, Tenant shall be deemed without further notice to have exercised the Purchase Option as of the date that is sixty (60) days prior to the Expiration Date as if Tenant had delivered to Landlord a Purchase Option Exercise Notice, and Landlord shall convey all of its right, title and interest in and to the Premises on a mutually acceptable Closing Date in accordance with and subject to the terms and conditions of Section 4 above, including but not limited to, payment of the Purchase Option Amount, together with all Rent and other sums then due on such date.

7. **Title and Condition.**

(a) The Premises are demised and let subject to all encumbrances of record, and the condition of the Premises as of the commencement of the Term without representation or warranty by the Landlord.

(b) LANDLORD HAS NOT MADE AND WILL NOT MAKE ANY INSPECTION OF ANY OF THE PREMISES, AND LANDLORD LEASES AND WILL LEASE AND TENANT TAKES AND WILL TAKE THE PREMISES "AS IS", AND TENANT ACKNOWLEDGES THAT LANDLORD (WHETHER ACTING AS LANDLORD HEREUNDER OR IN ANY OTHER CAPACITY) HAS NOT MADE AND WILL NOT MAKE, NOR SHALL LANDLORD BE DEEMED TO HAVE MADE, ANY WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, WITH RESPECT TO ANY OF THE PREMISES, INCLUDING ANY WARRANTY OR REPRESENTATION AS TO ITS FITNESS FOR USE OR PURPOSE, DESIGN OR CONDITION FOR ANY PARTICULAR USE OR PURPOSE, AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, LATENT OR PATENT, AS TO LANDLORD'S TITLE THERETO, OR AS TO VALUE, COMPLIANCE WITH SPECIFICATIONS, LOCATION, USE, CONDITION, MERCHANTABILITY, QUALITY, DESCRIPTION, DURABILITY OR OPERATION, IT

BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY TENANT. Tenant acknowledges that the Premises are of its selection and to its specifications, and that the Premises have been inspected by the Tenant and are satisfactory to it. In the event of any defect or deficiency in any of the Premises of any nature, whether patent or latent, Landlord shall not have any responsibility or liability with respect thereto or for any incidental or consequential damages (including strict liability in tort). The provisions of this Section 7(b) have been negotiated, and the foregoing provisions are intended to be a complete exclusion and negation of any warranties by Landlord, express or implied, with respect to any of the Premises, arising pursuant to the Uniform Commercial Code or any other law now or hereafter in effect or otherwise.

(c) The Tenant acknowledges and agrees that the Tenant has examined the title to the Premises prior to the execution and delivery of this Lease and has found such title to be satisfactory for the purposes contemplated by this Lease.

(d) The Landlord hereby assigns, without recourse or warranty whatsoever, to the Tenant, all warranties, guaranties and indemnities, express or implied, and similar rights which Landlord may have against any manufacturer, seller, engineer, contractor or builder in respect of any of the Premises, including, but not limited to, any right and remedies existing under contract or pursuant to the Uniform Commercial Code (collectively, the "Guaranties"). Such an assignment shall remain in effect after the termination of the Lease unless the Tenant fails to exercise the Purchase Option or otherwise acquire fee title to the Premises at the expiration or earlier termination of this Lease. Landlord shall also retain the right to enforce any Guaranties assigned in the name of the Tenant upon the occurrence of an Event of Default. Landlord hereby agrees to execute and deliver at the Tenant's expense such further documents, including powers of attorney, as the Tenant may reasonably request in order that the Tenant may have the full benefit of the assignment effected or intended to be effected by this Section 7(d). In the event the Tenant fails to exercise the Purchase Option or otherwise acquire fee title to the Premises at the expiration or earlier termination of this Lease, the Guaranties shall automatically revert to Landlord. The foregoing provision of reversion shall be self-operative and no further instrument of reassignment shall be required. In confirmation of such reassignment the Tenant shall execute and deliver promptly any certificate or other instrument which Landlord may request. Any monies collected by the Tenant under any of the Guaranties after the occurrence of and during the continuation of an Event of Default shall be held in trust by the Tenant and if the Tenant fails to exercise the Purchase Option or otherwise acquire fee title to the Premises at the expiration or earlier termination of this Lease, promptly paid over to Landlord.

8. **Net Lease: Non-Terminability.**

(a) This is an absolute triple net Lease and Rent and all other sums payable hereunder by the Tenant shall be paid, except as otherwise expressly set forth in this Lease, without notice, demand, setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense. The Tenant shall pay all costs of every kind and nature relating to the operation, maintenance, repair, or replacement of all or any portion of the Premises, without deduction or offset.

(b) Except as otherwise expressly provided in this Lease, this Lease shall not terminate, and the Tenant shall not have any right to terminate this Lease, during the Term. Except as otherwise expressly provided in this Lease, the Tenant shall not be entitled to any setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction, or defense of or to Rent or any other sums payable under this Lease. It is the intention of the parties hereto that the obligations of the Tenant under this Lease shall be separate and independent covenants and agreements, and that Rent and all other sums payable by the Tenant hereunder shall continue to be payable in all events (or, in lieu thereof, the Tenant shall pay amounts equal thereto), and that the obligations of Tenant under this Lease shall continue unaffected, unless this Lease shall have been terminated pursuant to an express provision of this Lease.

9. **Remittance of Rent; Late Payment Fee.** All Rent shall be paid at the address of the Landlord or such other place or places as the Landlord may designate in writing to Tenant from time to time. A late payment fee of five percent (5%) of the Rent shall be assessed and paid together with any rental payment that is paid more than ten (10) days after its due date.

10. **Covenant of Quiet Enjoyment.** Provided the Tenant shall not be in default in the payment of Rent and Additional Rent or in performance of its obligations under this Lease, the Tenant shall at all times during the Term peaceably and quietly enjoy the Premises without any disturbances from the Landlord or from any other persons claiming by, through or under the Landlord.

11. **Representations and Warranties of Landlord.** The Landlord represents and warrants:

(a) **Valid Existence.** The Landlord is validly organized and existing as a public body corporate and agency of the State of New Hampshire.

(b) **Due Authorization: No Violation.** The execution, delivery and performance by the Landlord of this Lease are within the Landlord's powers, have been duly authorized by all action necessary on the part of the Landlord and do not and will not contravene any law or legal or contractual restriction binding upon or affecting the Landlord.

(c) **Validity.** This Lease and the obligations contained herein are the legal, valid and binding obligations of the Landlord enforceable against the Landlord in accordance with its terms.

12. **Representations and Warranties of Tenant.** The Tenant represents and warrants:

(a) **Valid Existence and Qualification.** The Tenant is a corporation organized and validly existing under the laws of the State of Delaware and is qualified to do business within the State of New Hampshire.



(b) Due Authorization: No Violation. The execution, delivery and performance by the Tenant of this Lease are within the Tenant's powers, have been duly authorized by all necessary action of the Tenant, do not and will not contravene the Tenant's Articles of Organization or any law or legal or contractual restriction binding upon or affecting the Tenant.

(c) Validity. This Lease is the legal, valid and binding obligation of the Tenant enforceable against the Tenant in accordance with its respective terms.

13. **Real Property Taxes.**

(a) Payment. The Tenant shall pay all real property taxes, betterment charges and levies, and charges and governmental impositions, duties and discharges of like kind and nature, including payment in lieu of taxes, and general and special assessments (taxes) levied and assessed against the Premises during the Term. The Landlord shall furnish the Tenant with a copy of the tax bill promptly if it receives the bill for taxes. The Tenant shall pay all taxes not later than the date before the taxing authority's delinquency date. Upon request by the Landlord, the Tenant shall provide Landlord with proof of payment of taxes. The Tenant shall also punctually pay and discharge all taxes which shall or may during the Term be charged, laid, levied or imposed upon or become a lien upon the stock in trade or other personal property of the Tenant attached to or used in connection with the Tenant's business conducted on the Premises. Nothing herein contained shall require the Tenant to pay the Landlord's income or business profits taxes or any taxes on the rents reserved to the Landlord hereunder.

(b) Prorating of Taxes. The Tenant's liability to pay taxes shall be prorated on the basis of a 365-day year to account for any fractional portion of a fiscal tax year included in the Term at its commencement and expiration.

(c) Right to Contest. The Tenant, at its cost, shall have the right, at any time, to seek a reduction in the assessed valuation of the Premises or to contest any taxes that are to be paid by the Tenant, but only after payment of such amount and/or item in question unless said payment would operate as a bar to such contest or interfere materially with the prosecution thereof. The Landlord shall not be required to join in any proceeding or contest brought by the Tenant unless the provisions of any law require that the proceeding or contest be brought by or in the name of the Landlord, in which case the Landlord shall join in the proceeding or contest or permit it to be brought in the Landlord's name, provided that the Landlord shall not be required to bear any cost of such proceeding or contest. The Tenant, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered, together with all costs, charges, interest, and penalties incidental to the decision or judgment and shall be entitled to receive and retain any refund payment by the taxing authority with respect thereto. The Landlord, at its option may, but shall not be obligated to, contest or review by any appropriate proceedings, and at the Landlord's expense, any tax, charge or other governmental imposition aforementioned which shall not be contested or reviewed as aforesaid by the Tenant, and unless the Tenant shall promptly join with the Landlord in such contest or review, the Landlord shall be entitled to receive and retain any refund payment by the taxing authority with respect thereto unless the Tenant thereafter reimburses the Landlord for the Landlord's actual out

of pocket expenses incurred in contesting any such tax, charge or governmental imposition in which case Tenant shall be entitled to receive and retain any refund payment by the taxing authority with respect thereto. The Landlord appoints Tenant as its agent for the sole purpose of making payment to the tax collector, obtaining information and other data from the county or city assessor, and instituting and maintaining any proceeding or contest allowed under this section, with respect to all taxes assessed against the Premises.

14. **Utilities.** The Tenant shall make all arrangements for and pay for all utilities and services furnished to or used by it, including, without limitation, gas, electricity, water, sewer, telephone service, internet access, and trash collection.

15. **Repairs by the Tenant.**

(a) The Tenant shall, at the Tenant's sole cost and expense, maintain the Premises and all structures, mechanical and non-mechanical installations therein and the exterior (including the roof) and interior of the building which is a part of the Premises, in good condition and repair, and at the expiration of this Lease or earlier termination hereof for any cause herein provided for shall deliver up the Premises to the Landlord in the same condition and state of repair as at the beginning of the Term hereof, reasonable wear and tear, taking by eminent domain and damage insurable under the standard New Hampshire fire insurance policy with extended coverage excepted.

(b) The Tenant shall make normal repairs to and perform normal maintenance to the Premises as needed, including, without limitation, the replacement of broken glass, interior repainting, the repair of floors, the keeping of windows and doors water tight and the maintenance in good operating condition of all plumbing, electrical, heating, air conditioning, sprinkling and other utility systems, it being understood that the Tenant may make any further repairs and replacements which the Tenant may desire although neither party shall be under obligation to do so.

(c) The Tenant shall keep in good repair and free from obstructions or encumbrances all surfaced roadways, walks, loading, unloading and parking areas which are part of or which serve the Premises; shall keep clear of dirt, snow and ice all such roadways, walks and areas; shall remove snow and ice from roof of building on the Premises when necessary; and shall keep the exterior of the Premises clean and neat, including cutting and proper care of lawns and shrubbery.

(d) The Tenant shall at its expense make any alterations or changes in the Premises which may be necessary to meet the regulations and standards promulgated and established under the Occupational Safety and Health Act of 1970.

(e) During the Term, the Tenant shall be responsible for any repairs or alterations to the Premises deemed necessary by local, state or federal officials, in order to meet compliance with existing and future local, state or federal regulations during the Term.

(f) During the Term, in the event of a claim brought under the Americans with Disabilities Act, the Tenant shall be responsible for ensuring satisfaction therewith.

If the Tenant shall fail to perform its obligations hereunder (a through f above) thirty (30) days after the giving of notice of such failure by the Landlord, or in the event of an emergency, after an attempt by the Landlord to give written notice to the Tenant, then the Landlord may, at its expense perform the same and charge the Tenant the reasonable expense of performing said obligation; provided, however, if such failure is of a type which cannot reasonably be remedied within such thirty (30) day period, the Tenant shall have a reasonable time thereafter to remedy such failure so long as the Tenant has commenced such remedy within such thirty (30) days and is diligently prosecuting such remedy to completion.

16. **Alterations and Additions.** The Tenant shall have the right and privilege to make, at the Tenant's expense, and without Landlord's consent, any and all alterations, additions, and/or improvements to the Premises ("Alterations"), provided that the Tenant shall not, in any event, commit, suffer or permit waste upon the Premises. All alterations, additions or improvements erected by the Tenant shall be and remain the property of the Tenant during the Term and the Tenant shall in no event be required to remove any such Alterations in order to restore the Premises to its original configuration upon the expiration or earlier termination of this Agreement. In making any alterations, the Tenant shall comply with the following:

(a) The alterations shall be approved by all appropriate government agencies, and all applicable permits and authorizations shall be obtained before commencement of the alterations.

(b) All alterations shall be completed with due diligence in compliance with all applicable laws and in a good and workmanlike manner.

(c) Before commencing the alterations and at all times during construction, the Tenant's contractor shall maintain liability insurance that the Tenant is required to maintain pursuant to Section 23.

17. **Removal of Improvements.** At the expiration of this Lease, or at its earlier termination for any cause herein provided for, the Tenant shall not be responsible to remove any alterations, additions and improvements to the Premises made by it during the Term hereof. If the Tenant fails to exercise the Purchase Option or otherwise acquire fee title to the Premises at the expiration or earlier termination of this Lease then any such alterations, additions and improvements shall be deemed abandoned by the Tenant and shall become and remain property of the Landlord.

18. **Machinery and Equipment - Trade Fixtures.** The Tenant agrees that all machinery and equipment, and appurtenances thereto, installed in the Premises by it or by any employee, agent or subcontractor of the Tenant, which cannot be removed from the Premises shall be and become part of the realty and shall be and become the property of the Landlord if the Tenant fails to exercise the Purchase Option or otherwise acquire fee title to the Premises at the expiration or earlier termination of this Lease. The Landlord agrees that (a) all machinery and

equipment, and appurtenances thereto, installed in the Premises by the Tenant, or by any employee, agent or subcontractor of the Tenant, which may be removed from the Premises without permanent and substantial damaged to the Premises and (b) all furniture, furnishings and movable trade fixtures ("Trade Fixtures") installed in the Premises shall be deemed to remain personal property and that all such machinery, equipment, appurtenances, furniture, furnishings and movable Trade Fixtures of the Tenant or of any employee, agent or subcontractor of the Tenant, may be removed not later than thirty (30) days after termination of the Lease; but the Tenant shall repair any damage occasioned by such removal and shall restore the facility on the Premises to their condition as at the beginning of the Term hereof, reasonable wear and tear, taking by eminent domain, and damage insurable under the standard New Hampshire fire insurance policy with extended coverage excepted. Any such property which may be removed pursuant to the preceding sentence and which is not so removed within thirty (30) days after the expiration or earlier termination of this Lease may be removed from the Premises by the Landlord and stored for the account of the Tenant; and if the Tenant shall fail to reclaim such property within sixty (60) days following such expiration or earlier termination of this Lease such property shall be deemed to have been abandoned by the Tenant, and may be appropriated, sold, destroyed or otherwise disposed of by the Landlord without notice to the Tenant and without obligation to account therefor. This removal period may be extended by written consent of the parties to this Lease. The Tenant shall pay to the Landlord a reasonable cost incurred by the Landlord in removing, storing, selling, destroying or otherwise disposing of any such property.

19. **Mechanics Liens.** The Tenant shall pay all costs for construction done by it or caused to be done by it on the Premises as permitted by this Lease. Should any mechanics lien resulting from construction done by the Tenant be placed upon the Premises, the Tenant shall bond or discharge such lien within thirty (30) days after the date Tenant is served notice of the filing of such lien.

20. **Use of the Premises.**

(a) The Tenant shall comply with all statutes, ordinances and regulations applicable to the use of the Premises and shall use the Premises for any lawfully permitted purpose.

(b) The Tenant shall not injure or deface the Premises nor occupy or use, or permit or suffer the Premises or any part thereof to be occupied or used, for any unlawful or illegal business, use or purpose, nor for any business, use or purpose which is disreputable or extra-hazardous, nor in such manner as to constitute a nuisance of any kind nor for any purpose nor in any manner which would increase the premiums for fire insurance with extended coverage for the Premises. The Tenant shall, immediately upon discovery of any such unlawful, illegal, disreputable or extra-hazardous use, taking all necessary steps, legal and equitable, to compel the discontinuance of such use and to oust and remove any sublessee, occupants or other persons guilty of such unlawful, illegal, disreputable or extra-hazardous use.

(c) The Tenant shall procure any licenses or permits required by any use of the Premises by the Tenant.

(d) The Tenant shall indemnify and save the Landlord harmless from and against any and all claims, demands, liabilities, costs and expenses, including reasonable counsel fees, asserted by third parties and arising out of or by reason of any breach or violation by the Tenant of the provisions of this Section.

21. **Indemnification.**

(a) The Tenant agrees to defend, pay, protect, indemnify, save and hold harmless Landlord from and against any and all liabilities, losses, damages, penalties, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever, howsoever caused, (i) arising from the Premises or the use, non-use, occupancy, condition, design, construction, maintenance, repair or rebuilding of the Premises, and any injury to or death of any person or person or any loss of or damage to any property, real or personal, in any manner arising therefrom connected therewith or occurring thereon, whether or not the Landlord has or should have knowledge or notice of the defect or conditions, if any, causing or contributing to said injury, death, loss, damage or other claim, except to the extent that any such liability, loss, damage, penalty, cost, expense, cause of action, suit, claim, demand or judgment is the result of the gross negligence of the Landlord or the intentional wrongful act of the Landlord or (ii) arising out of any breach of, or default under any term, covenant or condition on the part of Tenant to be performed or observed hereunder which remains uncured after expiration of applicable notice and cure periods; provided, however, that in no event shall Tenant have any liability to Landlord for any indirect losses or consequential or punitive damages whatsoever or for claims for which Landlord is insured or required under this Lease to be insured. In case any action or proceeding is brought against the Landlord by reason of any such claim against which the Tenant has agreed to defend, pay, protect, indemnify, save and hold harmless pursuant to the preceding sentence, the Tenant covenants upon notice from the Landlord to resist or defend the Landlord in such action, with the expenses of such defense paid by the Tenant, and the Landlord will cooperate and assist in the defense of such action or proceeding if reasonably requested so to do by the Tenant.

(b) The Landlord, to the fullest extent permitted by law, shall indemnify, defend and save the Tenant and its members, managers, managing members, successors and assigns and the employees and agents of any of same (collectively, the "Tenant Indemnitees") harmless from and against any and all liabilities, losses, damages, penalties, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever, howsoever caused, (i) arising from or out of the negligence of the Landlord, its agents and employees, or (ii) arising from or out of any breach of, or default under, any term, covenant or condition of this Lease on the part of the Landlord to be performed and observed hereunder. In case any action or proceeding is brought against the Tenant by reason of any such claim against which the Landlord has agreed to defend, pay, protect, indemnify, save and hold harmless pursuant to the preceding sentence, the Landlord covenants upon notice from the Tenant to resist or defend the Tenant in such action, with the expenses of such defense paid by the Landlord, and the Tenant will cooperate and assist in the defense of such action or proceeding if reasonably requested so to do by the Landlord.

(c) The obligations of the Landlord and the Tenant under this Section 21 shall survive any termination of this Lease.

22. **Hazardous Materials Indemnification.**

(a) The term Hazardous Materials shall mean and include asbestos, polychlorinated biphenyls ("PCBs"), other carcinogens, oil and other petroleum products, and any other hazardous or toxic materials, wastes and substances which are defined, determined or identified as such under RSA Chapters 146 and 147, CERCLA, or any other applicable federal, state or local laws, rules, codes or regulations or any judicial or administrative interpretation thereof.

(b) The term Legal Requirements shall mean all federal, state or local laws, rules, codes or regulations, or any judicial or administrative interpretation thereof, including, without limitation, all orders, decrees, judgments and rulings imposed through any public or private enforcement proceedings, relating to Hazardous Materials or the existence, use, discharge, release, containment, transportation or disposal thereof.

(c) The Tenant covenants and agrees to indemnify, defend, and hold the Landlord harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind or nature, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against the Landlord and relating directly or indirectly to the violation of or compliance with any Legal Requirements and affecting all or any portion of the Premises. This duty to indemnify, defend, and hold harmless shall survive any termination of this Lease and in the event the Tenant exercises its Purchase Option shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon the Tenant's successors, assigns, and transferees.

## 23. Insurance.

(a) Liability. The Tenant shall, throughout the Term and any renewals, modifications or extensions hereof, carry, at its expense, comprehensive liability insurance on the Premises and its use and occupation thereof with an insurance company authorized to do business in New Hampshire and acceptable to the Landlord. Such insurance shall be written on an occurrence basis; shall provide a combined single limit of not less than \$1,000,000 in the case of death, injury or property damage, with a combined umbrella policy limit of not less than \$4,000,000 and the Landlord and Landlord's Credit Facility lender each shall be named as an additional insured. Landlord's Credit Facility Lender is Service Credit Union (Service Credit Union and its successors and assigns are referred to herein as "Lender").

(b) Contents. The Tenant shall carry, at its expense, fire and casualty insurance with extended coverage in an amount not less than eight-five percent (85%) of the sound insurable value of all contents, specifically including Tenant's business inventory, goods, equipment and other leasehold improvements.

(c) All Risks. The Tenant, at its cost, shall procure and maintain for the Landlord and Lender as named insureds a policy of standard fire with all risks coverage

insurance (New Hampshire statutory form), covering the building and other improvements that are a part of the Premises in an amount equal to the full replacement value thereof.

(d) Worker's Compensation Insurance. The Tenant shall carry, at its expense, worker's compensation insurance covering all persons employed by the Tenant on the Premises in connection with any work done on or about any of the Premises for which claims for death or bodily injury could be asserted against the Landlord, Lender, the Tenant or the Premises or shall self-insure therefor in accordance with New Hampshire law.

(e) Flood Insurance. In the event that the building that is part of the Premises is determined to be located in zone AE as determined by the Federal Emergency Management Agency ("FEMA") under the National Flood Insurance Program ("NFIP"), the Tenant shall carry, at its expense, flood insurance backed by NFIP covering up to \$500,000 of coverage on such building, with Landlord and Lender as additional insureds.

(f) Other. The Tenant shall carry such additional and/or other insurance with respect to alterations and additions located on the Premises and in such amounts as at the time is customarily carried by prudent owners or tenants with respect to improvements similar in character, location and use and occupancy to the Premises.

(g) Proof. The Tenant shall furnish to the Landlord certification or proof of insurance coverages required by this Section 23 prior to the commencement date of this Lease and thereafter at least ten (10) days prior to the expiration of the term of and any modifications or renewals of such policies.

24. Assignment and Subletting.

(a) The Tenant shall not pledge or assign this Lease or sublet all or any part of the Premises without the prior written consent of the Landlord which consent shall not be unreasonably withheld, conditioned, or delayed, and in the event of an assignment or subletting of the Premises, the obligation of the Tenant shall not be relieved or diminished. Notwithstanding the foregoing, an assignment of this Lease to an entity into which or with which the Tenant merges or consolidates or which the Tenant controls, is controlled by or is under common control with the Tenant, shall be permitted without the express consent of the Landlord. The Landlord hereby acknowledges and consents to the Tenant, as sublandlord, assuming as of the Effective Date hereof that certain lease agreement dated October 13, 2016 as amended by a First Amendment of Lease Agreement dated \_\_\_\_\_ by and between GF Funding, LLC and Circharo Acquisition, LLC d/b/a Core Medical Group, as subtenant, for 33,982 square feet of the Premises.

Notwithstanding anything provided herein, in the event of subtenancy or assignment, the Tenant shall provide the Landlord with the correct and updated name and mailing address of every assignee or subtenant and the requirements if any of all Notice to Tenant in this Lease shall be sufficiently satisfied if forwarded in writing to the Tenant and subtenant or assignee at the address given. If the Tenant's default hereunder, should subtenant or



assignee, at its option, cure such defect or default, the Tenant shall not be relieved of future obligations hereunder.

