

**PUTNAM INDUSTRIAL PARK
SALES & DISPOSITION AGREEMENT**

AGREEMENT, made this ____ day of _____, 2015, by and between the **TOWN OF PUTNAM**, a municipal corporation established under the laws of the State of Connecticut, situated in the County of Windham and State of Connecticut, (hereinafter referred to as the "**Town**") acting herein by and through **THE TOWN OF PUTNAM ECONOMIC DEVELOPMENT COMMISSION**, a public body established under law (hereinafter referred to as the "**Commission**") and further empowered pursuant to Sections 8-188 and 8-193, of the Connecticut General Statutes and having its office at 156 Main Street, in the Town of Putnam and State of Connecticut, acting herein through Delpha Very, its Director, hereunto duly authorized; and _____, with its place of business located at _____ (hereinafter referred to as the "**Developer**").

WITNESSETH:

WHEREAS, the Town is willing to sell the Property to the Developer and to do so at a price permitting its development in accordance with the terms, conditions and provisions of this "**Agreement**", and with a certain Declaration of Covenants, Restrictions and Regulations pertaining to the Industrial Park hereinafter referred to as the "**Declaration**" and filed in the Putnam Town Clerk's Office, a certain "Project Plan" for the Putnam Regional Rail Industrial Park, dated June 1982, as amended to date, such plan having been approved by the State of Connecticut Department of Economic Development, which "Project Plan" (hereinafter referred to as the "**Plan**") including all amendments thereto, shall regulate the use and development of real property within the Industrial Park, and a certain "Assistance Agreement Between the State of Connecticut and the Town of Putnam"; and

WHEREAS, the parties hereto believe that the development of a certain piece or parcel of land (hereinafter referred to as the "**Property**"), described here as Parcel Number _____, containing approximately ____ acres as shown on a certain map entitled: "_____ Plan Prepared For Putnam Economic Development Commission, Lot ____ (Assessor's Lot ____) _____ (Drive or Road) – Putnam, CT", prepared by J&D Civil Engineers and dated _____ parcel of land described as Parcel _____, on a certain map entitled: "Assessor's Map _____, Putnam, Connecticut", is in keeping with the project Plan and is in accordance with the legal description to be annexed hereto as Schedule A, and made a part hereof; and,

NOW, THEREFORE, in consideration of the promises and mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

Section 1. Sale and Purchase Price. Subject to all the terms, covenants and conditions of this Agreement, the **Town** will sell the property to the Developer, and the Developer will purchase the property from the **Town** for the amount of _____ **Thousand (\$____,000.00) Dollars** (hereinafter referred to as the "**Purchase Price**"), to be paid in cash or by certified check

simultaneously with the delivery of the deed conveying the property to the Developer, as hereinafter provided. The Developer shall cause to be erected upon said property a building for its purposes consisting of not less than _____ square feet in floor area.

Section 2. Deposit. Simultaneously with the execution of this Agreement, the Developer shall deposit with the Escrow Agent, as a good faith deposit, an amount equal to ten (10%) percent of the purchase price. Said deposit shall serve as security for the performance of the obligations under this Agreement by the Developer and shall be applied towards the purchase price due at the time of final closing, or may be retained by the Town as partial liquidated damages upon any breach of this Agreement by the Developer as hereinafter provided.

Section 3. Conveyance of Property.

a. Condition of Property to be Conveyed. The Developer acknowledges that it has made a complete inspection of the property immediately prior to the execution of this Agreement and agrees to accept, without qualifications, the property in its existing condition.

b. Form of Deed. The Town shall convey to the Developer title to the Property by the usual QuitClaim Deed (hereinafter referred to as the "**Deed**"). Such conveyance of title shall be subject to easements of record; to said Declaration referred to hereinabove and a copy of which is to be hereafter attached as **Schedule B**, and expressly incorporated into this Agreement by reference; and, to all other conditions, covenants, and restrictions set forth or referred to in this Agreement and the Plan, all of which shall survive delivery of said Deed.

c. Time and Place of Delivery of Deed. The Town shall deliver the Deed and possession of the Property to the Developer within thirty (30) days after the Developer has met and complied with the Conditions set forth in Section 5, and following all requisite public approvals. Conveyance shall be made at a location in Putnam, Connecticut to be mutually determined, and the Developer shall accept the conveyance and pay the Purchase Price to the Town at such time and place.