(b) Each sublease of the Premises or any part thereof shall be subject and subordinate to the provisions of this Lease. No assignment or sublease shall affect or reduce any of the obligations of the Tenant hereunder, and all such obligations shall continue in full force and effect as obligations of a principal and not as obligations of a guarantor, as if no assignment or sublease had been made. Notwithstanding any assignment or subletting the Tenant shall continue to remain liable and responsible for the payment of the Rent and the performance of all its other obligations under this Lease. No assignment or sublease shall impose any obligations on Landlord under this Lease except as otherwise provided in this Lease. The Tenant agrees that in the case of an assignment of the Lease, the Tenant shall, within fifteen (15) days after the execution and delivery of any such assignment, deliver to the Landlord (i) a duplicate original of such assignment in recordable form, and (ii) an agreement executed and acknowledged by the assignee in recordable form wherein the assignee shall agree to assume all of the terms and provisions of this Lease on the part of the Tenant to be observed and performed from and after the date of such assignment. In the case of a sublease, the Tenant shall, within fifteen (15) days after the execution and delivery of such sublease, deliver to Landlord a duplicate original of such sublease.

(c) Upon the occurrence of an Event of Default under this Lease, the Landlord shall have the right to collect and enjoy all rents and other sums of money payable under any sublease of any of the Premises, and the Tenant hereby irrevocably and unconditionally assigns such rents and money to Landlord, which assignment may be exercised upon and after (but not before) the occurrence of an Event of Default.

(d) In the event the Tenant exercises the Purchase Option or upon the expiration or earlier termination of this Lease, the Tenant may assign its right to purchase the Premises or otherwise direct the Landlord to convey the Premises to a third-party by written notice to the Landlord delivered at least ten (10) days prior to closing of title.

25. **Subordination and Power of Attorney.** Subject to receipt of a SNDA (as hereinafter defined), the Tenant agrees that this Lease shall be subordinate to any mortgage encumbering the Premises as of the Commencement Date (the "Mortgage") and agrees, at the request of the Landlord, to subordinate this Lease to the Mortgage and to any renewal, extension or modification of the Mortgage. The Tenant shall execute and deliver, upon demand, to the Landlord, at the Landlord's expense, a commercially reasonable subordination, non-disturbance and attornment agreement ("SNDA") consistent with this Section 25 that is mutually acceptable to the Tenant, Landlord and Lender. The Landlord agrees that it will not mortgage the Premises except pursuant to the Mortgage and any renewal, extension or modification thereof, without the consent of the Tenant. The Landlord agrees, provided there is no Event of Default that remains uncured after expiration of applicable notice and cure periods, that during the Term it will not sell, transfer or otherwise convey the Premises to a third party other than the Lender in the exercise of Lender's rights under the Mortgage but subject to the SNDA, without the consent of the Tenant.

Subject to the terms of the SNDA, the Tenant's tenancy and the Tenant's rights under this Lease shall not be disturbed, terminated or otherwise adversely affected, nor shall this Lease be affected, by any default under the Mortgage or any other mortgage which may now exist or hereafter be executed, and in the event of a foreclosure or other enforcement of the Mortgage or any other mortgage, or sale in lieu thereof, the purchaser at such foreclosure sale shall be bound to the Tenant for the Term and any renewal term, the rights of the Tenant under this Lease shall expressly survive, and this Lease shall in all respects continue in full force and effect so long as no Event of Default has occurred and is continuing. The Tenant shall not be named as a party defendant in any such foreclosure suit, except as may be required by law. Any mortgage to which this Lease is now or hereafter subordinate shall provide, in effect, that during the time this Lease is in force, insurance proceeds and condemnation award shall be permitted to be used for restoration of the Premises in accordance with the provisions of this Lease. Notwithstanding an Event of Default, but provided no Event of Default has occurred under a sublease, the provisions of this Section 25 shall continue to apply for the benefit of any subtenant referred to in Section 24 herein.

26. **Landlord's Right to Enter.** Subject to compliance with Tenant's security procedures, and, except in the event of an emergency, upon at least forty-eight (48) hours prior notice, the Tenant agrees that the Landlord may enter the Premises from time to time, when reasonable, under the circumstances, to inspect the Premises and to make any necessary repairs or replacements therein and to allow the Landlord to show the Premises to prospective lessees or purchasers. The preceding sentence does not impose upon the Landlord any obligation to make repairs. During the six (6) months next preceding the expiration of this Lease, the Landlord may keep affixed to any suitable part of the outside of the building of which the Premises are a part a notice that the Premises are for sale or rent. Any entry shall be done by Landlord in such reasonable manner as to minimize any disruption of Tenant's business operation.

27. **Landlord's Right to Remedy Default.** If an Event of Default has occurred and is continuing, the Landlord, without being bound to do so and without thereby waiving such default, after expiration of applicable notice and cure periods hereunder, may remedy such default for the account and at the expense of the Tenant. If the Landlord makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, reasonable attorneys' fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of 10% per annum and costs, shall be paid to the Landlord by the Tenant upon demand.

28. **Estoppel Certificate.** The Tenant agrees at any time and from time to time, within twenty (20) days after written request by the Landlord, to execute, acknowledge and deliver to and in favor of any proposed mortgagee or purchaser of the property of which the Premises are a part, an estoppel certificate, in the form customarily used by such proposed mortgagee or purchaser, stating among other things: (i) whether this Lease is in full force and effect; (ii) whether this Lease has been modified or amended and, if so, identifying and describing any such modification or amendment; (iii) the date to which rent and any other charge has been paid; (iv) whether the Tenant knows of any default on the part of the Landlord or has any claim against Landlord and, if so, specifying the nature of such default or claim, and (v) such other matters as may reasonably be requested by the Landlord.

29. **Redelivery of Premises.** Provided that the Tenant fails to exercise the Purchase Option or otherwise acquire fee title to the Premises at the expiration or earlier termination of this Lease, the Tenant will peaceably and quietly quit and deliver up to the Landlord or its attorney, or other duly authorized agent, the Premises (together with all alterations, additions, improvements, mechanical installations, equipment and appurtenances thereto not removed from the Premises pursuant to Sections 17 and 18) at the expiration or other termination of this Lease or any renewal thereof, leaving the Premises in as good condition as they now are or may be placed in during the Term, reasonable and ordinary wear and damage by fire or other casualty excepted. Such delivery shall include all keys to the Premises and failure to deliver such keys shall make the Tenant responsible for the expense of lock changes. The Tenant covenants and agrees that at the time of delivery of possession to the Landlord at the expiration of this Lease, any and all alterations, additions, improvements, mechanical installations, equipment and appurtenances constructed or installed on or in the Premises at its expense after the beginning of the Term hereof and which have become the property of the Landlord pursuant to this Lease shall be free and clear of any mortgage, lien, pledge or other encumbrances or charges.

30. **Default.**

(a) The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Lease:

(i) any installment of Rent shall not be paid within five (5) days after the Landlord shall have notified the Tenant in writing that the same is due and payable; or

(ii) the Tenant defaults in the performance or observation of any covenant or condition in this Lease (other than the payment of Rent or other sums due hereunder) and such default remains unremedied for twenty (20) days after written notice thereof has been given to the Tenant by the Landlord, unless the Tenant establishes to the satisfaction of the Landlord that it is duly pursuing a remedy of any such default and such default does not cause additional damage to the Premises then the Tenant shall have such time as is reasonably necessary to remedy such default;

(iii) the Tenant makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any receiver or any trustee of or for the Tenant or any substantial part of its property, commenced any proceeding relating to the part of its property, commences any proceeding relating to the Tenant or any substantial part of its property under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or there is commenced against the Tenant any such proceeding which remains undismissed for a period of sixty (60) days, or any order approving the petition in any such proceeding is entered, or the Tenant by any act indicates its consent to, or acquiescence in, any such proceeding or the appointment of any receiver or trustee for the Tenant or any substantial part of its property, or suffers any such receivership or trusteeship to continue undischarged for a period of sixty (60) days; or

(iv) the Tenant fails to close on the acquisition of the Premises under the Purchase Option by the Expiration Date as required by Section 4 hereunder or under subsection (b), below.

(b) If any Event of Default shall have occurred, the Landlord shall have the right at its option, then or at any time thereafter until such Event of Default is cured, in addition to any other remedy or right given hereunder by law or equity, to give the Tenant notice ("Landlord's Notice of Termination") of the Landlord's intention to terminate this Lease on a date specified in such notice (which date shall be no sooner than sixty (60) days after the date of the notice) and the Tenant shall be deemed without further notice to have exercised the Purchase Option as if the Tenant had delivered to Landlord a Purchase Option Exercise Notice as of the date of Landlord's Notice of Termination, and Landlord shall convey all of its right, title and interest in and to the Premises in accordance with and subject to the terms and conditions of Section 4 above, including but not limited to, payment of the Purchase Option Amount, together with all Rent and other sums then due on such date.

31. **Risk of Damage.** All property on the Premises not placed there or owned by the Landlord shall be at the sole risk of the Tenant.

32. **Damage or Destruction.** If the Premises or any part thereof shall be partially or wholly damaged or destroyed by fire, flood, war or other casualty, then the Tenant shall restore the Premises within one hundred twenty (120) days of the date of the occurrence of such damage to substantially the same condition they were in prior to the damage or destruction or as near to such condition as is possible. It is expressly understood that the Tenant's obligations to restore any portion of the Premises shall not depend on the amount of the insurance proceeds that are available, but the Tenant may use available insurance proceeds to restore the Premises.

33. **Condemnation.** If the Premises are totally taken by the exercise of any governmental power or any private corporation or individual having the power of condemnation, the Tenant shall be deemed without further notice to have exercised the Purchase Option as if the Tenant had delivered to the Landlord a Purchase Option Exercise Notice as of the date of the Landlord's receipt of final notice of such taking by such governmental power or private corporation or individual having the power of condemnation. In such event, prior to the date of such taking this Lease shall terminate and simultaneously with such termination the Landlord shall convey to the Tenant all of its right, title and interest in and to the Premises in accordance with and subject to the terms and conditions of Section 4 above, including but not limited to, payment of the Purchase Option Amount, together with all Rent and other sums then due on such date and the Tenant shall receive the condemnation award therefor and each party hereto shall be relieved of any further obligation to the other (except as otherwise provided in this Lease). The provisions of this section shall also apply in the event of a voluntary sale or transfer of the Premises to any such entity having the power of condemnation either under a threat of condemnation or while legal proceedings for condemnation are pending. In the event of a partial taking of the Premises by condemnation, this Lease shall remain in effect, except that the Tenant may terminate this Lease and exercise the Purchase Option if by reason of such partial taking, regardless of the amounts so taken, the Premises are rendered unsuitable for the Tenant's continued use of the Premises or the Tenant's continued use of the Premises is materially

impaired. If the Tenant elects to terminate the Lease and exercise the Purchase Option, the Tenant must exercise its right to terminate and exercise the Purchase Option pursuant to this section by giving notice to the Landlord within thirty (30) days after the Tenant receives written notice of the final determination of the nature and extent of the condemnation in which event, prior to the date of such taking, this Lease shall terminate and simultaneously with such termination the Landlord shall convey to the Tenant all of its right, title and interest in and to the Premises in accordance with and subject to the terms and conditions of Section 4 above, including but not limited to, payment of the Purchase Option Amount, together with all Rent and other sums then due on such date, and the Tenant shall receive the condemnation award therefor and each party hereto shall be relieved of any further obligation to the other (except as otherwise provided in this Lease). If a partial taking does not result in termination of the Lease, the Tenant shall at its expense, restore the Premises remaining to a complete unit of like quality and character as existed prior to the taking to the extent possible, and may use the amount of the condemnation award therefor. Notwithstanding anything to the contrary contained in this Section 33, if any separate award is made to the Tenant for its moving and relocation expenses or loss of equipment paid for by the Tenant, it shall be paid by the taking authority directly to, and shall be retained by, the Tenant and the Tenant shall have no obligation to deliver any such funds to Landlord.

34. **Waiver of Subrogation.** Each of the Landlord and the Tenant hereby releases the other (and each person and legal entity claiming through each of them) from any and all liability or responsibility to the other (and each person and legal entity claiming through the other) by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage casualties, or by sprinkler leakage, even if such fire or other casualty or such leakage shall have been caused by the fault or negligence of the other party, or anyone for which such party may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as the releasors policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair the coverage of said policies or prejudice the right of the releasor to recover thereunder. Each of the Landlord and the Tenant agrees that its policies will include such clause or endorsement, provided, however, that if extra cost shall be charged therefor, the party shall obtain such clause or endorsement so long as the other party pays such extra cost.

35. **Surrender and Holdover.** Provided that if the Tenant fails to exercise the Purchase Option or otherwise acquire fee title to the Premises at the expiration or earlier termination of this Lease, then upon the expiration or earlier termination of this Lease, the Tenant shall peaceably leave and surrender the Premises to the Landlord, and if the Tenant thereafter holds over or remains in the possession or occupancy of the Premises, without any written lease of the Premises having been made and entered into between the Landlord and the Tenant, such holding over or continued possession or occupancy shall, if the rent is paid by the Tenant and accepted by the Landlord for or during any period of time it so holds over or remains in possession or occupancy, create only a tenancy from month to month at the last monthly rental and upon the terms herein specified which may at any time be terminated by either the Landlord or the Tenant giving to the other party thirty (30) days' notice of such intention to determine the same.

36. **Waiver.** The parties covenant with one another that the failure of either to insist in any one or more instances upon the strict and literal performance of any of the covenants, terms or conditions of this Lease, or to exercise any option of the Landlord or the Tenant herein contained, shall not be construed as a waiver or a relinquishment for the future, of such covenant, term, condition or option, but the same shall continue and remain in full force and effect. The receipt by the Landlord of rent, with knowledge of the breach of any covenant, term or condition hereof, shall not be deemed to be a waiver of such breach, and no waiver by the Landlord of any covenant, term, condition or provision of this Lease, or of the breach thereof, shall be deemed to have been made by the Landlord, unless expressly acknowledged in writing by the Landlord over its signature.

(a) No right or remedy conferred upon or reserved to the Landlord in this Lease is intended to be exclusive of any right or remedy; and each and every right and remedy shall be cumulative and in addition to any other right or remedy contained in this Lease. No delay or failure by the Landlord or the Tenant to enforce its rights under this Lease shall be construed as a waiver, modification or relinquishment thereof. In addition to the other remedies provided in this Lease, the Landlord and the Tenant shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of the violation or attempted or threatened violation of any of the provisions of this Lease, or to specific performance of any of the provisions of this Lease.

(b) The Landlord hereby waives any right to distrain or levy upon Trade Fixtures or any property of the Tenant and any Landlord's lien or similar lien upon Trade Fixtures and any other property of the Tenant regardless of whether such lien is created or otherwise. The Landlord agrees at the request of the Tenant to execute a waiver of any of the Landlord's liens or similar lien for the benefit of any present or future holder of security interest in or lessor of any of Trade Fixtures or any other personal property of the Tenant.

(c) The Landlord acknowledges and agrees in the future to acknowledge (in a written form reasonably satisfactory to the Tenant) to such persons and entities at such times and for such purposes as the Tenant may reasonably request that the Trade Fixtures and the Tenant's property are not part of the Improvements (regardless of whether or to what extent such Trade Fixtures are affixed to the Improvements) or otherwise subject to the terms of this Lease.

(d) Each of the Tenant and the Landlord (herein called "Paying Party") agrees to pay to the other party (herein called "Demanding Party") any and all reasonable costs and expenses incurred by the Demanding Party in connection with any litigation or other action instituted by the Demand Party to enforce the obligations of the Paying Party under this Lease, to the extent that the Demanding Party has prevailed in any such litigation or other action. Any amount payable by Tenant to Landlord pursuant to this Section 36 shall be due and payable by Tenant to Landlord as Rent, over and above any other obligations then owing. As used in this Section, "costs and expenses" shall include, without limitation, reasonable attorneys' fees at trial, on appeal and on any petition for review, and in any proceeding in bankruptcy, in addition to all other sums provided by law.

37. **Landlord Liability; Definition of Landlord.**

(a) Anything contained herein to the contrary notwithstanding, any claim based on or in respect of any liability of the Landlord under this Lease shall be enforced only against the Landlord's interest in the Premises and shall not be enforced against the Landlord individually or personally.

(b) The term Landlord as used in this Lease so far as covenants or obligations on the part of the Landlord are concerned, shall be limited to mean and include only the owner or owners of the Premises and in the event of any transfer or transfers of the title of the Premises, the Landlord herein named (and in the case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from and after the date of such transfer and conveyance of all personal liability as respects the performance of any covenants or obligations on the part of the Landlord contained in this Lease thereafter to be performed.

38. **Notices.** All notices hereunder by the Landlord to the Tenant shall be given in hand or by registered or certified mail, addressed to the Tenant at 65 Spit Brook Road, P.O. Box 868, Nashua, New Hampshire 03061-0868, Attn: William B. Biss, Finance Director, with a copy to 65 Spit Brook Road, P.O. Box 868, Nashua, New Hampshire 03061-0868, Attn: Chief Counsel, or to such other address as the Tenant may from time to time give to the Landlord for this purpose. All notices by the Tenant to the Landlord shall be given in hand or by registered or certified mail, addressed to the Landlord at 2 Pillsbury Street, Suite 101, Concord, New Hampshire 03301-4959, or to such other address as the Landlord may from time to time give in writing to the Tenant for this purpose.

39. **Applicable Law.** This Lease shall be governed by and construed in accordance with the laws of the State of New Hampshire.

40. **Successors.** The obligations and benefits of this Lease shall run with the land, and shall be binding upon and shall inure to the benefit of the successors and assigns of the Landlord, and the successors and permitted assigns of the Tenant.

41. **Counterparts.** This Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together constitute one and the same instrument.

42. **Separability.** Each and every covenant and agreement contained in this Lease is, and shall be construed to be, a separate and independent covenant and agreement, and the breach of any such covenant or agreement by the Landlord shall not discharge or relieve the Tenant from its obligation to perform the same. If any term or provision of this Lease or the application thereof to any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid and unenforceable, the remainder of this Lease, or the application of such term or provision to person or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the extent permitted by law.

43. **Information.** The Tenant shall furnish to the Landlord the information and reports that it is required to furnish to its Lender as and when required.

44. **Recordation of Memorandum of Lease/Option Agreement.** The parties agree that an option agreement or a memorandum of lease with respect to this Agreement, that expressly includes a description of the Purchase Option contained herein, shall be recorded in the appropriate land records simultaneously with the execution of this Agreement.

45. **Miscellaneous.**

(a) The Section headings in this Lease are used only for convenience in finding the subject matters and are not part of this Lease or to be used in determining the intent of the parties or otherwise interpreting this Lease.

(b) Any act which the Landlord is permitted to perform under this Lease may be performed at any time and from time to time by the Landlord or any person or entity designated by the Landlord. Any act which the Tenant is required to perform under this Lease shall be performed at the Tenant's sole cost and expense.

(c) This Lease constitutes the entire agreement between the Landlord and the Tenant regarding this subject matter. This Lease may be modified, amended, discharged, or waived only by an agreement in writing signed by the party against whom enforcement of any such modification, amendment, discharge or waiver is sought.

(d) The covenants of this Lease shall run with the Land and bind the Tenant, the successors and assigns or the Tenant and all present and subsequent encumbrances and subtenants of any of the Premises, and shall inure to the benefit of and bind the Landlord, its successors and assigns.

(e) The Tenant shall pay all reasonable expenses incurred by the Landlord in connection with the consummation of this Lease, including reasonable attorneys' fees.

[end of text: signatures on next page]



IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Agreement as of the day and year first above written.

**LANDLORD:**  
BUSINESS FINANCE AUTHORITY OF  
THE STATE OF NEW HAMPSHIRE

BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

**TENANT:**  
BAE SYSTEMS INFORMATION AND  
ELECTRONIC SYSTEMS  
INTEGRATION INC.

BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

EXHIBIT A  
PREMISES LEGAL DESCRIPTION

Return to:  
Preti Flaherty  
P.O. Box 1318  
Concord, NH 03302-1318  
SCL

**MORTGAGE  
ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND  
FIXTURE FILING  
Loan 1**

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this “**Mortgage**”) is made as of December \_\_\_\_\_, 2018 (“**Effective Date**”), by **BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE**, a body corporate and agency of the State of New Hampshire with a principal office at 2 Pillsbury Street, Concord, New Hampshire 033301 (“**Mortgagor**”), in favor of **SERVICE CREDIT UNION**, its successors and assigns (“**Mortgagee**”) with an address of 3003 Lafayette Road, Portsmouth, NH, 03801. Terms used in this Mortgage which are defined in the Bond Purchase and Loan Agreement of even date between Mortgagor and Mortgagee (“**Loan Agreement**”) shall have such defined meanings unless otherwise defined herein. In the event of any discrepancy between a term in this Mortgage and the Loan Agreement, the term as defined in the Loan Agreement shall control.

**1. Grant and Secured Obligations.**

1.1 Grant. For the purpose of securing payment and performance of the Secured Obligations defined and described in Section 1.2 below, Mortgagor hereby grants, bargains, sells, conveys, mortgages and warrants to Mortgagee, with MORTGAGE COVENANTS, upon the statutory conditions and with statutory power of sale, all estate, right, title and interest which Mortgagor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the “**Property**”):

(a) The real property located at or near 3000 Goffs Falls Road, Manchester, New Hampshire, together with all rights appurtenant thereto (the “**Premises**”), all as more particularly described in Exhibit A attached.

(b) All buildings, structures and improvements now located or later to be constructed on the Premises, together with any plans, surveys, licenses, approvals, and warranties related thereto (collectively, the “**Improvements**”); together with

(c) All existing and future appurtenances, privileges, easements, franchises and tenements of the Premises, including all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be in, under or produced from any part of the Premises, all development rights and credits, air rights, water, water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and water stock, and any Premises lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Premises and Improvements; together with

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions, including but not limited to the Agreement of Lease for the Premises between BAE Systems Information and Electronic Systems Integration Inc. (“BAE”) and any subleases thereunder (the “BAE Lease,” and collectively with the BAE Lease, “Leases”) relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with the Leases; together with

(e) All Property and Improvements, and all appurtenances and other property and interests of any kind or character affixed to the Premises, or necessary to the Premises and its operation and its compliance with law, which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements; together with

(f) All goods, materials, supplies, chattels, fixtures, equipment and machinery now affixed to or necessary to the Premises, and its operation and its compliance with law, or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Premises and Improvements, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage and any manufacturer’s warranties with respect thereto; together with

(g) All building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises or Improvements; together with

(h) All of Mortgagor’s interest in and to all accounts with Mortgagee, and the Loan (defined below) funds, whether disbursed or not; together with

(i) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) in connection with the Premises deposited by Mortgagor with Mortgagee (including all utility deposits); together with

(j) All insurance policies pertaining to the Premises and all proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Premises, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Premises, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

(k) All of Mortgagor's rights in any agreements relating to the use of the Premises; together with

(l) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory ("**Books and Records**"); together with

(m) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

## 1.2 Secured Obligations.

(a) Mortgagor makes the grant, conveyance, and mortgage set forth in Section 1.1 above, and grants the security interest set forth in Section 3 below for the purpose of securing the following obligations (the "**Secured Obligations**") in any order of priority that Mortgagee may choose:

(i) Payment of all obligations at any time owing under Commercial Term Note 1 (the "**Note**") of even date herewith, payable by Mortgagor in the stated total principal amount of Nine Million and 00/100ths Dollars (\$9,000,000.00) to the order of Mortgagee including all obligations on said Note, even to the extent that such exceeds said principal amount thereof (the "**Loan**"); and

(ii) Payment and performance of all obligations of the Mortgagor under this Mortgage, including future advances under Section 7.11 below.

(iii) Payment and performance of any obligations of the Mortgagor under any Loan Documents which are executed by it. "Loan Documents" means the collective reference to this Mortgage and all other instruments, agreements and documents entered into from time to time, evidencing or securing the Loan or any obligation of payment thereof or performance of Mortgagor's obligations in connection with the transaction contemplated hereunder, each as amended, described in the Loan Agreement; and

(iv) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Mortgage; and

(v) Payment and performance of all modifications, amendments, restatements, extensions, and renewals, however evidenced, of any of the Secured Obligations.

(b) All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and their interest in the Property will be subject to the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. Such terms include any provisions in the Note which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

## **2. Assignment of Rents.**

2.1 Assignment. Mortgagor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee all rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, including but not limited to those arising under the BAE Lease, whether now due, past due or to become due, including all prepaid rents and security deposits (to the extent permitted by law) (some or all collectively, as the context may require, "**Rents**"). This is an absolute assignment, not an assignment for security only.

2.2 Grant of License. Mortgagee hereby confers upon Mortgagor a license ("**License**") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 6.1 below, shall exist and be continuing. Such License shall be revocable in Lender's sole discretion, only if an Event of Default has occurred and is continuing beyond any applicable notice and cure period, and without further notice to or demand upon Mortgagor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

2.3 Collection and Application of Rents. Subject to the License granted to Mortgagor under Section 2.2 above, Mortgagee has the right, power and authority to collect any and all Rents. Mortgagor hereby appoints Mortgagee its attorney-in-fact to perform any and all of the following acts, but only during such time that an Event of Default is continuing, then, if and at the times when Mortgagee in its sole discretion may so choose:

- (a) Demand, receive and enforce payment of any and all Rents; or
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Mortgagor or in the name of Mortgagee for any and all Rents.

Mortgagee and Mortgagor agree that the mere recordation of the assignment granted herein entitles Mortgagee upon prior written notice to Mortgagor, immediately to collect and receive rents upon the occurrence of an Event of Default, as defined in Section 6.1, without first taking any acts of enforcement under applicable law, such as, but not limited to, filing foreclosure proceedings, or seeking and/or obtaining the appointment of a receiver. Further, Mortgagee's right to the Rents does not depend on whether or not Mortgagee takes possession of the Property as permitted under Subsection 6.2(f). In Mortgagee's sole discretion, Mortgagee may choose to collect Rents either with or without taking possession of the Property. Mortgagee shall apply all Rents collected by it in the manner provided under Section 6.5. If an Event of Default occurs and is continuing while Mortgagee is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Mortgage, Mortgagee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Mortgage and at law or in equity.

2.4 Mortgagee Not Responsible. Under no circumstances shall Mortgagee have any duty to produce Rents from the Property. Regardless of whether or not Mortgagee, in person or by agent, takes actual possession of the Premises and Improvements, unless Mortgagee agrees in writing to the contrary, Mortgagee is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the lessor under any lease; or
- (c) Responsible for any waste committed by lessees or any other parties or any dangerous or defective condition of the Property; or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it, unless caused by the gross negligence or misconduct of the Mortgagee.

2.5 Leasing. Upon the reasonable request of Mortgagee, Mortgagor shall comply with and observe Mortgagor's obligations as landlord or as tenant, as the case may be, under any Leases of the Property or any part thereof, and all future Leases and all amendments or modifications thereto shall be subject to Mortgagee's prior written approval. Unless otherwise directed by Mortgagee, all Leases of the Property made after the date hereof shall specifically provide that such Leases are subordinate to this Mortgage; that (subject to reasonable and customary non-disturbance provisions) the tenant attorns to Mortgagee, such attornment to be effective upon Mortgagee's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Mortgagee may from time to time request; and that the attornment of the tenant shall not be terminated by foreclosure. Mortgagor shall not, without Mortgagee's written consent which may not be unreasonably withheld, delayed or conditioned, execute, modify, surrender or terminate, either orally or in writing, any Lease hereafter made of all or any part of the Property, permit an assignment or sublease of such a Lease, or request or consent to the subordination of any Lease of all or any part of the Property to any lien subordinate to this Mortgage, provided that such Leases are on commercially reasonable terms. If Mortgagor becomes aware that any tenant proposes to do, or is doing, any act or thing that may give rise to any right to set-off against rent, Mortgagor shall (a) take such steps as shall be

reasonably calculated to prevent the accrual of any right to a set-off against rent, (b) notify Mortgagee thereof and of the amount of said set-offs, and (c) within twenty (20) days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

### **3. Grant of Security Interest.**

3.1 Security Agreement. The parties intend for this Mortgage to create a lien on the Property, and an absolute assignment of the Rents, all in favor of Mortgagee. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property, Mortgagor as debtor hereby grants Mortgagee as secured party a security interest in all such Property and Rents, to secure payment and performance of the Secured Obligations. This Mortgage constitutes a security agreement under the New Hampshire Uniform Commercial Code (“UCC”) covering all such Property and Rents.

3.2 Financing Statements. Mortgagor hereby authorizes Mortgagee to file one or more financing statements. In addition, Mortgagor shall execute such other documents as Mortgagee may from time to time reasonably require to perfect or continue the perfection of Mortgagee’s security interest in any Property or Rents. As provided in Section 5.13 below, Mortgagor shall pay all fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. In the event that Mortgagor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed in any way as derogating from or impairing this Mortgage or the rights or obligations of the parties under it.

### **4. Fixture Filing.**

This Mortgage constitutes (separate from and in addition to any financing statements with respect to personal Property as filed pursuant to Section 3.2 above) a financing statement filed as a fixture filing under Article 9 of the New Hampshire Uniform Commercial Code, as amended or recodified from time to time, covering any Property which now is or later may become fixtures attached to the Premises or Improvements. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preambles of this Mortgage. To the extent that any interest is to be filed in any other State filing agency to perfect Mortgagee’s secured rights, Mortgagor authorizes Lender to make said filing.

### **5. Rights and Duties of the Parties.**

5.1 Representations and Warranties. Mortgagor represents and warrants that:

(a) Mortgagor lawfully holds fee simple title to all of the Premises and Improvements free from all encumbrances, except as noted on Exhibit B (the “**Permitted Encumbrances**”), and shall and will warrant and defend the Premises to Mortgagee



against the claims and demands of all persons for so long as the Secured Obligations are outstanding and unpaid;

(b) Mortgagor has good title to all Property;

(c) Mortgagor has the full and unlimited power, right and authority to encumber the Property and assign the Rents;

(d) This Mortgage creates a first priority mortgage interest and lien on the Property;

(e) The Property includes all property and rights which may be reasonably necessary or desirable to promote the present use and enjoyment of the Premises and Improvements; and

(f) Mortgagor's place of business, or its chief executive office if it has more than one place of business, is located at the address set forth at the beginning of this Mortgage.

5.2 Taxes and Assessments. Mortgagor shall pay or cause the Tenant to pay all real estate taxes and assessments and charges of every kind upon the Premises before the same become delinquent, provided, however, that Mortgagor shall have the right to pay such tax under protest or to otherwise contest any such tax or assessment, but only if (a) such contest has the effect of preventing the collection of such taxes so contested and also of preventing the sale or forfeiture of the Property or any part thereof or any interest therein, (b) Mortgagor has notified Mortgagee of Mortgagor's intent to contest such taxes, and (c) Mortgagor has deposited security in form and amount satisfactory to Mortgagee, in its sole discretion, and has increased the amount of such security so deposited promptly after Mortgagee's request therefor. If Mortgagor fails to commence such contest or, having commenced to contest the same, and having deposited such security required by Mortgagee for its full amount, shall thereafter fail to prosecute such contest in good faith or with due diligence, or, upon adverse conclusion of any such contest, shall fail to pay such tax, assessment or charge, Mortgagee may, at its election (but shall not be required to), pay and discharge any such tax, assessment or charge, and any interest or penalty thereon, and any amounts so expended by Mortgagee shall be deemed to constitute disbursements of the Loan proceeds hereunder (even if the total amount of disbursements would exceed the face amount of the Note). Mortgagor shall furnish to Mortgagee evidence that taxes are paid before imposition of any penalty or accrual of interest.

5.3 Performance of Secured Obligations. Mortgagor shall promptly pay and perform each Secured Obligation in accordance with its terms.

5.4 Funds for Taxes, Insurance and Other Charges. [Provision for Tax Escrow: Omitted, as tenant will be paying taxes, insurance, etc. under the BAE Lease.]

5.5 Use of Property. Unless required by applicable law or unless Mortgagee has otherwise agreed in writing, Mortgagor shall not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Mortgagor shall not

initiate or acquiesce in a change in the zoning classification of the Property without Mortgagee's prior written consent.

#### 5.6 Liens, Charges and Encumbrances.

(a) Mortgagor shall pay or shall cause the Tenant to pay all water and sewer rates, rents, taxes, assessments premiums, charges and impositions, attributable to the Property. Subject to Mortgagor's right to contest set forth in Section 5.6(b) below, Mortgagor shall promptly discharge any lien that has, or may have, priority over or equality with, the lien of this Mortgage, other than Permitted Encumbrances.

(b) If a mechanic's lien is filed against the Property and remains undischarged for a period of thirty (30) days, Mortgagor shall promptly notify Mortgagee and, at Mortgagee's request, shall, at Mortgagor's option, either (i) escrow with Mortgagee or, with the consent of Mortgagee, deposit in a court of competent jurisdiction a sum of money equal to the amount of the lien, or (ii) provide a bond against the lien in such amount and in such manner as to discharge the lien as an encumbrance against the Property. Without Mortgagee's prior written consent, Mortgagor shall not allow any lien, encumbrance, or other interest in the Property to be perfected against the Property, other than Permitted Encumbrances, unless Mortgagor is then diligently contesting same and has, as to the lien, encumbrance or interest being contested, complied with (i) or (ii) of the preceding sentence, and with all provisions of the Loan Documents with respect thereto, with any conflict between the rights of Mortgagor under this Mortgage, and the Loan Documents to be determined by Mortgagee, within its discretion.

5.7 Insurance. Mortgagor shall or shall cause the Tenant to keep all Improvements now existing or hereafter erected on the Property insured against loss by fire and such other hazards, casualties, and contingencies and in such amounts as Mortgagee may require from time to time with financially sound and reputable insurers, and Mortgagor will pay promptly when due any premiums on such insurance. All policies of insurance shall be delivered to and held by Mortgagee and have loss-payable clauses in favor of and in form acceptable to Mortgagee. Not less than fifteen (15) days before the expiration of any such policies, Mortgagor will deliver to Mortgagee new or renewal policies in like amounts covering the same risks. The policies shall provide that no cancellation shall occur without ten (10) days prior written notice to Mortgagee. Should any loss occur to the insured property, Mortgagor will give immediate written notice to Mortgagee and will not adjust nor settle such loss without the written consent of Mortgagee, which may make proof of loss if not made promptly by Mortgagor. The insurance proceeds or any part thereof shall be applied in accordance with the terms of the BAE Lease. Subject to the terms of the BAE Lease, in the event of foreclosure of this Mortgage, all right, title, and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser at foreclosure sale, and Mortgagee is hereby appointed attorney in fact for Mortgagor for the purpose of assigning and transferring such policies and receiving all or any part of the proceeds therefrom.

#### 5.8 Condemnation.

(a) Mortgagor shall promptly notify Mortgagee of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Mortgagor shall appear in and prosecute any such action or proceeding unless otherwise directed

by Mortgagee in writing. Mortgagor authorizes Mortgagee, at Mortgagee's option, as attorney-in-fact for Mortgagor, to commence, appear in and prosecute, in Mortgagee's or Mortgagor's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, shall be paid or disbursed pursuant to the BAE Lease.

(b) Subject to the terms of the BAE Lease, with the consent of Mortgagee, which consent may be withheld in Mortgagee's reasonable discretion, Mortgagor may apply such awards, payments, proceeds or damages, after the deduction of Mortgagee's expenses incurred in the collection of such amounts, to restoration or repair of the Property. Otherwise such sums so received shall be applied to payment of the Secured Obligations. Mortgagor agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Mortgagee may reasonably require.

5.9 Preservation and Maintenance of Property. Mortgagor (a) shall not commit waste or permit impairment or deterioration of the Property, reasonable wear and tear excluded; (b) shall not abandon the Property; (c) shall, unless Mortgagee withholds insurance proceeds as security for or application to the Secured Obligations, restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Mortgagee may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair unless the improvements constituting the Property are (i) totally destroyed, (ii) insurance has been maintained thereon as required by this Mortgage, and (iii) Mortgagee applies the proceeds of such insurance to payment of the Secured Obligations; (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances, in good repair and shall replace improvements, fixtures, equipment, machinery and appliances on the Property owned by Mortgagor when necessary to keep such items in good repair; (e) shall comply in all material respects with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, including, without limitation, the Americans with Disabilities Act, as it may be amended from time to time; and (f) shall give notice in writing to Mortgagee, appear in and defend any action or proceeding purporting to affect the Property, the security of this Mortgage or the rights or powers of Mortgagee, except for any such action or proceeding caused by the gross negligence or intentional misconduct of Mortgagee. Unless required by applicable law or unless Mortgagee has otherwise consented in writing, neither Mortgagor nor any tenant or other Person shall remove, demolish or alter any improvement erected on the Property or any fixture (other than trade fixtures and alterations for tenant improvements and in the ordinary course), equipment, machinery or appliance in or on the Property owned by Mortgagor and used or intended to be used in connection with the Property.

5.10 Releases, Extensions, Modifications and Additional Security. From time to time, Mortgagee may perform any of the following acts without incurring any liability or giving notice to any person:

(a) Release any person liable for payment of any Secured Obligation;

(b) Extend the time for payment, or otherwise agree with Mortgagor to alter the terms of payment, of any Secured Obligation;

(c) Accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;

(d) Release any property securing the Secured Obligations;

(e) Consent to the making of any plat or map of the Property or any part of it;

(f) Join in granting any easement or creating any restriction affecting the Property; or

(g) Join in any subordination or other agreement affecting this Mortgage or the lien of it; or

(h) Release the Property or any part of it.

#### 5.11 Protection of Mortgagee's Security.

(a) If Mortgagor fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced that affects the Property or title thereto or the interest of Mortgagee therein, including, but not limited to, eminent domain, insolvency, enforcement of local laws, or arrangements or proceedings involving a bankrupt or decedent, then Mortgagee, at Mortgagee's option, may make such appearances, disburse such sums and take such action as Mortgagee deems necessary, in its reasonable discretion, to protect Mortgagee's interests, including, but not limited to, (a) disbursement of reasonable attorneys' fees; (b) entry upon the Property to remedy any failure of Mortgagor to perform hereunder; and (c) procurement of satisfactory insurance.

(b) Any amounts disbursed by Mortgagee pursuant to this Section 5.11, with interest thereon, shall become part of the Secured Obligations and shall be secured by this Mortgage. Unless Mortgagor and Mortgagee agree in writing to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the Default Rate as defined in the Note. Mortgagor hereby covenants and agrees that Mortgagee shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the Secured Obligations. Nothing contained in this Section 5.11 shall require Mortgagee to incur any expense or take any action hereunder.

(c) The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of the right of Mortgagee to accelerate the maturity of any of the Secured Obligations secured by this Mortgage. Mortgagee's receipt of any awards, proceeds or damages under the insurance or condemnation provisions of this Mortgage shall not operate to cure or waive any default in payment of sums secured by this Mortgage.

5.12 Release. When all of the Secured Obligations have been paid in full and all fees and other sums owed by Mortgagor under this Mortgage and the other Loan Documents have

been received, Mortgagee shall release this Mortgage, the mortgage interest and lien created thereby, and all notes and instruments evidencing the Secured Obligations. Mortgagor shall pay any reasonable and customary costs of preparation and recordation of such release.

#### 5.13 Compensation, Exculpation and Indemnification.

(a) Mortgagor agrees to pay reasonable and customary fees as may be charged by Mortgagee, for any services that Mortgagee may render in connection with this Mortgage, including Mortgagee's providing a statement of the Secured Obligations or providing the release pursuant to Section 5.12 above. Mortgagor shall also pay or reimburse all of Mortgagee's reasonable costs and expenses which may be incurred in rendering any such services. Mortgagor further agrees to pay or reimburse Mortgagee for all reasonable, out-of-pocket costs, expenses and other advances which may be incurred or made by Mortgagee in any efforts to enforce any terms of this Mortgage, including any rights or remedies afforded to Mortgagee under Section 6.2, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, including reasonable attorneys' fees and other legal costs, costs of any Foreclosure Sale (as defined in Subsection 6.2(k) below) and any cost of evidence of title. If Mortgagee chooses to dispose of Property through more than one Foreclosure Sale, Mortgagor shall pay all reasonable costs, expenses or other advances that may be incurred or made by Mortgagee in each of such Foreclosure Sales. In any foreclosure of the lien hereof or enforcement of any other remedy of Mortgagee under this Mortgage, mortgage interest or lien, or the Note, there shall be allowed and included as additional indebtedness all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' costs and fees (including the costs and fees of paralegals), survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Mortgagee with respect to environmental matters, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as reasonably necessary at any sale which may be had. All expenditures and expenses of the nature herein mentioned, and such expenses and fees as may be incurred in the protection of the Property and maintenance of the mortgage interest and lien of this Mortgage, including the reasonable fees of any attorney (including the costs and fees of paralegals) employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Property, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate and shall be secured by this Mortgage.

(b) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following:

(i) Mortgagee's reasonable exercise of or failure to exercise any rights, remedies or powers granted to Mortgagee in this Mortgage;

(ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage; or

(iii) Any loss sustained by Mortgagor or any third party resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, after an Event of Default, unless the loss is caused by the gross negligence or willful misconduct and bad faith of Mortgagee.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

(c) Mortgagor agrees to indemnify Mortgagee against and hold it harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which it may suffer or incur:

(i) In performing any act required or permitted by this Mortgage or any of the other Loan Documents or by law, except in cases involving the gross negligence or willful misconduct of Mortgagee;

(ii) Because of any failure of Mortgagor to perform any of its obligations except in cases involving the gross negligence or willful misconduct of Mortgagee; or

(iii) Because of any alleged obligation of or undertaking by Mortgagee to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document relating to the Property other than the Loan Documents.

This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release of this Mortgage.

(d) Mortgagor shall pay all obligations to pay money arising under this Section 5.13 within thirty (30) days of written demand by Mortgagee. Each such obligation shall be added to, and considered to be part of, the principal of the Note, and shall bear interest from the date the obligation arises at the Default Rate.

#### 5.14 Hazardous Waste Covenants and Indemnification.

(a) Mortgagor covenants and warrants that Mortgagor's use of the Property shall at all times comply with and conform in all material respects to all laws, statutes, ordinances, rules and regulations of any governmental, quasi-governmental or regulatory authority now or hereafter in effect ("**Laws**") which relate to the transportation, storage, placement, handling, treatment, discharge, release, generation, production or disposal (collectively "**Treatment**") of any waste, waste products, petroleum or petroleum based products, radioactive materials, poly-chlorinated biphenyls, asbestos, hazardous materials or substances of any kind, pollutants, contaminants and any substance which is regulated by any law, statute, ordinance, rule or regulation (collectively "**Waste**"). Mortgagor further covenants that it shall not engage in or permit any Person to engage in any Treatment of any Waste on or that affects the Property except for activities which

comply with all Laws in all material respects. "Person" means any individual, sole proprietorship, partnership, joint venture, unincorporated organization, corporation, limited liability company, institution, trust, estate, government or other agency or political subdivision thereof or any other entity.

(b) Except as specifically disclosed to Mortgagee in writing, including those reports and submissions by and from Aries Engineering, Inc. , Mortgagor has no actual knowledge that the Property is the subject of any Notice, as hereinafter defined, from any governmental authority or Person.

(c) Promptly upon receipt of any Notice from any Person, Mortgagor shall deliver to Mortgagee a true, correct and complete copy of any written Notice or a true, correct and complete report of any non-written Notice. Additionally, Mortgagor shall notify Mortgagee immediately after having knowledge or receiving Notice of any Waste upon or affecting the Property. "Notice" shall mean any note, oral or written notice, information, knowledge, or report of any of the following:

(i) any suit, proceeding, investigation, order, consent order, injunction, writ, award or action related to or affecting or indicating the Treatment of any Waste in or affecting the Property;

(ii) any spill, contamination, discharge, leakage, release, threatened release, or escape of any Waste in or affecting the Property, whether sudden or gradual, accidental or anticipated, or of any other nature, in violation of applicable Law ("Spill");

(iii) any dispute relating to Mortgagor's or any other Person's Treatment of any Waste or any Spill in or affecting the Property;

(iv) any claims by or against any insurer related to or arising out of any Waste or Spill in or affecting the Property;

(v) any recommendations or requirements of any governmental or regulatory authority, insurer or board of underwriters relating to any Treatment of Waste or a Spill in or affecting the Property;

(vi) violation any legal requirement or deficiency related to the Treatment of Waste or any Spill in or affecting the Property; or

(vii) any tenant, licensee, concessionaire, manager, or other Person occupying or using the Property or any part thereof which has engaged in or engages in the Treatment of any Waste in or affecting the Property in violation of applicable Laws.

(d) In the event that (i) Mortgagor has caused, suffered or permitted, directly or indirectly, any Spill in or affecting the Property during the term of this Mortgage, or (ii) any Spill of any Waste has occurred on the Property during the term of this Mortgage, then Mortgagor shall immediately take or cause BAE to take all of the following actions:

(A) notify Mortgagee, as provided herein;

(B) take all steps necessary or appropriate to clean up such Spill and any contamination related to the Spill, all in accordance with Laws; provided that Mortgagor may cause BAE to contest any such requirement, rule or regulation by appropriate proceedings diligently and in good faith, so long as (1) Mortgagor provide or causes BAE to provide Mortgagee, at BAE's cost, such sureties, performance bonds and other assurances as Mortgagee may from time to time request in respect of such Spill and contamination and the cleanup thereof, (2) any governmental or other action against Mortgagor and the Property is effectively stayed during Mortgagor's efforts so to contest, and (3) in Mortgagee's determination, a delay in such clean-up will not result in or increase any loss or liability to Mortgagee;

(C) subject to Section (B) above, restore the Property, provided that such restoration shall be no less than, but need not be more than, what is otherwise required by Law;

(D) allow any local, state or federal governmental or regulatory authority or agency having jurisdiction thereof to monitor and inspect all cleanup and restoration related to such Spill; and

(E) at the written request of Mortgagee, cause BAE to post a bond or obtain a letter of credit for the benefit of Mortgagee (drawn upon a company or bank satisfactory to Mortgagee) or deposit an amount of money in an escrow account under Mortgagee's name upon which bond, letter of credit or escrow Mortgagor may draw, and which bond, letter of credit or escrow shall be in an amount sufficient to meet all of Mortgagor's obligations under this Section 5.14; and Mortgagee shall have the unfettered right to draw against the bond, letter of credit or escrow in its discretion in the event that either Mortgagor or BAE is unable or unwilling to meet its obligation under this Section 5.14 or, if Mortgagor fails to cause BAE to post a bond or obtain a letter of credit or deposit such cash as is required herein, then Mortgagee, at Mortgagor's cost and expense, may, but shall have no obligation to do so for the benefit of Mortgagor and do those things that Mortgagor is required to do under clauses (B), (C) and (D) of this subsection (d).

(e) Mortgagor hereby agrees that it shall indemnify, defend, save and hold harmless Mortgagee and Mortgagee's officers, directors employees, agents, successors, assigns and affiliates (collectively, "**Indemnified Parties**") against and from, and to reimburse the Indemnified Parties with respect to, any and all damages, claims, liabilities, losses, costs and expenses (including, without limitation, reasonable attorneys', engineers' and consultants' fees and expenses, court costs, administrative costs, costs of appeals and all clean up, administrative, fines, penalties and enforcement costs of applicable governmental agencies) that are incurred by or asserted against the Indemnified Parties by reason or arising out of: (i) the breach of any representation, warranty or undertaking of Mortgagor under this Section 5.14, or (ii) the Treatment of any Waste by Mortgagor or any tenant, licensee, concessionaire, manager, or other



Person occupying or using the Property, upon or affecting the Property, or (iii) any Spill governed by the terms of this Section 5.14; except to the extent the events described in subsections (i), (ii) or (iii) are caused by the gross negligence or willful misconduct of Mortgagee or occur after Mortgagee has taken possession of the Property through foreclosure or a deed in lieu thereof.

5.15 Defense and Notice of Claims and Actions. At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or could affect any such matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.16 Subrogation. Mortgagee shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Mortgagee in accordance with this Mortgage or with the proceeds of any loan secured by this Mortgage.