d. Apportionment of Taxes. At the closing of title, there shall be an adjustment of real property taxes. Both the Town and the Developer shall be responsible for the payment of such real property taxes due to the Town and the East Putnam Fire District, in an amount computed by multiplying the real property mill rates in effect on the date of closing by the assessed value of the Property as assessed, or to be assessed, by the Assessor of the Town prorated for that portion of the tax year during which the Town and the Developer each have fee simple title to the Property. The Developer agrees to pay said amounts to the Revenue Collectors for the Town of Putnam and the East Putnam Fire District within thirty (30) days after the mailing of a bill therefor by the Revenue Collector.

e. Recording of Deed. The Developer shall promptly file the Deed for recordation on the land records of the Town immediately upon closing.

f. Town of Putnam Economic Development Commission Approval Required. The sale, as herein provided, shall be subject to approval by the Putnam Economic Development Commission (hereinafter referred to as the “**Commission**”), and in the event of disapproval by the Commission, all deposit monies shall be returned by the Town to the Developer.

g. Re-subdivision. This Agreement is expressly conditioned upon the Town obtaining approval of a re-subdivision of Lot _____, Assessor’s Map ____, to create the subject Property.

Section 4. Development Plans.

a. Preliminary Site Plans. After execution of this Agreement and prior to closing, the Developer shall submit to the Commission a Preliminary Site Plan, drawn in ink on Mylar material and to scale, which shall be prepared by a licensed surveyor or engineer, which shall show:

- (i) the dimension of the lot;
- (ii) the size and location of all buildings to be erected;
- (iii) the parking and loading space layouts; and
- (iv) landscaping, and

The Commission shall review said Preliminary Site Plan and may require revisions which shall be incorporated into the Final Site Development Plan, as hereinafter set forth.

b. Submission of Plans. Final Site Development Plans and specifications with respect to the development of the Property and the construction of improvements thereon shall be in conformity with the Project Plan, this Agreement, the Declaration, and all applicable Federal, State and local laws and regulations. In any event, no later than sixty (60) days from the date of this Agreement and prior to closing, the Developer shall submit to the Commission, for approval by the Commission, Final Site Development Plans which shall be in accordance and conformity with the specifications set forth in Section II, Paragraph 4, of the Declaration of Covenants, Restrictions and Regulations for the Town of Putnam Industrial Park, a copy of which is hereafter attached as Exhibit A. Said Final Site Development Plans shall be drawn in ink on Mylar material, to scale, by a licensed surveyor or engineer and shall include an Architectural Plan which shall illustrate the ground floor plan, architectural elevations of all proposed buildings and descriptions of all exterior finishes. At any time during the period of plan review as herein below outlined, but prior to final action by the Commission to approve or reject the Development Plans, the Developer may choose to submit, or the Commission may require the Developer to submit, additional related documents including, but not limited to, renderings, construction schedules and construction details.

c. Review and Approval by Commission. If the Final Site Development Plans submitted conform to the provisions of the Project Plan, the Declaration, and this Agreement, the Commission shall approve in writing such Final Site Development Plans and no further filing by the Developer or approval by the Commission shall be required, except with respect to any changes in said Final Site Development Plans as hereinafter provided. Such Final Site Development Plans, shall in any event, be deemed approved by the Commission unless rejection thereof, in whole or in part, by written notice thereof by the Commission, setting forth in detail the reasons therefore, shall be made within sixty-five (65) days after the date of their receipt by the Commission, unless said period is extended by mutual consent of the Commission and the Developer, but in no event will said period be extended beyond one hundred twenty (120) days from the date the Development Plans are submitted to the Commission. If the Commission rejects the Development Plans submitted, in whole or in part, as not being in conformity with the Project Plan, the Declaration, or this Agreement, the Developer shall submit final Development Plans which are in conformity with the said Project Plan, the Declarations, and this Agreement, within sixty-five (65) days of receipt of written notification from the Commission of the rejection, and in any event prior to closing.

d. Changes in Development Plans. If the Developer desires to make any changes in the Development Plans after their approval by the Commission, the Developer shall submit the proposed change to the Commission for its approval. The Commission shall approve or disapprove the proposed change and notify the Developer in writing of its decision. Such decision shall be made within the period specified therefore in this Section 4.

e. Zoning Commission Approval. In addition to the requisite Final Site Development Plan approval by the Commission as hereinabove set forth, the Developer shall comply with the additional requirement for approval of such plans by the Town of Putnam Zoning Enforcement Officer and/or Zoning Commission, as may be required, as set forth in the Declaration, and as provided under Section 503, of the Zoning Regulations for the Town of Putnam.