5.17 Site Visits, Observation and Testing. Mortgagee and its agents and representatives shall have the right subject to the rights of tenants of the Property, at any reasonable time and upon reasonable advance notice, to enter and visit the Property for the purpose of performing appraisals, observing the Property, taking and removing soil or groundwater samples, and conducting tests on any part of the Property. Mortgagee has no duty, however, to visit or observe the Property or to conduct tests, and no site visit, observation or testing by Mortgagee, its agents or representatives shall impose any liability on any of Mortgagee, its agents or representatives unless such liability arises out of the gross negligence or willful misconduct of Mortgagee or its agents or representatives. In no event shall any site visit, observation or testing by Mortgagee, its agents or representatives be a representation that Waste are or are not present in, on or under the Property, or that there has been or shall be compliance with any Law, regulation or ordinance pertaining to Waste or any other applicable governmental law. Neither Mortgagor nor any other party is entitled to rely on any site visit, observation or testing by any of Mortgagee, its agents or representatives. Neither Mortgagee, its agents or representatives owe any duty of care to protect Mortgagor or any other party against, or to inform Mortgagor or any other party of, any Waste or any other adverse condition affecting the Property. Mortgagee shall give Mortgagor reasonable notice before entering the Property. Mortgagee shall make reasonable efforts to avoid interfering with Mortgagor's (and Mortgagor's tenants') use of the Property in exercising any rights provided in this Section 5.17.

5.18 Notice of Change. Mortgagor shall give Mortgagee prior written notice of any change in: (a) the location of its place of business or its chief executive office if it has more than one place of business; (b) the location of any of the Property, including the Books and Records; and (c) Mortgagor's name, business structure and/or state of organization. Unless otherwise approved by Mortgagee in writing, all Property that consists of personal property (other than the Books and Records) will be located on the Premises and all Books and Records will be located at Mortgagor's place of business or chief executive office if Mortgagor has more than one place of business.

5.19 Transfers. Except as expressly permitted hereunder or under any of the other Loan Documents, it is an additional condition of this Mortgage, for breach of which the Secured

Obligations shall become immediately due and payable and foreclosure may be claimed, that Mortgagor shall not (a) voluntarily or involuntarily sell, exchange, assign, convey, transfer or otherwise dispose of all or any portion of the Property (or any interest therein, legal or equitable), or all or any of the ownership interest in Mortgagor, or (b) convey to any Person, other than Mortgagee, a security interest in the Property or any part thereof or voluntarily or involuntarily permit or suffer the Property to be further encumbered.

## **6. Default and Remedies.**

6.1 Events of Default. Mortgagor will be in default under this Mortgage upon the occurrence of an Event of Default as defined in the Loan Agreement, including, but not limited to the following events of default (some or all collectively, “**Events of Default;**” any one singly, an “**Event of Default**”).

(a) If any payment on the Note shall not be paid in full within fifteen (15) days of the date when due and payable.

(b) If Mortgagor fails to perform or observe any covenant or agreement contained in this Mortgage or in any other of the Loan Documents, and such failure remains unremedied in accordance within the cure provisions of the Loan Agreement, as may apply, if at all.

(c) If any material representation or warranty made in or pursuant to this Mortgage or any Loan Document shall be false when made.

(d) If any Event of Default shall occur under any other Loan Document, or if under any Loan Document in which payment is required to be made by Mortgagor or any Guarantor on demand of Mortgagee, such demand for payment is not satisfied, after any applicable cure period has elapsed.

(e) If Mortgagor shall abandon any of the Property or shall sell, lease, convey or transfer (or contract to sell, lease, convey or transfer) all or any part of the Property without first obtaining Mortgagee’s written consent, except as otherwise permitted in the Mortgage or any other Loan Document.

(f) If Mortgagor shall assign any part of the rents or profits of the Property other than to Mortgagee without first obtaining Mortgagee’s written consent.

6.2 Remedies. At any time after an Event of Default has occurred and is continuing for a period of 120 days thereafter, and subject to the terms of the BAE Lease, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, in addition to all other rights and remedies available to Mortgagee at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Declare all of the Secured Obligations to be immediately due and payable, whereupon all unpaid principal, interest and fees in respect of such Secured Obligations,

together with all of Mortgagee's costs, expenses and attorneys' fees related thereto, under the terms of the Loan Documents or otherwise, shall be immediately due and payable;

(b) Terminate any commitment to make any additional advances under any Loan;

(c) Exercise any and all rights and remedies available to Mortgagee under any applicable Law;

(d) Exercise any and all rights and remedies granted to Mortgagee under the terms of this Mortgage and any of the other Loan Documents;

(e) Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through Mortgagor, and without regard for the solvency or insolvency of Mortgagor or the then value of the Property, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Property and the Rents, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Property, and such rights and powers as Mortgagee would have, upon entering and taking possession of the Property under subsection (g) below.

(f) Mortgagee, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Mortgagee may reasonably consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: taking and possessing all of Mortgagor's or the then owner's Books and Records; entering into, enforcing, modifying or canceling leases on such terms and conditions as Mortgagee may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Mortgagee; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Mortgagee so requests, Mortgagor shall assemble all of the Property that has been removed from the Premises and make all of it available to Mortgagee at the site of the Premises. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as Mortgagor's attorney-in-fact to perform such acts and execute such documents as Mortgagee in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Mortgagor's name on any instruments.

(g) Mortgagee may cure any breach or default of Mortgagor, and if it chooses to do so in connection with any such cure, Mortgagee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under, this Mortgage in the event that Mortgagor fails to do so; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Mortgagee's reasonable judgment is

or may be senior in priority to this Mortgage, such judgment of Mortgagee or to be conclusive as among the parties to this Mortgage; obtaining insurance and/or paying any premiums or charges for insurance required to be carried hereunder; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee. Any amounts expended by Mortgagee under this Subsection 6.2(g) shall be secured by this Mortgage.

(h) Mortgagee shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the mortgage interest and/or lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Mortgagee or its nominee may bid and enter successive bids, and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder, and the amount of Mortgagee's successful bid shall be credited on the Secured Obligations. Without limiting the foregoing, Mortgagee may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction. In addition to the right provided in Subsection 6.2(a), upon, or at any time after the commencement of foreclosure of this Mortgage, Mortgagee shall be entitled to the appointment of a receiver of the property by the Superior Court for the county in which the property is located, and Mortgagor hereby consents to such appointment.

(i) Mortgagee may exercise all rights and remedies contained in any other instrument, document, agreement or other writing heretofore, concurrently or in the future executed by Mortgagor or any other person or entity in favor of Mortgagee in connection with the Secured Obligations or any part thereof, without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against Mortgagor. Mortgagee shall have the right to pursue all remedies afforded to a mortgagee under applicable law, and shall have the benefit of all of the provisions of such applicable law, including all amendments thereto which may become effective from time to time after the date hereof.

(j) If the Property consists of more than one unit, lot, parcel or item of property, Mortgagee may:

(i) Designate the order in which the units, lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and

(ii) Elect to dispose of the units, lots, parcels and/or items through a single consolidated sale or disposition to be held or made under or in connection with the foreclosure thereof and sale; or through two or more such sales or dispositions; or in any other manner Mortgagee may deem to be in its best interests (any such sale or disposition, a "Foreclosure Sale;" and any two or more, "Foreclosure Sales").

(iii) If Mortgagee chooses to have more than one Foreclosure Sale, Mortgagee at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as Mortgagee may deem to be in its best interests. No

Foreclosure Sale shall terminate or affect the mortgage interest and/or liens of this Mortgage on any part of the Property which has not been sold, until all of the Secured Obligations have been paid in full.

6.3 Credit Bids. At any Foreclosure Sale, any person, including Mortgagee (but not Mortgagor) may bid for, enter successive bids on, and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property, Mortgagee may settle for the purchase price by crediting the sales price of the property against the following obligations:

(a) First, the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to pay or reimburse Mortgagee under Section 5.13 of this Mortgage; and

(b) Second, all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose.

6.4 Application of Foreclosure Sale Proceeds. Mortgagee shall apply the proceeds of any Foreclosure Sale in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee under Section 5.13 of this Mortgage;

(b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Mortgagee under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it, or if Lender so determines, paying into a court of competent jurisdiction on an interpleader action, naming parties with an interest therein, and retaining costs and attorney's fees for bringing and filing and maintaining said action.

6.5 Application of Rents and Other Sums. Mortgagee shall apply any and all Rents collected by it, and any and all sums other than proceeds of a Foreclosure Sale which Mortgagee may receive or collect under Section 6.2 above, in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Mortgagee or any receiver;

(b) Second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons entitled to it.

Mortgagee shall have no liability for any funds which it does not actually receive.

**7. Miscellaneous Provisions.**

7.1 Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage. The Loan Documents also grant further rights to Mortgagee and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property.

7.2 No Waiver or Cure.

(a) Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not: cure or waive any breach, Event of Default or notice of default under this Mortgage or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and all other defaults under the Loan Documents have been cured); or impair the security of this Mortgage; or prejudice Mortgagee or any receiver in the exercise of any right or remedy afforded any of them under this Mortgage; or be construed as an affirmation by Mortgagee of any tenancy, lease or option, or a subordination of the lien of this Mortgage. None of the below provisions shall be deemed to remove any right to cure, if such exists as to such, within the Loan Documents or this Mortgage.

(i) Mortgagee, its agent or a receiver takes possession of all or any part of the Property in the manner provided in Subsection 6.2 (f).

(ii) Mortgagee collects and applies Rents as permitted under Sections 2.3 and 6.5 above, either with or without taking possession of all or any part of the Property.

(iii) Mortgagee receives and applies to any Secured Obligation any proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Mortgagee hereunder.

(iv) Mortgagee makes a site visit, observes the Property and/or conducts tests as permitted under Section 5.17 above.

(v) Mortgagee receives any sums under this Mortgage or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations.

(vi) Mortgagee or any receiver invokes any right or remedy provided under this Mortgage.

### 7.3 Powers of Mortgagee.

(a) If Mortgagee performs any act which it is empowered or authorized to perform under this Mortgage, including any act permitted by Section 5.10 or Subsection 6.2(d) of this Mortgage, that act alone shall not release or change the liability of Borrower for the payment and performance of the Secured Obligations then outstanding, or the lien of this Mortgage on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Mortgagor shall not be released or changed if Mortgagee grants any successor in interest to Mortgagor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Mortgagee shall not be required to comply with any demand by the original Mortgagor that Mortgagee refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

(b) Mortgagee may take any of the actions permitted under Subsections 6.2(e) and/or 6.2(f) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.

(c) From time to time, Mortgagee may apply to any court of competent jurisdiction for aid and direction in executing and enforcing the rights and remedies created under this Mortgage. Mortgagee may from time to time obtain orders or decrees directing, confirming or approving acts in executing and enforcing these rights and remedies.

7.4 Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

7.5 Applicable Law. The creation, perfection and enforcement of the mortgage interest and/or lien of this Mortgage shall be governed by the law of the state of New Hampshire.

7.6 Successors in Interest. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Section 7.7 does not waive the provisions of Section 5.19 above.

### 7.7 Interpretation.

(a) Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only

and do not define or limit any terms or provisions. The word “include(s)” means “include(s), without limitation,” and the word “including” means “including, but not limited to.”

(b) The word “obligations” is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions.

(c) No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibits to this Mortgage are hereby incorporated in this Mortgage.

7.8 Waiver of Statutory Rights. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshalled upon any foreclosure of the mortgage interest and/or lien hereof and agrees that any court having jurisdiction to foreclose such mortgage interest and/or lien may order the Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any foreclosure of this Mortgage on behalf of Mortgagor and on behalf of each and every person acquiring any interest in or title to the Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to the provisions of applicable law.

7.9 Severability. If any provision of this Mortgage should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and shall in no way affect the validity of this Mortgage except that if such provision relates to the payment of any monetary sum, then Mortgagee may, at its option, declare all Secured Obligations immediately due and payable.

7.10 Notices. All notices, requests, demands or other communications provided for hereunder shall be in writing and mailed or delivered to any party hereto in accordance with the Loan Agreement.

7.11 Mortgagee’s Lien for Service Charge and Expenses. At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage secures (in addition to any Loan proceeds disbursed from time to time) the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee not to exceed the maximum amount secured hereby.

7.12 WAIVER OF TRIAL BY JURY. MORTGAGOR AND MORTGAGEE EACH WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN MORTGAGEE AND MORTGAGOR ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS MORTGAGE OR ANY NOTE OR OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED THERETO.



7.13 UCC Financing Statements. In addition, Mortgagor agrees to sign any and all other documents that Mortgagee deems necessary in its sole discretion to perfect, protect, and continue Mortgagee's lien and security interest on the Property.

7.14 Condominium Development of Premises. Mortgagor further covenants and agrees that, without the prior written consent of Mortgagee herein, no part of the Premises herein mortgaged shall be declared, or become the subject of, a condominium under the New Hampshire Condominium Act, as it may be amended or supplemented, or become the subject of any covenants or restrictions, or any planned unit development, or any other type of development that would control or restrict the uses to which the Premises may be put or the scheme or arrangement of its development or the design, location or character of its buildings or improvements, or which would impose obligations or assessments of any type upon any owners or tenants of the Premises, or upon any other parties who may use or enjoy the Premises.

7.15 [Intentionally Deleted]

7.16 Variable Interest Rate. [Not applicable, intentionally deleted.]

7.17 Statutory Power of Sale. This Mortgage is given upon THE STATUTORY CONDITION and upon the further condition of full and seasonable compliance by the Mortgagor of all of the preceding terms, conditions, covenants and agreements, for any breach of which: (a) an Event of Default occurs hereunder; (b) Mortgagee shall have the right of foreclosure and any and all other rights and remedies given to a mortgagee and secured party under the law of New Hampshire, this Mortgage and any instrument it secures; and (c) Mortgagee, its successors and assigns, subject to compliance with New Hampshire law, shall have, to the full extent now or hereafter available, "THE STATUTORY POWER OF SALE" pursuant to New Hampshire Revised Statutes Annotated Chapter 479, as said Statutes have been and shall be amended, all of which are expressly incorporated herein by reference. In connection with the foregoing, Mortgagor acknowledges and agrees that this Mortgage is given primarily for a business, commercial or agricultural purpose. Mortgagor hereby represents that the Premises and all other collateral or security granted herein are not used for residential purposes whatsoever, and that the Premises contain no residential units or dwelling facilities. Such Statutory Power of Sale shall be in addition to all rights and remedies set forth herein or available under applicable law. Upon the occurrence of an Event of Default under this Mortgage, Mortgagee, its successors and assigns or its or their agent or attorney, may sell the Premises or such portion thereof as may remain subject to the Mortgage in case of any partial release thereof, either as a whole or in parcels, together with all improvements that may be thereon, by a public sale on or near any part of the Premises then subject to this Mortgage or at Mortgagee's principal place of business or at any other office of Mortgagee or any attorney or agent thereof located in the same county in which any part of the Premises is located, first complying with the terms of this Mortgage and the statutes relating to the foreclosure of mortgage by the exercise of a Power of Sale, and Mortgagee, its successors and assigns, may convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple; and such sale shall forever bar the Mortgagor and all persons claiming under it from all right and interest in the Premises, whether at law or in equity.

7.18 Qualification.

Under no circumstances shall Mortgagor be obligated directly or indirectly to pay expenses of operation, maintenance and upkeep of the Property except from Loan Proceeds or Lease Payments. Except as expressly permitted pursuant to RSA 162-I:9-b, nothing contained herein shall in any way obligate the State to raise any money by taxation or use other public funds for any purpose in relation to the Property. Except as expressly permitted pursuant to RSA 162-I:9-b, neither the State nor Mortgagor shall pay or promise to pay any debt or meet any financial obligation to any person at any time in relation to the Property except (i) from monies received or to be received under the provisions of the Loan Agreement or derived from the exercise of Mortgagor's rights under the BAE Lease, other than moneys received for its own purposes, or (ii) as may be required by law other than the provisions of the Act. Nothing contained in this Agreement shall be construed to require Mortgagor to operate the Property itself or to conduct any business enterprise in connection therewith.

SIGNATURE PAGE FOLLOWS:

IN WITNESS WHEREOF, Mortgagor has executed or has caused this Mortgage to be executed this \_\_\_\_ day of December, 2018 to be effective as of the Effective Date.

Business Finance Authority of the State of New Hampshire

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
James Key-Wallace  
Executive Director  
Duly Authorized

STATE OF NEW HAMPSHIRE  
Merrimack, ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2018, by James Key-Wallace, Executive Director, duly authorized for the Business Finance Authority of the State of New Hampshire, on behalf of the same.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires:

**EXHIBIT A**

**EXHIBIT B**  
*Permitted Encumbrances*

**Those shown on the loan title insurance policy to Mortgagee, issued with this Mortgage, and no others.**

**TERM LOAN NOTE  
LOAN 1**

\$9,000,000.00

December \_\_, 2018

**FOR VALUE RECEIVED**, the **BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE**, a body corporate and politic of the State of New Hampshire with a principal office at 2 Pillsbury Street, Concord, New Hampshire 03301 (“**Borrower**” or “**the Authority**”) promises to pay to the order of **SERVICE CREDIT UNION**, a New Hampshire lending institution having a place of business and mailing address of 3003 Lafayette Road, Portsmouth, New Hampshire, 03801 (“**Lender**”), at any office of said Lender, the principal sum of Nine Million and 00/100ths Dollars (\$9,000,000.00) (the “**Loan**”), or so much thereof as from time to time may be outstanding, together with interest on the unpaid principal balance computed at a rate and according to the terms indicated below (and subject to the Loan Agreement defined herein):

**EFFECTIVE DATE:** Notwithstanding the date of execution, this Commercial Term Loan Note (“**Note**”) shall have an Effective Date of December \_\_, 2018.

**2. MATURITY DATE:**

This Note shall have a maturity date of the ten (10) year anniversary of the Effective Date (the “**Maturity Date**” or “**Loan Term**”).

**3. INTEREST RATE.**

Interest shall be at the fixed rate of 4.25% during the Loan Term while not in default (the “**Interest Rate**”).

**4. PAYMENT TERMS:**

Beginning with the fifteenth (15<sup>th</sup>) day (or the first Business Day thereafter) of the calendar month that commences on or after the Effective Date, and on the same day of each consecutive month thereafter, until the ten (10) year anniversary of the Effective Date, Borrower shall make interest only payments, in arrears, based upon the Interest Rate and the outstanding principal. On the Maturity Date all principal, accrued interest, and other costs and charges shall be due and payable in full.

**5. FUNDING AGREEMENTS:**

(a) This Note is executed under the terms of the Bond Purchase and Loan Agreement (the “**Loan Agreement**”), together with all loan documents, including a Mortgage, Assignment of Rents, Security Agreement, and Fixture Filing (the “**Mortgage**”) executed herewith (collectively, the “**Loan Documents**”).

(b) This Note is the Note referred to in the Loan Agreement, (as amended, restated, supplemented, waived or otherwise modified from time to time), between Borrower and Lender of even date is entitled to the benefits of said Loan Agreement and is subject to all of the terms and conditions described therein. Terms used in this Note which are defined in the Loan Agreement shall have such defined meanings unless otherwise defined herein or unless the context otherwise requires. In the event of any discrepancy between a term in this Note, and the Loan Agreement, the term as defined in the Loan Agreement shall control.

(c) The proceeds of this Note are to be used to partially finance the Authority's purchase of the land and commercial buildings thereon located at 3000 Goffs Falls Road, Manchester, New Hampshire, together with other real estate and appurtenant rights described in the Mortgage (the "Premises"). Borrower shall, without limitation, fully comply with all provisions of the Loan Agreement, the Mortgage and all related Loan Documents.

(d) Except as provided in the State Guarantee specified in the Loan Agreement, all payments due from the Authority under this Note shall be made to the extent permitted by New Hampshire RSA Chapter 162-I and other applicable law and to the extent the Authority receives payment from its lease or sale of the Premises.

**6. SECURITY:**

This Note is secured by the Collateral described in the Loan Agreement, and the Loan Documents, including without limitation the Mortgage of the Premises.

**7. INTEREST RATE CALCULATION:**

The Borrower shall pay interest at the Interest Rate. Interest shall be computed pursuant to a 365/360 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding.

**8. APPLICATION OF PAYMENTS:**

Each payment received on this Note shall be applied first to unpaid late charges or other costs due Lender from Borrower (if any), then to interest billed, and the balance, if any, to principal. Interest shall accrue (if not timely paid) to the date payment is received.

**9. ADDITIONAL CHARGES IF PAYMENT NOT MADE WHEN DUE:**

To the extent permitted by law, Borrower shall pay to Lender, prior to maturity, for each payment of principal or interest not paid in full within fifteen (15) days after its due date, a late fee equal to five percent (5%) of the amount of such payment. All delinquency charges shall each become an additional part of the unpaid balance, together with, also as an additional part of the unpaid balance, all costs, expenses, and reasonable Attorneys' Fees (as that term is hereinafter defined) incurred with respect to any of the following: consultation with the Lender in connection with this loan, in collection of all or part of this Note, foreclosure of any mortgage or security interest which may secure either the debt hereunder or any guaranty

thereof (including, but not limited to, fees, costs and expenses of appraisals, re-appraisals, environmental or other studies, and all actions taken in response thereto or in connection therewith), any act to protect or sustain the mortgage interest of any such mortgage or the lien of any security agreement, any litigation or controversy arising from or connected with this Note or any mortgage or security agreement which may secure this Note (including, without limitation, any counterclaim or crossclaim or other action asserted against Lender by Borrower or any third parties), or any act to protect, enforce or release any of Lender's rights or remedies under this Note (including with respect to the existence or extent of the rights of Lender under this provision) or with regard to any collateral which may now or in the future secure this Note, or with regard to or against Borrower or any other obligors or any action Lender deems necessary to protect its interests and priority in the Mortgage and the Collateral. The payment of any additional charges provided for in this paragraph shall not be construed as an extension of the date when payment is due (on demand, at maturity or by acceleration).

As used herein, the term "**Attorneys' Fees**" shall mean the reasonable fees and charges incurred by any lawyer or lawyers or law firm retained by Lender and may include, without limitation, time and charges for professional services rendered by attorneys or paralegals (collectively, "**Fees**"), and for photocopies, telecopies, long distance telephone calls, computerized legal research, mileage, filing fees, recording fees and other costs, and third party expert and consultant fees (collectively, "**Disbursements**").

Borrower understands and acknowledges that the provisions of this Note relating to Lender's right to collect Attorneys' Fees, Fees and Disbursements are a material inducement to the extension of credit to Borrower hereunder.

#### **10. DEFAULT RATE:**

After maturity (whether by acceleration or otherwise), or for any period during which an Event of Default has occurred and is continuing under this Note or any other Loan Document, and until actual payment of all amounts owing and/or satisfaction of any and all non-payment Events of Default, all outstanding principal and costs under this Note shall, at the discretion of and after Notice by Lender, accrue additional interest at the rate of 4% over the Interest Rate (the "**Default Rate**"). The Default Rate is in addition to all of the other rights and remedies of Lender hereunder. Failure of Lender to exercise this right shall not constitute a waiver or relinquishment of Lender's right to enforce this remedy in the future.

#### **11. PREPAYMENT PREMIUM:**

Borrower may prepay this Note at any time without penalty.

#### **12. EVENTS OF DEFAULT AND ACCELERATION:**

The Lender at its option may declare the entire unpaid principal balance of this Note and accrued unpaid interest thereon to be immediately due and payable without notice or protest (both of which are hereby waived) at any time the occurrence of any one or more of the following Events of Default: (a) The failure by the Borrower to pay within fifteen (15) days after the date when due any amount then owing by the Borrower to the Lender; or (b) the occurrence of an Event of Default under the Loan Agreement or the Loan Documents, which continues to exist at the expiration of



any applicable cure period.

**13. SETOFF:**

To the extent permitted by law, Borrower hereby grants to the Lender a lien, security interest and a right of setoff as security for all liabilities and obligations to the Lender, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Lender or any entity under the control of the Lender, or in transit to any of them. Upon the occurrence of an Event of Default, without demand or notice, the Lender may set off the same or any part thereof and apply the same to any liability or obligation of the Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE THE LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED. The Lender shall not be required to marshal any present or future security for, or guarantees of, the obligations or to resort to any such security or guarantee in any particular order and the Borrower waives, to the fullest extent that it lawfully can, (a) any right they might have to require the Lender to pursue any particular remedy before proceeding against them and (b) any right to the benefit of, or to direct the application of the proceeds of any collateral until the obligations are paid in full. As soon as practicable, but not later than one full business day following any setoff applied pursuant to the above, Lender shall give notice of same to Borrower.

**14. ADDITIONAL PROVISIONS:**

No delay or omission by the Lender in exercising or enforcing any of the Lender's powers, rights, privileges, remedies or discretions hereunder shall operate as a waiver thereof on that occasion nor on any other occasion. No waiver of any default hereunder shall operate as a waiver of any other default hereunder, nor as a continuing waiver.

**15. PARTICIPATION:**

The Lender shall have the unrestricted right at any time and from time to time, and without the consent of or notice to the Borrower (or any Guarantor), to grant to one or more institutions or other persons (each a "**Participant**") participating interests in the Lender's obligations to lend hereunder and/or any or all of the loans held by the Lender hereunder. In the event of any such grant by the Lender of a participating interest to a Participant, whether or not upon notice to the Borrower, the Lender shall remain responsible for the performance of its obligations hereunder and the Borrower shall continue to deal solely and directly with the Lender in connection with the Lender's rights and obligations hereunder. The Lender may furnish any information concerning the Borrower in its possession from time to time to any prospective assignees and Participants, provided that the Lender shall require any such prospective assignee or Participant to maintain the confidentiality of such information.

**16. ASSIGNMENT:**

The Lender shall have the unrestricted right at any time or from time to time, and without

the Borrower's (or any Guarantor's) consent, to sell, assign, endorse, or transfer all or any portion of its rights and obligations hereunder to one or more Lenders or other entities (each, an "Assignee") and, the Borrower agrees that it shall execute, or cause to be executed such documents including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection herewith as the Lender shall deem necessary to effect the foregoing. In addition, at the request of the Lender and any such Assignee, the Borrower shall issue one or more new promissory notes, as applicable, to any such Assignee and, if the Lender has retained any of its rights and obligations hereunder following such assignment, to the Lender, which new promissory notes shall be issued in replacement of, but not in discharge of, the liability evidenced by the note held by the Lender prior to such assignment and shall reflect the amount of the respective commitments and loans held by such Assignee and the Lender after giving effect to such assignment. Upon the execution and delivery of appropriate assignment documentation, amendments and any other documentation required by the Lender in connection with such assignment, and the payment by Assignee of the purchase price agreed to by the Lender and such Assignee, such Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Lender hereunder (and under any and all other guaranties, documents, instruments and agreements executed in connection herewith) to the extent that such rights and obligations have been assigned by the Lender pursuant to the assignment documentation between the Lender and Assignee, and the Lender shall be released from its obligations hereunder and thereunder to a corresponding extent.

**17. USURY:**

The Borrower shall not be obligated to pay and the Lender shall not collect interest at a rate higher than the maximum permitted by law or the maximum that will not subject the Lender to any civil or criminal penalties. If, because of the acceleration of maturity the payment of interest in advance or any other reason, the Borrower is required, under the provisions of any Loan Document or otherwise, to pay interest at a rate in excess of such maximum rate, the rate of interest under such provisions shall immediately and automatically be reduced to such maximum rate and any payment made in excess of such maximum rate, together with interest thereon at the rate provided herein from the date of such payment, shall be immediately and automatically applied to the reduction of the unpaid principal balance of this Note as of the date on which such excess payment was made. If the amount to be so applied to reduction of the unpaid principal balance exceeds the unpaid principal balance, the amount of such excess shall be refunded by the Lender to the Borrower.

**18. WAIVER OF JURY TRIAL:**

The Borrower hereby knowingly, voluntarily and intentionally waives the right to a trial by jury in respect of any claim based hereon, arising out of, under or in connection with this Note or any other Loan Documents, executed or contemplated to be executed in connection herewith or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party. This waiver constitutes a material inducement for the Lender to accept this Note and make the Loan.

**19. FEDERAL RESERVE:**

The Lender may at any time pledge, endorse, assign, or transfer all or any portion of its rights under the Loan Documents including any portion of the Note to any of the twelve (12)

Federal Reserve Banks organized under Section 4 of the Federal Reserve Act. 12.U.S.C. Section 341. No such pledge or enforcement thereof shall release the Lender from its obligations under any of the Loan Documents.

**20. REPLACEMENT DOCUMENTS:**

Upon receipt of an affidavit of an officer of the Lender as to the loss, theft, destruction or mutilation of the Note or any other security document(s) which is not of public record and, in the case of any such destruction or mutilation, upon surrender and cancellation of the Note or other document(s), the Borrower will execute, in place thereof, a replacement Note or other document(s) in the same principal amount thereof and otherwise of like tenor, provided that Lender pays Borrower's reasonable attorney's fees and costs incurred in connection therewith. In the event of such loss, theft, destruction or mutilation, a copy of this Note, held in the ordinary course of business by Lender, or its counsel, shall suffice as if an original.

**21. WAIVER:**

The Borrower, and each endorser of this Note, respectively waive presentment, demand, notice, and protest, and also waive any delay on the part of the holder hereof. Each assents to any extension or other indulgence (including, without limitation, the release or substitution of (collateral) permitted the Borrower or any such endorser or guarantor by the Lender with respect to the Note and/or any collateral give to secure the within Note and/or any other liability of the Borrower of such endorser or guarantor to the Lender.

**22. CROSS COLLATERAL, CROSS DEFAULT:**

Subject to the terms of the Loan Agreement, Borrower agrees that any default by Borrower on any other note or obligation to Lender shall be a default of this Note, and any default of this Note shall be a default on any other such note or obligation of any Borrower to Lender. Any collateral of Borrower or any party securing this Note shall be and is cross collateralized with any other collateral securing any other note or obligation of Borrower, or any one of them, to Lender, such that any note or obligation of Borrower, shall be and is fully cross collateralized with all collateral securing any note or obligation of Borrower to Lender.

**23. MISCELLANEOUS:**

This Note shall be binding upon the Borrower and each endorser and guarantor hereof and upon their respective heirs, successors, assigns and representatives, and shall inure to the benefit of the Lender and its successors, endorsees, and assigns.

This Note is delivered to the Lender at one of its offices in New Hampshire, shall be governed by the laws of the State of New Hampshire. The Borrower submits to the jurisdiction of the courts of the State of New Hampshire for all purposes with respect to this Note, any collateral given to secure their respective liabilities to the Lender and their respective relationships with the Lender

This Note evidences a loan for business and/or commercial purposes.

This Note is to take effect as a sealed instrument.

**24. NOTICES:**

All notices, requests, demands and other communications provided for hereunder shall be made in accordance with the Loan Agreement.

No further text. Signature page follows:

**ATTEST:**

**BORROWER:**

BUSINESS FINANCE AUTHORITY OF THE  
STATE OF NEW HAMPSHIRE

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
James Key-Wallace  
Executive Director, Duly Authorized

Return to:  
Preti Flaherty  
P.O. Box 1318  
Concord, NH 03302-1318  
SCL

**MORTGAGE  
ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND  
FIXTURE FILING  
Loan 2**

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this “Mortgage”) is made as of December \_\_\_\_, 2018 (“Effective Date”), by **BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE**, a body corporate and agency of the State of New Hampshire with a principal office at 2 Pillsbury Street, Concord, New Hampshire 033301 (“Mortgagor”), in favor of **SERVICE CREDIT UNION**, its successors and assigns (“Mortgagee”) with an address of 3003 Lafayette Road, Portsmouth, NH, 03801. Terms used in this Mortgage which are defined in the Bond Purchase and Loan Agreement of even date between Mortgagor and Mortgagee (“Loan Agreement”) shall have such defined meanings unless otherwise defined herein. In the event of any discrepancy between a term in this Mortgage and the Loan Agreement, the term as defined in the Loan Agreement shall control.

**1. Grant and Secured Obligations.**

1.1 Grant. For the purpose of securing payment and performance of the Secured Obligations defined and described in Section 1.2 below, Mortgagor hereby grants, bargains, sells, conveys, mortgages and warrants to Mortgagee, with MORTGAGE COVENANTS, upon the statutory conditions and with statutory power of sale, all estate, right, title and interest which Mortgagor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the “Property”):

(a) The real property located at or near 3000 Goffs Falls Road, Manchester, New Hampshire, together with all rights appurtenant thereto (the “Premises”), all as more particularly described in Exhibit A attached.

(b) All buildings, structures and improvements now located or later to be constructed on the Premises, together with any plans, surveys, licenses, approvals, and warranties related thereto (collectively, the “Improvements”); together with

(c) All existing and future appurtenances, privileges, easements, franchises and tenements of the Premises, including all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be in, under or produced from any part of the Premises, all development rights and credits, air rights, water, water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and water stock, and any Premises lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Premises and Improvements; together with

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions, including but not limited to the Agreement of Lease for the Premises between BAE Systems Information and Electronic Systems Integration Inc. (“BAE”) and any subleases thereunder (the “BAE Lease,” and collectively with the BAE Lease, “leases”) relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with the Leases; together with

(e) All Property and Improvements, and all appurtenances and other property and interests of any kind or character affixed to the Premises, or necessary to the Premises and its operation and its compliance with law, which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements; together with

(f) All goods, materials, supplies, chattels, fixtures, equipment and machinery now affixed to or necessary to the Premises, and its operation and its compliance with law, or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Premises and Improvements, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage and any manufacturer’s warranties with respect thereto; together with

(g) All building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises or Improvements; together with

(h) All of Mortgagor’s interest in and to all accounts with Mortgagee, and the Loan (defined below) funds, whether disbursed or not; together with

(i) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) in connection with the Premises deposited by Mortgagor with Mortgagee (including all utility deposits); together with

(j) All insurance policies pertaining to the Premises and all proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Premises, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Premises, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

(k) All of Mortgagor's rights in any agreements relating to the use of the Premises; together with

(l) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory ("**Books and Records**"); together with

(m) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

## 1.2 Secured Obligations.

(a) Mortgagor makes the grant, conveyance, and mortgage set forth in Section 1.1 above, and grants the security interest set forth in Section 3 below for the purpose of securing the following obligations (the "**Secured Obligations**") in any order of priority that Mortgagee may choose:

(i) Payment of all obligations at any time owing under Commercial Term Note 2 (the "**Note**") of even date herewith, payable by Mortgagor in the stated total principal amount of Twelve Million and 00/100ths Dollars (\$12,000,000.00) to the order of Mortgagee including all obligations on said Note, even to the extent that such exceeds said principal amount thereof (the "**Loan**"); and

(ii) Payment and performance of all obligations of the Mortgagor under this Mortgage, including future advances under Section 7.11 below.

(iii) Payment and performance of any obligations of the Mortgagor under any Loan Documents which are executed by it. "Loan Documents" means the collective reference to this Mortgage and all other instruments, agreements and documents entered into from time to time, evidencing or securing the Loan or any obligation of payment thereof or performance of Mortgagor's obligations in connection with the transaction contemplated hereunder, each as amended, described in the Loan Agreement; and



(iv) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Mortgage; and

(v) Payment and performance of all modifications, amendments, restatements, extensions, and renewals, however evidenced, of any of the Secured Obligations.

(b) All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and their interest in the Property will be subject to the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. Such terms include any provisions in the Note which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

## 2. Assignment of Rents.

2.1 Assignment. Mortgagor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee all rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, including but not limited to those arising under the BAE Lease, whether now due, past due or to become due, including all prepaid rents and security deposits (to the extent permitted by law) (some or all collectively, as the context may require, "**Rents**"). This is an absolute assignment, not an assignment for security only.

2.2 Grant of License. Mortgagee hereby confers upon Mortgagor a license ("**License**") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 6.1 below, shall exist and be continuing. Such License shall be revocable in Lender's sole discretion, only if an Event of Default has occurred and is continuing beyond any applicable notice and cure period, and without further notice to or demand upon Mortgagor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

2.3 Collection and Application of Rents. Subject to the License granted to Mortgagor under Section 2.2 above, Mortgagee has the right, power and authority to collect any and all Rents. Mortgagor hereby appoints Mortgagee its attorney-in-fact to perform any and all of the following acts, but only during such time that an Event of Default is continuing, then, if and at the times when Mortgagee in its sole discretion may so choose:

- (a) Demand, receive and enforce payment of any and all Rents; or
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Mortgagor or in the name of Mortgagee for any and all Rents.

Mortgagee and Mortgagor agree that the mere recordation of the assignment granted herein entitles Mortgagee upon prior written notice to Mortgagor, immediately to collect and receive rents upon the occurrence of an Event of Default, as defined in Section 6.1, without first taking any acts of enforcement under applicable law, such as, but not limited to, filing foreclosure proceedings, or seeking and/or obtaining the appointment of a receiver. Further, Mortgagee's right to the Rents does not depend on whether or not Mortgagee takes possession of the Property as permitted under Subsection 6.2(f). In Mortgagee's sole discretion, Mortgagee may choose to collect Rents either with or without taking possession of the Property. Mortgagee shall apply all Rents collected by it in the manner provided under Section 6.5. If an Event of Default occurs and is continuing while Mortgagee is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Mortgage, Mortgagee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Mortgage and at law or in equity.

2.4 Mortgagee Not Responsible. Under no circumstances shall Mortgagee have any duty to produce Rents from the Property. Regardless of whether or not Mortgagee, in person or by agent, takes actual possession of the Premises and Improvements, unless Mortgagee agrees in writing to the contrary, Mortgagee is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the lessor under any lease; or
- (c) Responsible for any waste committed by lessees or any other parties or any dangerous or defective condition of the Property; or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it, unless caused by the gross negligence or misconduct of the Mortgagee.

2.5 Leasing. Upon the reasonable request of Mortgagee, Mortgagor shall comply with and observe Mortgagor's obligations as landlord or as tenant, as the case may be, under any Leases of the Property or any part thereof, and all future Leases and all amendments or modifications thereto shall be subject to Mortgagee's prior written approval. Unless otherwise directed by Mortgagee, all Leases of the Property made after the date hereof shall specifically provide that such Leases are subordinate to this Mortgage; that (subject to reasonable and customary non-disturbance provisions) the tenant attorns to Mortgagee, such attornment to be effective upon Mortgagee's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Mortgagee may from time to time request; and that the attornment of the tenant shall not be terminated by foreclosure. Mortgagor shall not, without Mortgagee's written consent which may not be unreasonably withheld, delayed or conditioned, execute, modify, surrender or terminate, either orally or in writing, any Lease hereafter made of all or any part of the Property, permit an assignment or sublease of such a Lease, or request or consent to the subordination of any Lease of all or any part of the Property to any lien subordinate to this Mortgage, provided that such Leases are on commercially reasonable terms. If Mortgagor becomes aware that any tenant proposes to do, or is doing, any act or thing that may give rise to any right to set-off against rent, Mortgagor shall (a) take such steps as shall be

reasonably calculated to prevent the accrual of any right to a set-off against rent, (b) notify Mortgagee thereof and of the amount of said set-offs, and (c) within twenty (20) days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

### **3. Grant of Security Interest.**

3.1 Security Agreement. The parties intend for this Mortgage to create a lien on the Property, and an absolute assignment of the Rents, all in favor of Mortgagee. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property, Mortgagor as debtor hereby grants Mortgagee as secured party a security interest in all such Property and Rents, to secure payment and performance of the Secured Obligations. This Mortgage constitutes a security agreement under the New Hampshire Uniform Commercial Code (“UCC”) covering all such Property and Rents.

3.2 Financing Statements. Mortgagor hereby authorizes Mortgagee to file one or more financing statements. In addition, Mortgagor shall execute such other documents as Mortgagee may from time to time reasonably require to perfect or continue the perfection of Mortgagee’s security interest in any Property or Rents. As provided in Section 5.13 below, Mortgagor shall pay all fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. In the event that Mortgagor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed in any way as derogating from or impairing this Mortgage or the rights or obligations of the parties under it.

### **4. Fixture Filing.**

This Mortgage constitutes (separate from and in addition to any financing statements with respect to personal Property as filed pursuant to Section 3.2 above) a financing statement filed as a fixture filing under Article 9 of the New Hampshire Uniform Commercial Code, as amended or recodified from time to time, covering any Property which now is or later may become fixtures attached to the Premises or Improvements. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preambles of this Mortgage. To the extent that any interest is to be filed in any other State filing agency to perfect Mortgagee’s secured rights, Mortgagor authorizes Lender to make said filing.

### **5. Rights and Duties of the Parties.**

5.1 Representations and Warranties. Mortgagor represents and warrants that:

(a) Mortgagor lawfully holds fee simple title to all of the Premises and Improvements free from all encumbrances, except as noted on Exhibit B (the “**Permitted Encumbrances**”), and shall and will warrant and defend the Premises to Mortgagee

against the claims and demands of all persons for so long as the Secured Obligations are outstanding and unpaid;

(b) Mortgagor has good title to all Property;

(c) Mortgagor has the full and unlimited power, right and authority to encumber the Property and assign the Rents;

(d) This Mortgage creates a first priority mortgage interest and lien on the Property;

(e) The Property includes all property and rights which may be reasonably necessary or desirable to promote the present use and enjoyment of the Premises and Improvements; and

(f) Mortgagor's place of business, or its chief executive office if it has more than one place of business, is located at the address set forth at the beginning of this Mortgage.

5.2 Taxes and Assessments. Mortgagor shall pay or cause the Tenant to pay all real estate taxes and assessments and charges of every kind upon the Premises before the same become delinquent, provided, however, that Mortgagor shall have the right to pay such tax under protest or to otherwise contest any such tax or assessment, but only if (a) such contest has the effect of preventing the collection of such taxes so contested and also of preventing the sale or forfeiture of the Property or any part thereof or any interest therein, (b) Mortgagor has notified Mortgagee of Mortgagor's intent to contest such taxes, and (c) Mortgagor has deposited security in form and amount satisfactory to Mortgagee, in its sole discretion, and has increased the amount of such security so deposited promptly after Mortgagee's request therefor. If Mortgagor fails to commence such contest or, having commenced to contest the same, and having deposited such security required by Mortgagee for its full amount, shall thereafter fail to prosecute such contest in good faith or with due diligence, or, upon adverse conclusion of any such contest, shall fail to pay such tax, assessment or charge, Mortgagee may, at its election (but shall not be required to), pay and discharge any such tax, assessment or charge, and any interest or penalty thereon, and any amounts so expended by Mortgagee shall be deemed to constitute disbursements of the Loan proceeds hereunder (even if the total amount of disbursements would exceed the face amount of the Note). Mortgagor shall furnish to Mortgagee evidence that taxes are paid before imposition of any penalty or accrual of interest.

5.3 Performance of Secured Obligations. Mortgagor shall promptly pay and perform each Secured Obligation in accordance with its terms.

5.4 Funds for Taxes, Insurance and Other Charges. [Provision for Tax Escrow: Omitted, as tenant will be paying taxes, insurance, etc. under the BAE Lease.]

5.5 Use of Property. Unless required by applicable law or unless Mortgagee has otherwise agreed in writing, Mortgagor shall not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Mortgagor shall not

initiate or acquiesce in a change in the zoning classification of the Property without Mortgagee's prior written consent.

#### 5.6 Liens, Charges and Encumbrances.

(a) Mortgagor shall pay or shall cause the Tenant to pay all water and sewer rates, rents, taxes, assessments premiums, charges and impositions, attributable to the Property. Subject to Mortgagor's right to contest set forth in Section 5.6(b) below, Mortgagor shall promptly discharge any lien that has, or may have, priority over or equality with, the lien of this Mortgage, other than Permitted Encumbrances.

(b) If a mechanic's lien is filed against the Property and remains undischarged for a period of thirty (30) days, Mortgagor shall promptly notify Mortgagee and, at Mortgagee's request, shall, at Mortgagor's option, either (i) escrow with Mortgagee or, with the consent of Mortgagee, deposit in a court of competent jurisdiction a sum of money equal to the amount of the lien, or (ii) provide a bond against the lien in such amount and in such manner as to discharge the lien as an encumbrance against the Property. Without Mortgagee's prior written consent, Mortgagor shall not allow any lien, encumbrance, or other interest in the Property to be perfected against the Property, other than Permitted Encumbrances, unless Mortgagor is then diligently contesting same and has, as to the lien, encumbrance or interest being contested, complied with (i) or (ii) of the preceding sentence, and with all provisions of the Loan Documents with respect thereto, with any conflict between the rights of Mortgagor under this Mortgage, and the Loan Documents to be determined by Mortgagee, within its discretion.

5.7 Insurance. Mortgagor shall or shall cause the Tenant to keep all Improvements now existing or hereafter erected on the Property insured against loss by fire and such other hazards, casualties, and contingencies and in such amounts as Mortgagee may require from time to time with financially sound and reputable insurers, and Mortgagor will pay promptly when due any premiums on such insurance. All policies of insurance shall be delivered to and held by Mortgagee and have loss-payable clauses in favor of and in form acceptable to Mortgagee. Not less than fifteen (15) days before the expiration of any such policies, Mortgagor will deliver to Mortgagee new or renewal policies in like amounts covering the same risks. The policies shall provide that no cancellation shall occur without ten (10) days prior written notice to Mortgagee. Should any loss occur to the insured property, Mortgagor will give immediate written notice to Mortgagee and will not adjust nor settle such loss without the written consent of Mortgagee, which may make proof of loss if not made promptly by Mortgagor. The insurance proceeds or any part thereof shall be applied in accordance with the terms of the BAE Lease. Subject to the terms of the BAE Lease, in the event of foreclosure of this Mortgage, all right, title, and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser at foreclosure sale, and Mortgagee is hereby appointed attorney in fact for Mortgagor for the purpose of assigning and transferring such policies and receiving all or any part of the proceeds therefrom.

#### 5.8 Condemnation.

(a) Mortgagor shall promptly notify Mortgagee of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Mortgagor shall appear in and prosecute any such action or proceeding unless otherwise directed

by Mortgagee in writing. Mortgagor authorizes Mortgagee, at Mortgagee's option, as attorney-in-fact for Mortgagor, to commence, appear in and prosecute, in Mortgagee's or Mortgagor's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, shall be paid or disbursed pursuant to the BAE Lease.

(b) Subject to the terms of the BAE Lease, with the consent of Mortgagee, which consent may be withheld in Mortgagee's reasonable discretion, Mortgagor may apply such awards, payments, proceeds or damages, after the deduction of Mortgagee's expenses incurred in the collection of such amounts, to restoration or repair of the Property. Otherwise such sums so received shall be applied to payment of the Secured Obligations. Mortgagor agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Mortgagee may reasonably require.

5.9 Preservation and Maintenance of Property. Mortgagor (a) shall not commit waste or permit impairment or deterioration of the Property, reasonable wear and tear excluded; (b) shall not abandon the Property; (c) shall, unless Mortgagee withholds insurance proceeds as security for or application to the Secured Obligations, restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Mortgagee may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair unless the improvements constituting the Property are (i) totally destroyed, (ii) insurance has been maintained thereon as required by this Mortgage, and (iii) Mortgagee applies the proceeds of such insurance to payment of the Secured Obligations; (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances, in good repair and shall replace improvements, fixtures, equipment, machinery and appliances on the Property owned by Mortgagor when necessary to keep such items in good repair; (e) shall comply in all material respects with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, including, without limitation, the Americans with Disabilities Act, as it may be amended from time to time; and (f) shall give notice in writing to Mortgagee, appear in and defend any action or proceeding purporting to affect the Property, the security of this Mortgage or the rights or powers of Mortgagee, except for any such action or proceeding caused by the gross negligence or intentional misconduct of Mortgagee. Unless required by applicable law or unless Mortgagee has otherwise consented in writing, neither Mortgagor nor any tenant or other Person shall remove, demolish or alter any improvement erected on the Property or any fixture (other than trade fixtures and alterations for tenant improvements and in the ordinary course), equipment, machinery or appliance in or on the Property owned by Mortgagor and used or intended to be used in connection with the Property.

5.10 Releases, Extensions, Modifications and Additional Security. From time to time, Mortgagee may perform any of the following acts without incurring any liability or giving notice to any person:

- (a) Release any person liable for payment of any Secured Obligation;

(b) Extend the time for payment, or otherwise agree with Mortgagor to alter the terms of payment, of any Secured Obligation;

(c) Accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;

(d) Release any property securing the Secured Obligations;

(e) Consent to the making of any plat or map of the Property or any part of it;

(f) Join in granting any easement or creating any restriction affecting the Property; or

(g) Join in any subordination or other agreement affecting this Mortgage or the lien of it; or

(h) Release the Property or any part of it.

#### 5.11 Protection of Mortgagee's Security.

(a) If Mortgagor fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced that affects the Property or title thereto or the interest of Mortgagee therein, including, but not limited to, eminent domain, insolvency, enforcement of local laws, or arrangements or proceedings involving a bankrupt or decedent, then Mortgagee, at Mortgagee's option, may make such appearances, disburse such sums and take such action as Mortgagee deems necessary, in its reasonable discretion, to protect Mortgagee's interests, including, but not limited to, (a) disbursement of reasonable attorneys' fees; (b) entry upon the Property to remedy any failure of Mortgagor to perform hereunder; and (c) procurement of satisfactory insurance.

(b) Any amounts disbursed by Mortgagee pursuant to this Section 5.11, with interest thereon, shall become part of the Secured Obligations and shall be secured by this Mortgage. Unless Mortgagor and Mortgagee agree in writing to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the Default Rate as defined in the Note. Mortgagor hereby covenants and agrees that Mortgagee shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the Secured Obligations. Nothing contained in this Section 5.11 shall require Mortgagee to incur any expense or take any action hereunder.

(c) The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of the right of Mortgagee to accelerate the maturity of any of the Secured Obligations secured by this Mortgage. Mortgagee's receipt of any awards, proceeds or damages under the insurance or condemnation provisions of this Mortgage shall not operate to cure or waive any default in payment of sums secured by this Mortgage.

5.12 Release. When all of the Secured Obligations have been paid in full and all fees and other sums owed by Mortgagor under this Mortgage and the other Loan Documents have

been received, Mortgagee shall release this Mortgage, the mortgage interest and lien created thereby, and all notes and instruments evidencing the Secured Obligations. Mortgagor shall pay any reasonable and customary costs of preparation and recordation of such release.

### 5.13 Compensation, Exculpation and Indemnification.

(a) Mortgagor agrees to pay reasonable and customary fees as may be charged by Mortgagee, for any services that Mortgagee may render in connection with this Mortgage, including Mortgagee's providing a statement of the Secured Obligations or providing the release pursuant to Section 5.12 above. Mortgagor shall also pay or reimburse all of Mortgagee's reasonable costs and expenses which may be incurred in rendering any such services. Mortgagor further agrees to pay or reimburse Mortgagee for all reasonable, out-of-pocket costs, expenses and other advances which may be incurred or made by Mortgagee in any efforts to enforce any terms of this Mortgage, including any rights or remedies afforded to Mortgagee under Section 6.2, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, including reasonable attorneys' fees and other legal costs, costs of any Foreclosure Sale (as defined in Subsection 6.2(k) below) and any cost of evidence of title. If Mortgagee chooses to dispose of Property through more than one Foreclosure Sale, Mortgagor shall pay all reasonable costs, expenses or other advances that may be incurred or made by Mortgagee in each of such Foreclosure Sales. In any foreclosure of the lien hereof or enforcement of any other remedy of Mortgagee under this Mortgage, mortgage interest or lien, or the Note, there shall be allowed and included as additional indebtedness all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' costs and fees (including the costs and fees of paralegals), survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Mortgagee with respect to environmental matters, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as reasonably necessary at any sale which may be had. All expenditures and expenses of the nature herein mentioned, and such expenses and fees as may be incurred in the protection of the Property and maintenance of the mortgage interest and lien of this Mortgage, including the reasonable fees of any attorney (including the costs and fees of paralegals) employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Property, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate and shall be secured by this Mortgage.

(b) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following:

(i) Mortgagee's reasonable exercise of or failure to exercise any rights, remedies or powers granted to Mortgagee in this Mortgage;

(ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage; or



(iii) Any loss sustained by Mortgagor or any third party resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, after an Event of Default, unless the loss is caused by the gross negligence or willful misconduct and bad faith of Mortgagee.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

(c) Mortgagor agrees to indemnify Mortgagee against and hold it harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which it may suffer or incur:

(i) In performing any act required or permitted by this Mortgage or any of the other Loan Documents or by law, except in cases involving the gross negligence or willful misconduct of Mortgagee;

(ii) Because of any failure of Mortgagor to perform any of its obligations except in cases involving the gross negligence or willful misconduct of Mortgagee; or

(iii) Because of any alleged obligation of or undertaking by Mortgagee to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document relating to the Property other than the Loan Documents.

This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release of this Mortgage.

(d) Mortgagor shall pay all obligations to pay money arising under this Section 5.13 within thirty (30) days of written demand by Mortgagee. Each such obligation shall be added to, and considered to be part of, the principal of the Note, and shall bear interest from the date the obligation arises at the Default Rate.

#### 5.14 Hazardous Waste Covenants and Indemnification.

(a) Mortgagor covenants and warrants that Mortgagor's use of the Property shall at all times comply with and conform in all material respects to all laws, statutes, ordinances, rules and regulations of any governmental, quasi-governmental or regulatory authority now or hereafter in effect ("Laws") which relate to the transportation, storage, placement, handling, treatment, discharge, release, generation, production or disposal (collectively "Treatment") of any waste, waste products, petroleum or petroleum based products, radioactive materials, poly-chlorinated biphenyls, asbestos, hazardous materials or substances of any kind, pollutants, contaminants and any substance which is regulated by any law, statute, ordinance, rule or regulation (collectively "Waste"). Mortgagor further covenants that it shall not engage in or permit any Person to engage in any Treatment of any Waste on or that affects the Property except for activities which

comply with all Laws in all material respects. "Person" means any individual, sole proprietorship, partnership, joint venture, unincorporated organization, corporation, limited liability company, institution, trust, estate, government or other agency or political subdivision thereof or any other entity.

(b) Except as specifically disclosed to Mortgagee in writing, including those reports and submissions by and from Aries Engineering, Inc., Mortgagor has no actual knowledge that the Property is the subject of any Notice, as hereinafter defined, from any governmental authority or Person.

(c) Promptly upon receipt of any Notice from any Person, Mortgagor shall deliver to Mortgagee a true, correct and complete copy of any written Notice or a true, correct and complete report of any non-written Notice. Additionally, Mortgagor shall notify Mortgagee immediately after having knowledge or receiving Notice of any Waste upon or affecting the Property. "Notice" shall mean any note, oral or written notice, information, knowledge, or report of any of the following:

(i) any suit, proceeding, investigation, order, consent order, injunction, writ, award or action related to or affecting or indicating the Treatment of any Waste in or affecting the Property;

(ii) any spill, contamination, discharge, leakage, release, threatened release, or escape of any Waste in or affecting the Property, whether sudden or gradual, accidental or anticipated, or of any other nature, in violation of applicable Law ("Spill");

(iii) any dispute relating to Mortgagor's or any other Person's Treatment of any Waste or any Spill in or affecting the Property;

(iv) any claims by or against any insurer related to or arising out of any Waste or Spill in or affecting the Property;

(v) any recommendations or requirements of any governmental or regulatory authority, insurer or board of underwriters relating to any Treatment of Waste or a Spill in or affecting the Property;

(vi) violation any legal requirement or deficiency related to the Treatment of Waste or any Spill in or affecting the Property; or

(vii) any tenant, licensee, concessionaire, manager, or other Person occupying or using the Property or any part thereof which has engaged in or engages in the Treatment of any Waste in or affecting the Property in violation of applicable Laws.

(d) In the event that (i) Mortgagor has caused, suffered or permitted, directly or indirectly, any Spill in or affecting the Property during the term of this Mortgage, or (ii) any Spill of any Waste has occurred on the Property during the term of this Mortgage, then Mortgagor shall immediately take or cause BAE to take all of the following actions:

(A) notify Mortgagee, as provided herein;

(B) take all steps necessary or appropriate to clean up such Spill and any contamination related to the Spill, all in accordance with Laws; provided that Mortgagor may cause BAE to contest any such requirement, rule or regulation by appropriate proceedings diligently and in good faith, so long as (1) Mortgagor provide or causes BAE to provide Mortgagee, at BAE's cost, such sureties, performance bonds and other assurances as Mortgagee may from time to time request in respect of such Spill and contamination and the cleanup thereof, (2) any governmental or other action against Mortgagor and the Property is effectively stayed during Mortgagor's efforts so to contest, and (3) in Mortgagee's determination, a delay in such clean-up will not result in or increase any loss or liability to Mortgagee;

(C) subject to Section (B) above, restore the Property, provided that such restoration shall be no less than, but need not be more than, what is otherwise required by Law;

(D) allow any local, state or federal governmental or regulatory authority or agency having jurisdiction thereof to monitor and inspect all cleanup and restoration related to such Spill; and

(E) at the written request of Mortgagee, cause BAE to post a bond or obtain a letter of credit for the benefit of Mortgagee (drawn upon a company or bank satisfactory to Mortgagee) or deposit an amount of money in an escrow account under Mortgagee's name upon which bond, letter of credit or escrow Mortgagor may draw, and which bond, letter of credit or escrow shall be in an amount sufficient to meet all of Mortgagor's obligations under this Section 5.14; and Mortgagee shall have the unfettered right to draw against the bond, letter of credit or escrow in its discretion in the event that either Mortgagor or BAE is unable or unwilling to meet its obligation under this Section 5.14 or, if Mortgagor fails to cause BAE to post a bond or obtain a letter of credit or deposit such cash as is required herein, then Mortgagee, at Mortgagor's cost and expense, may, but shall have no obligation to do so for the benefit of Mortgagor and do those things that Mortgagor is required to do under clauses (B), (C) and (D) of this subsection (d).

(e) Mortgagor hereby agrees that it shall indemnify, defend, save and hold harmless Mortgagee and Mortgagee's officers, directors employees, agents, successors, assigns and affiliates (collectively, "**Indemnified Parties**") against and from, and to reimburse the Indemnified Parties with respect to, any and all damages, claims, liabilities, losses, costs and expenses (including, without limitation, reasonable attorneys', engineers' and consultants' fees and expenses, court costs, administrative costs, costs of appeals and all clean up, administrative, fines, penalties and enforcement costs of applicable governmental agencies) that are incurred by or asserted against the Indemnified Parties by reason or arising out of: (i) the breach of any representation, warranty or undertaking of Mortgagor under this Section 5.14, or (ii) the Treatment of any Waste by Mortgagor or any tenant, licensee, concessionaire, manager, or other Person occupying or using the Property, upon or affecting the Property, or (iii) any Spill

governed by the terms of this Section 5.14; except to the extent the events described in subsections (i), (ii) or (iii) are caused by the gross negligence or willful misconduct of Mortgagee or occur after Mortgagee has taken possession of the Property through foreclosure or a deed in lieu thereof.

5.15 Defense and Notice of Claims and Actions. At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or could affect any such matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.16 Subrogation. Mortgagee shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Mortgagee in accordance with this Mortgage or with the proceeds of any loan secured by this Mortgage.

5.17 Site Visits, Observation and Testing. Mortgagee and its agents and representatives shall have the right subject to the rights of tenants of the Property, at any reasonable time and upon reasonable advance notice, to enter and visit the Property for the purpose of performing appraisals, observing the Property, taking and removing soil or groundwater samples, and conducting tests on any part of the Property. Mortgagee has no duty, however, to visit or observe the Property or to conduct tests, and no site visit, observation or testing by Mortgagee, its agents or representatives shall impose any liability on any of Mortgagee, its agents or representatives unless such liability arises out of the gross negligence or willful misconduct of Mortgagee or its agents or representatives. In no event shall any site visit, observation or testing by Mortgagee, its agents or representatives be a representation that Waste are or are not present in, on or under the Property, or that there has been or shall be compliance with any Law, regulation or ordinance pertaining to Waste or any other applicable governmental law. Neither Mortgagor nor any other party is entitled to rely on any site visit, observation or testing by any of Mortgagee, its agents or representatives. Neither Mortgagee, its agents or representatives owe any duty of care to protect Mortgagor or any other party against, or to inform Mortgagor or any other party of, any Waste or any other adverse condition affecting the Property. Mortgagee shall give Mortgagor reasonable notice before entering the Property. Mortgagee shall make reasonable efforts to avoid interfering with Mortgagor's (and Mortgagor's tenants') use of the Property in exercising any rights provided in this Section 5.17.

5.18 Notice of Change. Mortgagor shall give Mortgagee prior written notice of any change in: (a) the location of its place of business or its chief executive office if it has more than one place of business; (b) the location of any of the Property, including the Books and Records; and (c) Mortgagor's name, business structure and/or state of organization. Unless otherwise approved by Mortgagee in writing, all Property that consists of personal property (other than the Books and Records) will be located on the Premises and all Books and Records will be located at Mortgagor's place of business or chief executive office if Mortgagor has more than one place of business.

5.19 Transfers. Except as expressly permitted hereunder or under any of the other Loan Documents, it is an additional condition of this Mortgage, for breach of which the Secured Obligations shall become immediately due and payable and foreclosure may be claimed, that

Mortgagor shall not (a) voluntarily or involuntarily sell, exchange, assign, convey, transfer or otherwise dispose of all or any portion of the Property (or any interest therein, legal or equitable), or all or any of the ownership interest in Mortgagor, or (b) convey to any Person, other than Mortgagee, a security interest in the Property or any part thereof or voluntarily or involuntarily permit or suffer the Property to be further encumbered.

## 6. Default and Remedies.

6.1 Events of Default. Mortgagor will be in default under this Mortgage upon the occurrence of an Event of Default as defined in the Loan Agreement, including, but not limited to the following events of default (some or all collectively, “**Events of Default;**” any one singly, an “**Event of Default**”).

(a) If any payment on the Note shall not be paid in full within fifteen (15) days of the date when due and payable.

(b) If Mortgagor fails to perform or observe any covenant or agreement contained in this Mortgage or in any other of the Loan Documents, and such failure remains unremedied in accordance within the cure provisions of the Loan Agreement, as may apply, if at all.

(c) If any material representation or warranty made in or pursuant to this Mortgage or any Loan Document shall be false when made.

(d) If any Event of Default shall occur under any other Loan Document, or if under any Loan Document in which payment is required to be made by Mortgagor or any Guarantor on demand of Mortgagee, such demand for payment is not satisfied, after any applicable cure period has elapsed.

(e) If Mortgagor shall abandon any of the Property or shall sell, lease, convey or transfer (or contract to sell, lease, convey or transfer) all or any part of the Property without first obtaining Mortgagee’s written consent, except as otherwise permitted in the Mortgage or any other Loan Document.

(f) If Mortgagor shall assign any part of the rents or profits of the Property other than to Mortgagee without first obtaining Mortgagee’s written consent.

6.2 Remedies. At any time after an Event of Default has occurred and is continuing for a period of 120 days thereafter, and subject to the terms of the BAE Lease, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, in addition to all other rights and remedies available to Mortgagee at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Declare all of the Secured Obligations to be immediately due and payable, whereupon all unpaid principal, interest and fees in respect of such Secured Obligations, together with all of Mortgagee’s costs, expenses and attorneys’ fees related thereto, under the terms of the Loan Documents or otherwise, shall be immediately due and payable;

(b) Terminate any commitment to make any additional advances under any Loan;

(c) Exercise any and all rights and remedies available to Mortgagee under any applicable Law;

(d) Exercise any and all rights and remedies granted to Mortgagee under the terms of this Mortgage and any of the other Loan Documents;

(e) Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through Mortgagor, and without regard for the solvency or insolvency of Mortgagor or the then value of the Property, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Property and the Rents, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Property, and such rights and powers as Mortgagee would have, upon entering and taking possession of the Property under subsection (g) below.

(f) Mortgagee, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Mortgagee may reasonably consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: taking and possessing all of Mortgagor's or the then owner's Books and Records; entering into, enforcing, modifying or canceling leases on such terms and conditions as Mortgagee may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Mortgagee; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Mortgagee so requests, Mortgagor shall assemble all of the Property that has been removed from the Premises and make all of it available to Mortgagee at the site of the Premises. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as Mortgagor's attorney-in-fact to perform such acts and execute such documents as Mortgagee in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Mortgagor's name on any instruments.

(g) Mortgagee may cure any breach or default of Mortgagor, and if it chooses to do so in connection with any such cure, Mortgagee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under, this Mortgage in the event that Mortgagor fails to do so; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Mortgagee's reasonable judgment is or may be senior in priority to this Mortgage, such judgment of Mortgagee or to be conclusive as among the parties to this Mortgage; obtaining insurance and/or paying any

premiums or charges for insurance required to be carried hereunder; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee. Any amounts expended by Mortgagee under this Subsection 6.2(g) shall be secured by this Mortgage.

(h) Mortgagee shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the mortgage interest and/or lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Mortgagee or its nominee may bid and enter successive bids, and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder, and the amount of Mortgagee's successful bid shall be credited on the Secured Obligations. Without limiting the foregoing, Mortgagee may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction. In addition to the right provided in Subsection 6.2(a), upon, or at any time after the commencement of foreclosure of this Mortgage, Mortgagee shall be entitled to the appointment of a receiver of the property by the Superior Court for the county in which the property is located, and Mortgagor hereby consents to such appointment.

(i) Mortgagee may exercise all rights and remedies contained in any other instrument, document, agreement or other writing heretofore, concurrently or in the future executed by Mortgagor or any other person or entity in favor of Mortgagee in connection with the Secured Obligations or any part thereof, without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against Mortgagor. Mortgagee shall have the right to pursue all remedies afforded to a mortgagee under applicable law, and shall have the benefit of all of the provisions of such applicable law, including all amendments thereto which may become effective from time to time after the date hereof.

(j) If the Property consists of more than one unit, lot, parcel or item of property, Mortgagee may:

(i) Designate the order in which the units, lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and

(ii) Elect to dispose of the units, lots, parcels and/or items through a single consolidated sale or disposition to be held or made under or in connection with the foreclosure thereof and sale; or through two or more such sales or dispositions; or in any other manner Mortgagee may deem to be in its best interests (any such sale or disposition, a "Foreclosure Sale;" and any two or more, "Foreclosure Sales").

(iii) If Mortgagee chooses to have more than one Foreclosure Sale, Mortgagee at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as Mortgagee may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the mortgage interest and/or liens of this

Mortgage on any part of the Property which has not been sold, until all of the Secured Obligations have been paid in full.

6.3 Credit Bids. At any Foreclosure Sale, any person, including Mortgagee (but not Mortgagor) may bid for, enter successive bids on, and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property, Mortgagee may settle for the purchase price by crediting the sales price of the property against the following obligations:

(a) First, the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to pay or reimburse Mortgagee under Section 5.13 of this Mortgage; and

(b) Second, all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose.

6.4 Application of Foreclosure Sale Proceeds. Mortgagee shall apply the proceeds of any Foreclosure Sale in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee under Section 5.13 of this Mortgage;

(b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Mortgagee under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it, or if Lender so determines, paying into a court of competent jurisdiction on an interpleader action, naming parties with an interest therein, and retaining costs and attorney's fees for bringing and filing and maintaining said action.

6.5 Application of Rents and Other Sums. Mortgagee shall apply any and all Rents collected by it, and any and all sums other than proceeds of a Foreclosure Sale which Mortgagee may receive or collect under Section 6.2 above, in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Mortgagee or any receiver;

(b) Second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons entitled to it.



Mortgagee shall have no liability for any funds which it does not actually receive.

**7. Miscellaneous Provisions.**

7.1 Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage. The Loan Documents also grant further rights to Mortgagee and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property.

7.2 No Waiver or Cure.

(a) Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not: cure or waive any breach, Event of Default or notice of default under this Mortgage or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and all other defaults under the Loan Documents have been cured); or impair the security of this Mortgage; or prejudice Mortgagee or any receiver in the exercise of any right or remedy afforded any of them under this Mortgage; or be construed as an affirmation by Mortgagee of any tenancy, lease or option, or a subordination of the lien of this Mortgage. None of the below provisions shall be deemed to remove any right to cure, if such exists as to such, within the Loan Documents or this Mortgage.

(i) Mortgagee, its agent or a receiver takes possession of all or any part of the Property in the manner provided in Subsection 6.2 (f).

(ii) Mortgagee collects and applies Rents as permitted under Sections 2.3 and 6.5 above, either with or without taking possession of all or any part of the Property.

(iii) Mortgagee receives and applies to any Secured Obligation any proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Mortgagee hereunder.

(iv) Mortgagee makes a site visit, observes the Property and/or conducts tests as permitted under Section 5.17 above.

(v) Mortgagee receives any sums under this Mortgage or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations.

(vi) Mortgagee or any receiver invokes any right or remedy provided under this Mortgage.

### 7.3 Powers of Mortgagee.

(a) If Mortgagee performs any act which it is empowered or authorized to perform under this Mortgage, including any act permitted by Section 5.10 or Subsection 6.2(d) of this Mortgage, that act alone shall not release or change the liability of Borrower for the payment and performance of the Secured Obligations then outstanding, or the lien of this Mortgage on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Mortgagor shall not be released or changed if Mortgagee grants any successor in interest to Mortgagor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Mortgagee shall not be required to comply with any demand by the original Mortgagor that Mortgagee refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

(b) Mortgagee may take any of the actions permitted under Subsections 6.2(e) and/or 6.2(f) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.

(c) From time to time, Mortgagee may apply to any court of competent jurisdiction for aid and direction in executing and enforcing the rights and remedies created under this Mortgage. Mortgagee may from time to time obtain orders or decrees directing, confirming or approving acts in executing and enforcing these rights and remedies.

7.4 Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

7.5 Applicable Law. The creation, perfection and enforcement of the mortgage interest and/or lien of this Mortgage shall be governed by the law of the state of New Hampshire.

7.6 Successors in Interest. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Section 7.7 does not waive the provisions of Section 5.19 above.

### 7.7 Interpretation.

(a) Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to."

(b) The word “obligations” is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions.

(c) No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibits to this Mortgage are hereby incorporated in this Mortgage.

7.8 Waiver of Statutory Rights. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshalled upon any foreclosure of the mortgage interest and/or lien hereof and agrees that any court having jurisdiction to foreclose such mortgage interest and/or lien may order the Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any foreclosure of this Mortgage on behalf of Mortgagor and on behalf of each and every person acquiring any interest in or title to the Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to the provisions of applicable law.

7.9 Severability. If any provision of this Mortgage should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and shall in no way affect the validity of this Mortgage except that if such provision relates to the payment of any monetary sum, then Mortgagee may, at its option, declare all Secured Obligations immediately due and payable.

7.10 Notices. All notices, requests, demands or other communications provided for hereunder shall be in writing and mailed or delivered to any party hereto in accordance with the Loan Agreement.

7.11 Mortgagee’s Lien for Service Charge and Expenses. At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage secures (in addition to any Loan proceeds disbursed from time to time) the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee not to exceed the maximum amount secured hereby.

7.12 WAIVER OF TRIAL BY JURY. MORTGAGOR AND MORTGAGEE EACH WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN MORTGAGEE AND MORTGAGOR ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS MORTGAGE OR ANY NOTE OR OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED THERETO.

7.13 UCC Financing Statements. In addition, Mortgagor agrees to sign any and all other documents that Mortgagee deems necessary in its sole discretion to perfect, protect, and continue Mortgagee's lien and security interest on the Property.

7.14 Condominium Development of Premises. Mortgagor further covenants and agrees that, without the prior written consent of Mortgagee herein, no part of the Premises herein mortgaged shall be declared, or become the subject of, a condominium under the New Hampshire Condominium Act, as it may be amended or supplemented, or become the subject of any covenants or restrictions, or any planned unit development, or any other type of development that would control or restrict the uses to which the Premises may be put or the scheme or arrangement of its development or the design, location or character of its buildings or improvements, or which would impose obligations or assessments of any type upon any owners or tenants of the Premises, or upon any other parties who may use or enjoy the Premises.

7.15 [Intentionally Deleted]

7.16 Variable Interest Rate. [Not applicable, intentionally deleted.]

7.17 Statutory Power of Sale. This Mortgage is given upon THE STATUTORY CONDITION and upon the further condition of full and seasonable compliance by the Mortgagor of all of the preceding terms, conditions, covenants and agreements, for any breach of which: (a) an Event of Default occurs hereunder; (b) Mortgagee shall have the right of foreclosure and any and all other rights and remedies given to a mortgagee and secured party under the law of New Hampshire, this Mortgage and any instrument it secures; and (c) Mortgagee, its successors and assigns, subject to compliance with New Hampshire law, shall have, to the full extent now or hereafter available, "THE STATUTORY POWER OF SALE" pursuant to New Hampshire Revised Statutes Annotated Chapter 479, as said Statutes have been and shall be amended, all of which are expressly incorporated herein by reference. In connection with the foregoing, Mortgagor acknowledges and agrees that this Mortgage is given primarily for a business, commercial or agricultural purpose. Mortgagor hereby represents that the Premises and all other collateral or security granted herein are not used for residential purposes whatsoever, and that the Premises contain no residential units or dwelling facilities. Such Statutory Power of Sale shall be in addition to all rights and remedies set forth herein or available under applicable law. Upon the occurrence of an Event of Default under this Mortgage, Mortgagee, its successors and assigns or its or their agent or attorney, may sell the Premises or such portion thereof as may remain subject to the Mortgage in case of any partial release thereof, either as a whole or in parcels, together with all improvements that may be thereon, by a public sale on or near any part of the Premises then subject to this Mortgage or at Mortgagee's principal place of business or at any other office of Mortgagee or any attorney or agent thereof located in the same county in which any part of the Premises is located, first complying with the terms of this Mortgage and the statutes relating to the foreclosure of mortgage by the exercise of a Power of Sale, and Mortgagee, its successors and assigns, may convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple; and such sale shall forever bar the Mortgagor and all persons claiming under it from all right and interest in the Premises, whether at law or in equity.

### 7.18 Qualification.

Under no circumstances shall Mortgagor be obligated directly or indirectly to pay expenses of operation, maintenance and upkeep of the Property except from Loan Proceeds or Lease Payments. Except as expressly permitted pursuant to RSA 162-I:9-b, nothing contained herein shall in any way obligate the State to raise any money by taxation or use other public funds for any purpose in relation to the Property. Except as expressly permitted pursuant to RSA 162-I:9-b, neither the State nor Mortgagor shall pay or promise to pay any debt or meet any financial obligation to any person at any time in relation to the Property except (i) from monies received or to be received under the provisions of the Loan Agreement or derived from the exercise of Mortgagor's rights under the BAE Lease, other than moneys received for its own purposes, or (ii) as may be required by law other than the provisions of the Act. Nothing contained in this Agreement shall be construed to require Mortgagor to operate the Property itself or to conduct any business enterprise in connection therewith.

SIGNATURE PAGE FOLLOWS:

IN WITNESS WHEREOF, Mortgagor has executed or has caused this Mortgage to be executed this \_\_\_\_\_ day of December, 2018 to be effective as of the Effective Date.

Business Finance Authority of the State of New Hampshire

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
James Key-Wallace  
Executive Director  
Duly Authorized

STATE OF NEW HAMPSHIRE  
Merrimack, ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of December, 2018, by James Key-Wallace, Executive Director, duly authorized for the Business Finance Authority of the State of New Hampshire, on behalf of the same.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires:

**EXHIBIT A**

**EXHIBIT B**  
*Permitted Encumbrances*

**Those shown on the loan title insurance policy to Mortgagee, issued with this Mortgage, and no others.**



**TERM LOAN NOTE  
LOAN 2**

**\$12,000,000.00**

**December \_\_, 2018**

**FOR VALUE RECEIVED, the BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE**, a body corporate and politic of the State of New Hampshire with a principal office at 2 Pillsbury Street, Concord, New Hampshire 03301 (“**Borrower**” or “**the Authority**”) promises to pay to the order of **SERVICE CREDIT UNION**, a New Hampshire lending institution having a place of business and mailing address of 3003 Lafayette Road, Portsmouth, New Hampshire, 03801 (“**Lender**”), at any office of said Lender, the principal sum of Twelve Million and 00/100ths Dollars (\$12,000,000.00) (the “**Loan**”), or so much thereof as from time to time may be outstanding, together with interest on the unpaid principal balance computed at a rate and according to the terms indicated below (and subject to the Loan Agreement defined herein):

**EFFECTIVE DATE:** Notwithstanding the date of execution, this Term Loan Note (“**Note**”) shall have an Effective Date of December \_\_, 2018.

**2. MATURITY DATE:**

This Note shall have a maturity date of the ten (10) year anniversary of the Effective Date (the “**Maturity Date**” or “**Loan Term**”).

**3. INTEREST RATE.**

Interest shall be at the fixed rate of 4.50% during the Loan Term while not in default (the “**Interest Rate**”).

**4. PAYMENT TERMS:**

Beginning with the fifteenth (15<sup>th</sup>) day (or the first Business Day thereafter) of the calendar month that commences on or after the Effective Date, and on the same day of each consecutive month thereafter, until the ten (10) year anniversary of the Effective Date, Borrower shall make interest only payments, in arrears, based upon the Interest Rate and the outstanding principal. On the Maturity Date all principal, accrued interest, and other costs and charges shall be due and payable in full.

**5. FUNDING AGREEMENTS:**

(a) This Note is executed under the terms of the Bond Purchase and Loan Agreement (the “**Loan Agreement**”), together with all loan documents, including a Mortgage, Assignment of Rents, Security Agreement, and Fixture Filing (the “**Mortgage**”) executed herewith (collectively, the “**Loan Documents**”).

(b) This Note is the Note referred to in the Loan Agreement, (as amended, restated, supplemented, waived or otherwise modified from time to time), between Borrower and Lender of even date is entitled to the benefits of said Loan Agreement and is subject to all of the terms and conditions described therein. Terms used in this Note which are defined in the Loan Agreement shall have such defined meanings unless otherwise defined herein or unless the context otherwise requires. In the event of any discrepancy between a term in this Note, and the Loan Agreement, the term as defined in the Loan Agreement shall control.

(c) The proceeds of this Note are to be used to partially finance the Authority's purchase of the land and commercial buildings thereon located at 3000 Goffs Falls Road, Manchester, New Hampshire, together with other real estate and appurtenant rights described in the Mortgage (the "**Premises**"). Borrower shall, without limitation, fully comply with all provisions of the Loan Agreement, the Mortgage and all related Loan Documents.

(d) Except as provided in the State Guarantee specified in the Loan Agreement, all payments due from the Authority under this Note shall be made to the extent permitted by New Hampshire RSA Chapter 162-I and other applicable law and to the extent the Authority receives payment from its lease or sale of the Premises.

#### **6. SECURITY:**

This Note is secured by Collateral described in the Loan Agreement, and the Loan Documents, including without limitation the Mortgage of the Premises.

#### **7. INTEREST RATE CALCULATION:**

The Borrower shall pay interest at the Interest Rate. Interest shall be computed pursuant to a 365/360 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding.

#### **8. APPLICATION OF PAYMENTS:**

Each payment received on this Note shall be applied first to unpaid late charges or other costs due Lender from Borrower (if any), then to interest billed, and the balance, if any, to principal. Interest shall accrue (if not timely paid) to the date payment is received.

#### **9. ADDITIONAL CHARGES IF PAYMENT NOT MADE WHEN DUE:**

To the extent permitted by law, Borrower shall pay to Lender, prior to maturity, for each payment of principal or interest not paid in full within fifteen (15) days after its due date, a late fee equal to five percent (5%) of the amount of such payment. All delinquency charges shall each become an additional part of the unpaid balance, together with, also as an additional part of the unpaid balance, all costs, expenses, and reasonable Attorneys' Fees (as that term is hereinafter defined) incurred with respect to any of the following: consultation with the Lender in connection with this loan, in collection of all or part of this Note, foreclosure of any mortgage or security interest which may secure either the debt hereunder or any guaranty

thereof (including, but not limited to, fees, costs and expenses of appraisals, re-appraisals, environmental or other studies, and all actions taken in response thereto or in connection therewith), any act to protect or sustain the mortgage interest of any such mortgage or the lien of any security agreement, any litigation or controversy arising from or connected with this Note or any mortgage or security agreement which may secure this Note (including, without limitation, any counterclaim or crossclaim or other action asserted against Lender by Borrower or any third parties), or any act to protect, enforce or release any of Lender's rights or remedies under this Note (including with respect to the existence or extent of the rights of Lender under this provision) or with regard to any collateral which may now or in the future secure this Note, or with regard to or against Borrower or any other obligors or any action Lender deems necessary to protect its interests and priority in the Mortgage and the Collateral. The payment of any additional charges provided for in this paragraph shall not be construed as an extension of the date when payment is due (on demand, at maturity or by acceleration).

As used herein, the term "**Attorneys' Fees**" shall mean the reasonable fees and charges incurred by any lawyer or lawyers or law firm retained by Lender and may include, without limitation, time and charges for professional services rendered by attorneys or paralegals (collectively, "**Fees**"), and for photocopies, teletypes, long distance telephone calls, computerized legal research, mileage, filing fees, recording fees and other costs, and third party expert and consultant fees (collectively, "**Disbursements**").

Borrower understands and acknowledges that the provisions of this Note relating to Lender's right to collect Attorneys' Fees, Fees and Disbursements are a material inducement to the extension of credit to Borrower hereunder.

#### **10. DEFAULT RATE:**

After maturity (whether by acceleration or otherwise), or for any period during which an Event of Default has occurred and is continuing under this Note or any other Loan Document, and until actual payment of all amounts owing and/or satisfaction of any and all non-payment Events of Default, all outstanding principal and costs under this Note shall, at the discretion of and after Notice by Lender, accrue additional interest at the rate of 4% over the Interest Rate (the "**Default Rate**"). The Default Rate is in addition to all of the other rights and remedies of Lender hereunder. Failure of Lender to exercise this right shall not constitute a waiver or relinquishment of Lender's right to enforce this remedy in the future.

#### **11. PREPAYMENT PREMIUM:**

Borrower may prepay this Note at any time without penalty.

#### **12. EVENTS OF DEFAULT AND ACCELERATION:**

The Lender at its option may declare the entire unpaid principal balance of this Note and accrued unpaid interest thereon to be immediately due and payable without notice or protest (both of which are hereby waived) at any time the occurrence of any one or more of the following Events of Default: (a) The failure by the Borrower to pay within fifteen (15) days after the date when due any amount then owing by the Borrower to the Lender; or (b) the occurrence of an Event of Default under the Loan Agreement or the Loan Documents, which continues to exist at the expiration of

any applicable cure period.

**13. SETOFF:**

To the extent permitted by law, Borrower hereby grants to the Lender a lien, security interest and a right of setoff as security for all liabilities and obligations to the Lender, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of the Lender or any entity under the control of the Lender, or in transit to any of them. Upon the occurrence of an Event of Default, without demand or notice, the Lender may set off the same or any part thereof and apply the same to any liability or obligation of the Borrower even though unmaturing and regardless of the adequacy of any other collateral securing the Loan. ANY AND ALL RIGHTS TO REQUIRE THE LENDER TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE LOAN, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED. The Lender shall not be required to marshal any present or future security for, or guarantees of, the obligations or to resort to any such security or guarantee in any particular order and the Borrower waives, to the fullest extent that it lawfully can, (a) any right they might have to require the Lender to pursue any particular remedy before proceeding against them and (b) any right to the benefit of, or to direct the application of the proceeds of any collateral until the obligations are paid in full. As soon as practicable, but not later than one full business day following any setoff applied pursuant to the above, Lender shall give notice of same to Borrower.

**14. ADDITIONAL PROVISIONS:**

No delay or omission by the Lender in exercising or enforcing any of the Lender's powers, rights, privileges, remedies or discretions hereunder shall operate as a waiver thereof on that occasion nor on any other occasion. No waiver of any default hereunder shall operate as a waiver of any other default hereunder, nor as a continuing waiver.

**15. PARTICIPATION:**

The Lender shall have the unrestricted right at any time and from time to time, and without the consent of or notice to the Borrower (or any Guarantor), to grant to one or more institutions or other persons (each a "Participant") participating interests in the Lender's obligations to lend hereunder and/or any or all of the loans held by the Lender hereunder. In the event of any such grant by the Lender of a participating interest to a Participant, whether or not upon notice to the Borrower, the Lender shall remain responsible for the performance of its obligations hereunder and the Borrower shall continue to deal solely and directly with the Lender in connection with the Lender's rights and obligations hereunder. The Lender may furnish any information concerning the Borrower in its possession from time to time to any prospective assignees and Participants, provided that the Lender shall require any such prospective assignee or Participant to maintain the confidentiality of such information.

**16. ASSIGNMENT:**

The Lender shall have the unrestricted right at any time or from time to time, and without

the Borrower's (or any Guarantor's) consent, to sell, assign, endorse, or transfer all or any portion of its rights and obligations hereunder to one or more Lenders or other entities (each, an "Assignee") and, the Borrower agrees that it shall execute, or cause to be executed such documents including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection herewith as the Lender shall deem necessary to effect the foregoing. In addition, at the request of the Lender and any such Assignee, the Borrower shall issue one or more new promissory notes, as applicable, to any such Assignee and, if the Lender has retained any of its rights and obligations hereunder following such assignment, to the Lender, which new promissory notes shall be issued in replacement of, but not in discharge of, the liability evidenced by the note held by the Lender prior to such assignment and shall reflect the amount of the respective commitments and loans held by such Assignee and the Lender after giving effect to such assignment. Upon the execution and delivery of appropriate assignment documentation, amendments and any other documentation required by the Lender in connection with such assignment, and the payment by Assignee of the purchase price agreed to by the Lender and such Assignee, such Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Lender hereunder (and under any and all other guaranties, documents, instruments and agreements executed in connection herewith) to the extent that such rights and obligations have been assigned by the Lender pursuant to the assignment documentation between the Lender and Assignee, and the Lender shall be released from its obligations hereunder and thereunder to a corresponding extent.

#### **17. USURY:**

The Borrower shall not be obligated to pay and the Lender shall not collect interest at a rate higher than the maximum permitted by law or the maximum that will not subject the Lender to any civil or criminal penalties. If, because of the acceleration of maturity the payment of interest in advance or any other reason, the Borrower is required, under the provisions of any Loan Document or otherwise, to pay interest at a rate in excess of such maximum rate, the rate of interest under such provisions shall immediately and automatically be reduced to such maximum rate and any payment made in excess of such maximum rate, together with interest thereon at the rate provided herein from the date of such payment, shall be immediately and automatically applied to the reduction of the unpaid principal balance of this Note as of the date on which such excess payment was made. If the amount to be so applied to reduction of the unpaid principal balance exceeds the unpaid principal balance, the amount of such excess shall be refunded by the Lender to the Borrower.

#### **18. WAIVER OF JURY TRIAL:**

**The Borrower hereby knowingly, voluntarily and intentionally waives the right to a trial by jury in respect of any claim based hereon, arising out of, under or in connection with this Note or any other Loan Documents, executed or contemplated to be executed in connection herewith or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party. This waiver constitutes a material inducement for the Lender to accept this Note and make the Loan.**

#### **19. FEDERAL RESERVE:**

The Lender may at any time pledge, endorse, assign, or transfer all or any portion of its rights under the Loan Documents including any portion of the Note to any of the twelve (12)

Federal Reserve Banks organized under Section 4 of the Federal Reserve Act. 12.U.S.C. Section 341. No such pledge or enforcement thereof shall release the Lender from its obligations under any of the Loan Documents.

**20. REPLACEMENT DOCUMENTS:**

Upon receipt of an affidavit of an officer of the Lender as to the loss, theft, destruction or mutilation of the Note or any other security document(s) which is not of public record and, in the case of any such destruction or mutilation, upon surrender and cancellation of the Note or other document(s), the Borrower will execute, in place thereof, a replacement Note or other document(s) in the same principal amount thereof and otherwise of like tenor, provided that Lender pays Borrower's reasonable attorney's fees and costs incurred in connection therewith. In the event of such loss, theft, destruction or mutilation, a copy of this Note, held in the ordinary course of business by Lender, or its counsel, shall suffice as if an original.

**21. WAIVER:**

The Borrower, and each endorser of this Note, respectively waive presentment, demand, notice, and protest, and also waive any delay on the part of the holder hereof. Each assents to any extension or other indulgence (including, without limitation, the release or substitution of collateral) permitted the Borrower or any such endorser or guarantor by the Lender with respect to the Note and/or any collateral given to secure the within Note and/or any other liability of the Borrower of such endorser or guarantor to the Lender.

**22. CROSS COLLATERAL, CROSS DEFAULT:**

Subject to the terms of the Loan Agreement, Borrower agrees that any default by Borrower on any other note or obligation to Lender shall be a default of this Note, and any default of this Note shall be a default on any other such note or obligation of any Borrower to Lender. Any collateral of Borrower or any party securing this Note shall be and is cross collateralized with any other collateral securing any other note or obligation of Borrower, or any one of them, to Lender, such that any note or obligation of Borrower, shall be and is fully cross collateralized with all collateral securing any note or obligation of Borrower to Lender.

**23. MISCELLANEOUS:**

This Note shall be binding upon the Borrower and each endorser and guarantor hereof and upon their respective heirs, successors, assigns and representatives, and shall inure to the benefit of the Lender and its successors, endorsees, and assigns.

This Note is delivered to the Lender at one of its offices in New Hampshire, shall be governed by the laws of the State of New Hampshire. The Borrower submits to the jurisdiction of the courts of the State of New Hampshire for all purposes with respect to this Note, any collateral given to secure their respective liabilities to the Lender and their respective relationships with the Lender

This Note evidences a loan for business and/or commercial purposes.

This Note is to take effect as a sealed instrument.

**24. NOTICES:**

All notices, requests, demands and other communications provided for hereunder shall be made in accordance with the Loan Agreement.

No further text. Signature page follows:

**ATTEST:**

**BORROWER:**

BUSINESS FINANCE AUTHORITY OF THE  
STATE OF NEW HAMPSHIRE

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
James Key-Wallace \_\_\_\_\_  
Executive Director, Duly Authorized

**STATE GUARANTEE**

The State of New Hampshire (the "State") hereby unconditionally guarantees the payment of Twelve Million Dollars (\$12,000,000.00) and all interest thereon in accordance with the terms of this Note and the Bond Purchase and Loan Agreement of even date herewith, and for the performance of such guarantee the full faith and credit of the State are hereby pledged.

\_\_\_\_\_  
Treasurer, State of New Hampshire

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

December \_\_\_\_, 2018

Then personally appeared the above-named \_\_\_\_\_, being the duly-authorized Treasurer of the State of New Hampshire, known to me or satisfactorily proven to be the same, who executed the above as his free act and deed, on behalf of the State of New Hampshire, for the purposes stated therein. Before me,

\_\_\_\_\_  
Notary Public/Justice of the Peace  
Name:  
My Commission Expires:



## GUARANTEE AGREEMENT

This Guarantee Agreement dated as of December 1, 2018 (this "Agreement") is between the State of New Hampshire (the "State") and the Business Finance Authority of the State of New Hampshire (with its successors, the "Authority"). Pursuant to (i) a Bond Purchase and Loan Agreement dated as of December 1, 2018 (the "Bond Agreement"), between the Authority and Service Credit Union (with its successors and assigns, the "Bond Purchaser"), the Authority is issuing a bond (the "Guaranteed Bond") in the principal amount of \$12,000,000, which is being purchased by the Bond Purchaser, and the Authority is applying the proceeds of the Guaranteed Bond together with the proceeds of a commercial loan made by the Bond Purchaser to the Authority in the principal amount of \$9,000,000 (the "Non-Guaranteed Bond" and together with the Guaranteed Bond, the "Bonds") and other available funds of the Authority in the amount of \$10,000,000 (the "Authority Contribution") to finance the acquisition by the Authority of a parcel and the improvements thereon located in Manchester, New Hampshire (the "Project") to be leased by the Authority to BAE Systems Information and Electronic Systems Integration Inc. (the "Lessee") pursuant to an Agreement of Lease dated as of December \_\_, 2018 (the "Lease"). Pursuant to the Lease, the Lessee will make payments to the Authority in amounts sufficient to provide funds to pay the principal of and accrued interest thereon, when due, on the Guaranteed Bond, the Non-Guaranteed Bond and the Authority Contribution. In order to facilitate the sale of the Guaranteed Bond to the Bond Purchaser, the Authority has requested the State to guarantee payment of the principal of and interest on the Guaranteed Bond pursuant to New Hampshire Revised Statutes Annotated ("RSA") 162-I:9-b (the "State Guarantee"). The State is willing to issue the State Guarantee subject to the terms and conditions of this Agreement.

In consideration of the premises and in order to induce the State to issue the State Guarantee, the parties hereto agree as follows:

### SECTION I. ISSUANCE OF STATE GUARANTEE

1.1 Issuance. The State agrees, on the terms and conditions set forth in this Agreement, to issue the State Guarantee at the time of the closing for the issuance and sale of the Guaranteed Bond (the "Closing Date").

1.2 Reimbursement; Interest. To the extent permitted by law and subject to Section 1.3 hereof, the Authority hereby agrees to pay to the State on demand, (i) on and after each date on which the State shall make a payment under the State Guarantee, an amount equal to the amount so paid by the State, and (ii) interest on any such amount or any portion thereof remaining unpaid until payment in full, and interest or any other amount that may become payable under this Guarantee Agreement remaining unpaid from the date such amount becomes payable on demand until payment in full, an interest rate per annum equal to 4.50%, which is the interest rate payable on the Guaranteed Bond.

1.3 Mortgages; Subrogation; Limitation of Obligations. The Non-Guaranteed Bond is secured by a first Mortgage Assignment of Rents, Security Agreement and Fixture Filing Loan 1 from the Authority to the Bond Purchaser (the "First Mortgage") and the Guaranteed Bond is secured by a second Mortgage Assignment of Rents, Security Agreement and Fixture Filing Loan 2 from the Authority to the Bond Purchaser (the "Second Mortgage" and together with the First Mortgage, the "Mortgages"). As provided in the Bond Agreement, at any time after the State makes any payment to the Bond Purchaser under the State Guarantee that have not been reimbursed to the State (the "Guaranty Payments"), the State shall be subrogated to the rights of the Bond Purchaser with respect to such Guaranty Payments. The State recognizes that the Lessee is obligated to make payments to the Authority pursuant to the Lease and that the Authority's obligation to make payments to the State pursuant to this Agreement and to the Bond Purchaser pursuant to the Bond Agreement and the Mortgages is limited to amounts received by the Authority for such purpose pursuant to the Lease.

1.4 Obligations Absolute. Subject to Sections 1.2 and 1.3, the obligations of the Authority under this Agreement shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including without limitation the following:

(i) any lack of validity or enforceability of the State Guarantee, the Bond Agreement, the Mortgages, the Lease, the Bonds and other documents executed in connection therewith (as such documents are in effect from time to time, the "Financing Documents");

(ii) any amendment or waiver of or any consent to or departure from any Financing Document;

(iii) the existence of any claim, set-off, defense or other right that the Authority may have at any time against the Bond Purchaser, the Lessee, the State, or any other person whether in connection with this Agreement, the transactions contemplated herein or in the Financing Documents, or any unrelated transactions; or

(iv) any payment by the State under the State Guarantee that does not strictly comply with the terms of the State Guarantee.

## SECTION 2. CONDITIONS OF ISSUANCE

2.1 Conditions Precedent to Issuance of State Guarantee. The obligation of the State to issue the State Guarantee is subject to the conditions precedent that the State shall have received on or before the Closing Date the following, each dated the Closing Date (unless otherwise stated), in form and substance satisfactory to the State:

(a) Fully executed versions of each of the Financing Documents;

(b) An opinion of counsel to the Lessee in form and substance satisfactory to the State.

- (c) Such other opinions and documents as the State may reasonably request.

### SECTION 3. REPRESENTATIONS AND WARRANTIES

3.1 Authorization. This Agreement, the Bond Agreement, the Lease and the Bonds are valid and binding obligations of the Authority, enforceable against the Authority in accordance with their respective terms. The execution, delivery and performance of this Agreement, the Bond Agreement and the Bonds have been duly authorized by the Authority.

3.2 No Breach. The execution, delivery and performance by the Authority of this Agreement and the other Financing Documents to which it is a party will not violate the provisions of any law, regulation or order of any governmental or regulatory authority applicable to the Authority, or the bylaws of the Authority, and will not result in a breach of, or constitute a default under, or require any consent which has not been obtained or create any lien, charge or encumbrance under, any agreement, instrument or document, or the provisions of any order, writ, judgment, injunction, decree, determination or award of any court, governmental or regulatory authority affecting the Authority or its properties.

3.3 Litigation. There are no suits or proceedings pending or, to the best knowledge of the Authority, threatened against or affecting the Authority or its properties, or by or before any governmental authority which bring into question the validity or enforceability of this Agreement or the Bonds or other Financing Documents.

3.4 No Default. No Default or Event of Default has occurred or is continuing hereunder or under any Financing Document.

### SECTION 4. AFFIRMATIVE COVENANTS

So long as the State Guarantee remains outstanding or the Authority shall have any obligation to pay any amount to the State hereunder, the Authority shall, unless the State Treasurer, on behalf of the State, shall otherwise consent in writing:

4.1 Compliance with Financing Documents. Punctually pay or cause to be paid its obligations hereunder and all amounts to become due in respect of the Bonds in strict conformity with the terms of the Bonds, the Bond Agreement and this Agreement and it shall perform and comply in all material respects with each and every obligation, covenant and agreement required to be performed or observed by it in or pursuant to the Financing Documents to which it is a party.

4.2 Furnish Documents. Upon request, promptly furnish to the State Treasurer copies of (i) all documents required to be furnished to Bond Purchaser or Lessee under any Financing Document and (ii) all notices, information or other documents received by it from any other party to any Financing Document.

4.3 Amendments. Not cause or permit the Financing Documents to be amended, modified or otherwise supplemented in a manner that adversely affects the rights, interests, security, remedies or obligations of the State without the prior written consent of the State.

4.4 Insurance. Cause the Lessee to maintain insurance in such amounts and against such risks as is required by the Lease or customarily maintained by comparable enterprises operating in the area, and promptly file with the State upon request, from time to time, certificates of all such insurance.

4.5 Maintenance of Properties. Maintain the property and improvements thereon that is the subject of the Lease in accordance with the terms of the Lease [and the Mortgage] and otherwise in good repair.

4.6 Accounting Practices. Keep proper books of account with respect to the transactions contemplated by the Financing Documents in which complete and accurate entries will be made of all transactions.

4.7 Compliance with Laws. Comply with all applicable statutes and regulations of each governmental authority having jurisdiction over it.

4.8 Financial and Other Information. Furnish to the State Treasurer promptly upon request, such information regarding the financial condition, business, properties and operations of the Authority with respect to the Project, as the State may reasonably request from time to time.

4.9 Notice of Default. Promptly upon becoming aware of the existence of any condition or event that constitutes an Event of Default under this Agreement or under any other Financing Document, or any condition or event that would upon notice or lapse of time or both constitute such an event, or of any other event or condition that would have material adverse effect on the financial condition, business or properties of the Lessee, give written notice to the State specifying the nature and duration thereof and the action proposed to be taken with respect thereto.

## SECTION 5. INDEMNIFICATION

To the extent permitted by law, the Authority hereby indemnifies and holds harmless the State from and against any and all claims, damages, losses, liabilities, costs or expenses, including reasonable attorneys' fees and expenses, that the State may incur or that may be claimed against the State by any person or entity by reason of or in connection with the execution and delivery of this Agreement, the Financing Documents or the State Guarantee, or the issuance, sale or transfer of the Guaranteed Bond; provided, however, that the Authority shall not be required to indemnify the State for any claims, damages, losses, liabilities, costs or expenses to the extent caused by the bad faith, willful misconduct or gross negligence of the State.

## SECTION 6. COSTS, EXPENSES AND TAXES

To the extent permitted by law, the Authority agrees to pay on demand all reasonable costs and expenses (including reasonable counsel fees and expenses) incurred by the State in connection with (i) the enforcement of this Agreement and the Bond Agreement and such other documents that may be delivered in connection therewith or (ii) any action or proceeding relating to a court order, injunction, or other process or decree restraining or seeking to restrain the State

from paying any amount under the State Guarantee. In addition, to the extent permitted by law, the Authority shall pay any and all stamp and other taxes and fees payable in connection with the execution, delivery, filing and recording of this Agreement, the Bond Agreement, the State Guarantee and any such other documents, and agrees to save the State harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees. The Authority hereby agrees to pay to the State on demand any amounts payable under Sections 5 and 6 hereof and interest on any such amount and any other amount that may become payable under this Agreement remaining unpaid from the date such amount becomes payable on demand until payment in full, at an interest rate of per annum of four and one half percent (4.50%) (computed on the basis of a year of 365 or 366 days, as the case may be, for the actual days elapsed, including the first day but excluding the last day).

## SECTION 7. MISCELLANEOUS

7.1 Amendments and Waivers. No amendment of any provision of this Agreement shall in any event be effective unless the same shall be in writing and signed by the State and the Authority. Any requests for waivers by the State or consents to departure by the Lessee from the terms of the Lease shall be submitted in writing by the Authority to the Treasurer of the State. The State Treasurer, on behalf of the State, shall not unreasonably withhold or delay any such waiver or consent. In the event the State has not responded in writing within twenty (20) Business Days of receipt of a request for consent or waiver, such consent or waiver shall be deemed to have been given. Any waiver or consent given shall be effective only in the specific instance and for the specific purpose for which given.

7.2 No Waiver; Remedies Cumulative. Except as provided in Section 7.1 above, no failure to exercise and no delay in exercising on the part of the State any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

7.3 Notices. All notices and other communications hereunder shall in writing (including telegraphic or telefax communication) and mailed, telegraphed, telefaxed or delivered:

(a) if to the State:                   25 Capitol Street  
  State House Annex, Room 121  
  Concord, NH 03301  
  Fax: (603) 271-3922  
  Attention: Office of the Treasurer

(b) if to the Authority:               2 Pillsbury Street, Suite 201  
  Concord, NH 03301  
  Fax: (603) 415-0194  
  Attention: Executive Director

or, as to each party, at such other address as such party shall designate by written notice to the other party. Except as otherwise specified herein, all such notices or other communications shall be effective upon receipt.

7.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the State and the Authority and their respective successors and assigns.

7.5 Severability. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of any provision in any other jurisdiction.

7.6 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

7.7 Headings. The headings of the various sections and paragraphs of this Agreement are for convenience of reference only, do not constitute a part hereof and shall not affect the meaning or construction of any provision hereof.

7.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

STATE OF NEW HAMPSHIRE

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

By: \_\_\_\_\_  
State Treasurer

BUSINESS FINANCE AUTHORITY OF THE  
THE STATE OF NEW HAMPSHIRE

By: \_\_\_\_\_  
Executive Director

**NOT SEASONALLY ADJUSTED ESTIMATES BY PLACE OF RESIDENCE**

**Labor Force Estimates**

New Hampshire	Aug-18	Jul-18	Aug-17
Total Civilian Labor Force	771,040	775,790	754,640
Employed	750,730	755,100	734,990
Unemployed	20,310	20,690	19,650
Unemployment Rate	2.6%	2.7%	2.6%
United States (# in thousands)	Aug-18	Jul-18	Aug-17
Total Civilian Labor Force	161,909	163,734	160,863
Employed	155,539	157,004	153,576
Unemployed	6,370	6,730	7,287
Unemployment Rate	3.9%	4.1%	4.5%

**Unemployment Rates by Area**

Counties	Aug-18	Jul-18	Aug-17
Belknap	2.4%	2.4%	2.3%
Carroll	2.3%	2.3%	2.3%
Cheshire	2.7%	2.8%	2.5%
Cochs	3.1%	3.2%	3.0%
Grafton	2.2%	2.1%	2.1%
Hillsborough	2.8%	2.8%	2.8%
Merrimack	2.3%	2.3%	2.3%
Rockingham	2.9%	3.0%	2.8%
Strafford	2.4%	2.4%	2.3%
Sullivan	2.1%	2.2%	2.1%

Map Key	Labor Market Areas	Aug-18	Jul-18	Aug-17
1	Colebrook, NH-VT LMA, NH Portion	3.0%	3.1%	3.2%
2	Littleton, NH-VT LMA, NH Portion	2.4%	2.3%	2.2%
3	Berlin NH Micropolitan NECTA	3.6%	3.8%	3.6%
4	Haverhill, NH LMA	2.2%	2.5%	2.3%
5	Conway, NH-ME LMA, NH Portion	2.1%	2.1%	2.1%
6	Plymouth, NH LMA	2.0%	2.0%	1.9%
7	Lebanon, NH-VT Micropolitan NECTA, NH Portion	2.2%	2.1%	2.0%
8	Meredith, NH LMA	2.1%	2.0%	2.2%
9	Wolfeboro, NH LMA	2.6%	2.6%	2.6%
10	Franklin, NH LMA	2.6%	2.8%	2.4%
11	Laconia, NH Micropolitan NECTA	2.5%	2.5%	2.4%
12	Expanded Claremont, NH estimating area	2.2%	2.3%	2.2%
13	New London, NH LMA	2.4%	2.2%	2.2%
14	Concord, NH Micropolitan NECTA	2.2%	2.2%	2.2%
15	Belmont, NH LMA	2.4%	2.3%	2.2%
16	Dover-Durham, NH-ME Metropolitan NECTA, NH Portion	2.4%	2.4%	2.3%
17	Charlestown, NH LMA	2.1%	2.0%	1.9%
18	Hillsborough, NH LMA	2.6%	2.8%	2.3%
19	Raymond, NH LMA	2.6%	2.7%	2.6%
20	Manchester, NH Metropolitan NECTA	2.5%	2.6%	2.6%
21	Portsmouth, NH-ME Metropolitan NECTA, NH Portion	2.3%	2.4%	2.3%
22	Keene, NH Micropolitan NECTA	2.7%	2.8%	2.6%
23	Peterborough, NH LMA	2.6%	2.5%	2.6%
24	Nashua, NH-MA NECTA Division, NH Portion	3.0%	3.1%	3.0%
25	Seabrook-Hampstead Area, NH Portion, Haverhill-Newburyport-Amesbury MA-NH NECTA Division	3.2%	3.3%	3.1%
26	Hinsdale Town, NH Portion, Brattleboro, VT-NH LMA	3.5%	3.9%	2.8%
27	Pelham Town, NH Portion, Lowell-Billerica-Chelmsford, MA-NH NECTA Division	3.6%	3.8%	3.7%
28	Salem Town, NH Portion, Lawrence-Methuen-Salem, MA-NH NECTA Division	3.4%	3.6%	3.6%

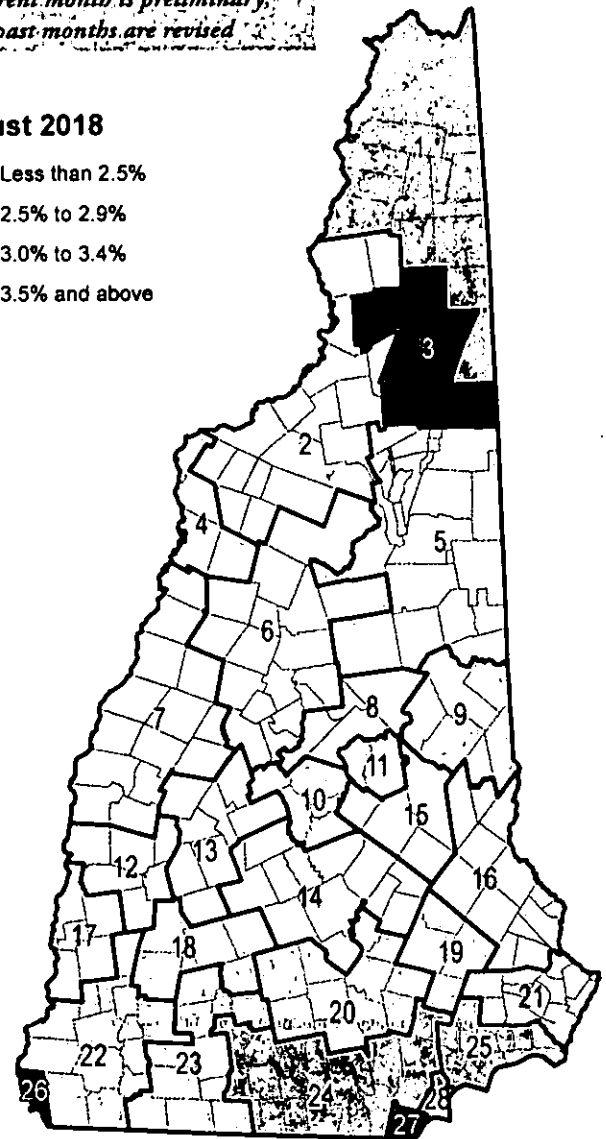
**Unemployment Rates by Region**

Not Seasonally Adjusted	Aug-18	Jul-18	Aug-17
United States	3.9%	4.1%	4.5%
Northeast	4.1%	4.3%	4.7%
New England	3.5%	3.8%	3.7%
Connecticut	4.0%	4.4%	4.7%
Maine	2.9%	3.3%	2.8%
Massachusetts	3.5%	3.9%	3.6%
New Hampshire	2.6%	2.7%	2.6%
Rhode Island	3.8%	4.1%	4.5%
Vermont	2.8%	2.9%	2.9%
Mid Atlantic	4.3%	4.4%	5.1%
New Jersey	4.4%	4.8%	5.0%
New York	4.1%	4.2%	4.9%
Pennsylvania	4.4%	4.5%	5.3%

*Current month is preliminary  
past months are revised*

**August 2018**

- Less than 2.5%
- 2.5% to 2.9%
- 3.0% to 3.4%
- 3.5% and above





A RESOLUTION AUTHORIZING UP TO \$35,000,000 LOAN FOR A PROJECT FOR BAE  
SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION, INC.  
IN THE CITY OF MANCHESTER, NEW HAMPSHIRE

WHEREAS, the Business Finance Authority (the "Authority") of the State of New Hampshire (the "State") has been requested by BAE Systems Information and Electronic Systems Integration, Inc. (with any successors or assigns, the "Borrower") to purchase and lease an approximately 34.2-acre parcel of land improved by a building structure of approximately 192,520 square foot building and related appurtenances located in the City of Manchester, New Hampshire (the "Project") by providing financing in an up to \$35,000,000 loan comprised of a lease (the "Lease"), a commercial loan (the "Commercial Loan") and a loan of certain funds of the Authority (the "Authority Loan" and collectively with the Lease and the Commercial Loan, the "Loan"), which shall be taxable under RSA 162-I (the "Act");

WHEREAS, the Authority has been furnished with (a) information and materials about the Borrower and the Project, the Project and unemployment in the Manchester area, (b) evidence that Service Credit Union (together with other financial institutions, the "Lender" or the "Purchaser") is willing to make the Commercial Loan and to purchase the Authority Loan, and (c) the proposed LOAN AND LEASE AGREEMENT dated as of November 1, 2018 (the "Lease Agreement") between the Authority and the Borrower. In addition, the Authority expects to enter into (d) a GUARANTEE AGREEMENT (the "Guarantee") between the Authority and the State; (e) a LEASEHOLD MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") from the Authority to the State and/or the Lender; (f) other financing documents and security agreements necessary to evidence the Lease, the Commercial Loan and the Authority Loan (collectively with the Lease Agreement, Guarantee and the Mortgage, the "Agreements"); and (g) other information, materials and assurances deemed relevant by the Authority; and

WHEREAS, the Commercial Loan and the Lease will constitute evidence of indebtedness of the Authority under the Act to finance the Project;

IT IS HEREBY RESOLVED THAT:

Section 1. Findings. On the basis of the information, materials and assurances received by the Authority and considered by it at an open meeting, the Authority finds:

(a) Special Findings:

(1) The Project (as completed, the "Facility") consists of an approximately 34.2-acre parcel of land improved by a building structure of approximately 192,520 square foot building and related appurtenances. The Facility will be owned by the Authority and used by the Borrower for products and services for air, land and naval forces, and advanced electronics, security, information technology solutions and customer support services. The Project is within the definition of "industrial facility" within the Act and may be financed under the Act; and

(2) The establishment and operation of the Facility will either create or preserve employment opportunities directly and indirectly within the State and will likely be of general benefit to the community as a whole.

(b) General Findings:

(1) The Project and the proposed financing of the Project are feasible;

(2) The Borrower has the skills and financial resources necessary to operate the Facility successfully;

(3) The Agreements contain provisions so that under no circumstances will the Authority be obligated directly or indirectly to pay Project costs, debt service or expenses of operation, maintenance and upkeep of the Facility except from Loan proceeds or from funds received under the Agreements, exclusive of funds received thereunder by the Authority for its own use;

(4) The Agreements do not purport to create any debt of the State with respect to the Facility, other than a special obligation of the Authority acting on behalf of the State under the Act and except for the requested State guarantee; and

(5) The proposed financing of the Project by the Authority and the proposed operation and use of the Facility will serve one or more needs and implement one or more purposes set forth in RSA 162-I:1, will preserve or increase the social or economic prosperity of the State and one or more of its political subdivisions, and will promote the general welfare of the State's citizens.

Section 2. Determination and Recommendation. The Authority finds that the proposed financing, operation and use of the Facility will serve a public use and provide a public benefit and determines that the Authority's financing of the Project will be within the policy of, and the authority conferred by, the Act. The Authority recommends to His Excellency, the Governor, and The Honorable Council that (i) the State provide its guarantee pursuant to RSA Section 162-I:9-b and (ii) they make findings and a determination similar to those set forth above and those required by RSA Section 162-I:9-b to provide a State guarantee, and for that purpose the Executive Director is directed to transmit to the Governor and Council copies of this resolution, the materials received by the Authority with respect to the Project and any other documentation and information the Governor and Council may request.

Section 3. Authorization of the Agreements. The Authority shall be a party to the Agreements and the Chairman, Vice Chairman, Treasurer and Executive Director are each authorized to singly (except as otherwise required by the Act) execute and deliver (i) the Lease Agreement on behalf of the Authority; (ii) the Guarantee Agreement; and (iii) a Mortgage, but subject to such changes as the person so signing may approve, his or her signature being conclusive identification of the documents as the Agreements (with approved changes, if any) authorized by this resolution. The Authority is also hereby authorized to provide the Authority Loan and to execute and deliver any of the Agreements for such purpose.

Section 4. Actions Not to Be Taken Until After Approval by Governor and Council. The actions authorized by Section 3 above (meaning specifically the execution of the Agreements) shall not be taken until such time as the Governor and Council have made the findings and determination required by Section 9 of the Act, it being the intent of the Authority that the various actions on its behalf that are authorized above are subject to the action of the Governor and Council as required by the Act.

Section 5. Loan Proceeds. The proceeds of the Loan shall be deposited in accordance with the Agreements, and checks, if any, for such Loan proceeds may be appropriately endorsed by the Chairman, Vice Chairman, Treasurer or the Executive Director.

Section 6. Approval of Project. The establishment of the Project, all in accordance with the provisions of the Agreements, is hereby approved for the purposes of, and to the extent required by, the Act.

Section 7. Other Actions by Officers. The Chairman, Vice Chairman, Treasurer and the Executive Director are each singly (except as otherwise required by the Act) authorized to take all other actions and execute, deliver or receive such instruments or certificates as they determine are necessary on behalf of the Authority in connection with the whole transaction authorized by the preceding sections of this resolution, but subject in all events to Section 5 hereof. Without limiting the generality of the foregoing, such officers may execute and deliver: receipts; financing statement forms under the U.C.C.; certificates as to facts, estimates and circumstances; information returns for governmental bond issues for the purposes of federal income taxes; and certificates as to proceedings taken, incumbency of officers or any other facts for any other purposes.

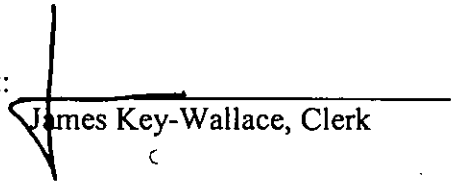
Section 8. Discharge of Lien. The Chairman, Vice Chairman, Treasurer or Executive Director, whenever requested by the owners of the Loan, may join in the partial release or final discharge of the lien of the applicable Agreements.

Section 9. Authorization of Change of Dates. Without limiting any other discretion conferred in this resolution, the date of the Agreements as executed may be any date or dates acceptable to the Borrower, the State and the Purchaser and the officers of the Authority executing the Agreements.

Section 10. Effective Date. This resolution shall take effect upon its passage.

Passed: November 19, 2018

Attest:

James Key-Wallace, Clerk

SUMMARY OF REQUIRED STATUTORY FINDINGS OF THE  
GOVERNOR AND COUNCIL UNDER RSA 162-I.

(The materials appearing in quotations below are extracts from RSA 162-I:9. Ellipses indicate deleted provisions relating to pollution control projects or other matters that are not relevant to this transaction.)

\* \* \*

Special Findings

“(1) For any project, the governor and council shall specify the type of facility and shall find that the project to be financed is within the definition of the commercial facility and may be financed under this chapter;”

The Project consists of an approximately 34.2-acre parcel of land improved by a building structure of approximately 192,520 square foot building and related appurtenances located in Manchester, New Hampshire (the “Project”) that will be owned by the Business Finance Authority of the State of New Hampshire (the “Authority”) and leased to and used by BAE Systems Information and Electronic Systems Integration, Inc. (with any successors or assigns, the “Borrower”) for the purpose of financing products and services for air, land and naval forces, and advanced electronics, security, information technology solutions and customer support services. The Project is within the definition of “commercial facility” in the Act and may be financed under the Act; and

\* \* \*

“(2) If the facility is a commercial facility, the governor and council shall find that the establishment and operation of the facility will create or preserve employment opportunities directly or indirectly within the state. . .”

The Borrower expects the Project to enable it to preserve/create 700-800 existing and new jobs. (Please see Tab #3.) The information from the New Hampshire Employment Security, Economic and Labor Market Information Bureau (Tab #9) shows that there is unemployment in the Manchester area.

\* \* \*

General Findings

“For any project, the governor and council shall find that:

(1) The project and the proposed financing of the project are feasible;” Service Credit Union, together with other financial institutions, has agreed to purchase the loan and the bond (Tab #4). The application of the Borrower also supports the finding (Tab #3).

\* \* \*

“(2) The proposed user has the skills and financial resources necessary to operate the facility successfully;”

The materials relating to the Borrower under Tab #3 support this finding.

\* \* \*

“(3) The financing and security documents contain provisions so that under no circumstances will the authority be obligated directly or indirectly to pay project costs, debt service or expenses of operation, maintenance and upkeep of the facility except from loan proceeds or from funds received under the financing or security documents, exclusive of funds received under the documents by the authority for its own use;”

The Bond Purchase and Loan Agreement (Tab #5) (the “Agreement”) is a combined financing and security document. Section 2.2 of the Agreement contains an express statement to the effect required; Section 2.3 of the Agreement obligates the Authority to pay all debt service on the Loan and the Bond when due from loan proceeds, lease payments or proceeds of the State guarantee; Section 7.18 of each Mortgage limits the Authority’s payment obligations from loan proceeds or lease payments; Section 3 of the Agreement of Lease (the “Lease”) requires the Borrower to pay rent, which is in an amount sufficient to pay debt service on the Loan and the Bond when due; and Section 8 of the Lease requires the Borrower to pay taxes and costs of operation, maintenance and upkeep.

\* \* \*

“(4) Neither the financing documents nor the security documents purport to create any debt of the state with respect to the facility, other than a special obligation of the authority acting on behalf of the state under this chapter; and”

Express language to this effect is found in the Agreement under Tab #5 in Section 2.3.

\* \* \*

“(5) The proposed financing of the project by the authority and the proposed operation and use of the facility will serve one or more needs and implement one or more purposes set forth in RSA 162-I:1, will preserve or increase the social or economic prosperity of the state and one or more of its political subdivisions, and will promote the general welfare of the state’s citizens.”

This finding can be based on all the materials as well as facts which are matters of general knowledge.

\* \* \*

Ultimate Finding and Determination Required by the  
First Paragraph of RSA 162-I:9

“ . . . the proposed financing, operation and use of the facility will serve a public use and provide a public benefit and . . . the authority’s financing of the project will be within the policy of, and the authority conferred by, this chapter.”

The materials and information furnished and the preliminary findings described above support, and enable the making of, the ultimate finding and determination.

Special Findings Required by RSA 162-I:9-b with respect to a State guarantee

“The award of a State guarantee will contribute significantly to the success of the financing; and . . . Reasonable and appropriate measures have been taken to minimize the risk of loss to the State and to ensure that any private benefit from the award of a State guarantee will be only incidental to the public purpose served thereby.”

The Borrower has requested the State guarantee as an essential part of the structure of the financing. The Bond Purchase and Loan Agreement and the Guarantee Agreement are responsive to the requirement to minimize the risk of loss.

Ultimate Finding and Determination Required by RSA 162-I: 9-b

“...such guarantee will serve a public use and provide a public benefit and . . . the authority’s financing of the project and the State’s guarantee of the bonds will be within the policy of, and the authority conferred, by this chapter.”

The materials and information furnished and the preliminary findings described above support, and enable the making of, the ultimate finding and determination.