Section 5. Project Financing and Performance Security.

a. Condition Precedent to Conveyance. Within three (3) months after approval by the Commission of the Development Plans, as provided in Section 4, hereinabove, the Developer must submit in a form acceptable to the Commission, as a condition precedent to conveyance of the Property, the following:

- (i) evidence of full project financing, as hereinafter provided;
- (ii) evidence of receipt of all necessary requisite approvals from other agencies;
- (iii) a certificate of insurance coverage as provided in section 9;
- (iv) bond or bonds as hereinafter provided; and,

- (v) a list of stockholders, or partnership shareholders, or principals, as provided in Section 7 (d);
- (vi) submission of the required Preliminary and Final Site Development Plans, and approval thereof by the Commission.

b. Evidence of Full Project Financing. As promptly as possible after approval by the Commission of the Development Plans, but in no event no later than sixty (60) days after approval of said Plans, the Developer shall submit to the Commission evidence satisfactory to it that the Developer has the equity capital and/or commitments for mortgage financing necessary for the construction of the improvements, as hereinafter, provided.

c. Performance Security Agreement. The Developer shall execute, or require the general contractor for the construction of each building on the Property to execute, a Performance Security Agreement on a form provided by the Commission to guarantee that the construction of all site and exterior façade improvements described in the approved Final Development Plan will be completed seasonably; this guarantee will be subject to approval of the Commission, and said guarantee shall be delivered to the Commission on or before the Delivery of the Deed to the Developer.

Section 6. Construction of Improvements.

a. Time for Commencement and Completion of Improvements. Within one hundred twenty (120) days of the date of delivery of the Deed by the Town to the Developer, the Developer shall secure the requisite building Permit and commence construction of the improvements, and, except as otherwise provided in this Agreement, construction of said improvements, shall be completed within three hundred sixty-five (365) days of the date of issuance of said building permit. All work with respect to the improvements to be constructed by the Developer shall be in conformity with the Development Plans as approved by the Commission.

b. Progress Reports. After conveyance of the Property by the Town to the Developer, and until the issuance of the Certificate of Completion, as hereinafter provided, the Developer shall provide the Commission, quarterly, a written report as to the actual progress of construction of the improvements. During such construction period, the work of the Developer shall be subject to inspection by representatives of the Commission.

c. Certificate of Completion. Upon completion of the improvements by the Developer to the satisfaction of the Commission, and upon issuance of a Certificate of Occupancy by the Town of Putnam Building Official, the Commission will furnish the Developer with an appropriate instrument so certifying such completion. Such certification by the Commission shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants of this Agreement with respect to the obligations of the Developer, and its successors or assigns, for construction of the improvements and the dates for the beginning and completion thereof. If the Commission shall refuse or fail to provide such

Certification of Completion, the Commission shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement indicating, in adequate detail, how the Developer has failed to complete the construction of the improvements in conformity with the Project Plan, the Declaration or this Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Commission, for the Developer to take or perform in order to obtain the Certificate of Completion.

Section 7. Prohibition against Speculation and Unauthorized Transfer of Property.

a. Prohibition against Speculation. The Developer agrees for itself and its successors and assigns that its purchase of the Property and its other undertakings pursuant to the Agreement are, and will be, for the purpose of development of the Property and not for speculation or land holding.

b. Prohibition against Unauthorized Transfer of Property. The Developer further covenants, understands and agrees that:

- (i) Except by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer to perform its obligations with respect to construction of the improvements under this Agreement; and,
- (ii) Except as to any individual parts of the Property on which the improvements to be constructed have been completed and which, by the terms of this Agreement, the Developer has been authorized to convey or lease as such improvements are completed.

The Developer, except as so authorized, has not made nor created, and will not, prior to the issuance of the Certificate of Completion by the Commission, make or suffer to be made any total or partial sale, assignment, conveyance, lease, trust or power, or transfer in any other form, and will not contract or agree to do any of the same, without the prior written approval of the Commission. Any assignment of this Agreement or any obligations hereunder, shall not relieve the Developer of any of its obligations hereunder if the assignee fails to perform in whole or in part. This provision shall be in addition to and not in lieu of others herein providing for safeguards in the assignment. The Developer herewith guarantees performance irrespective of assignment.

c. Conditions Precedent to Assignment. The Commission shall be entitled to require any or all of the following as conditions precedent to any such approval of assignment:

- (i) Any proposed assignee or transferee shall have the qualifications and financial responsibility, as determined by the Commission, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer.
- (ii) Any proposed assignee or transferee, by instrument in writing, shall, for itself and its successors and assigns, and expressly for the benefit of the Commission, have expressly

assumed all of the obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to part of the property, such obligations, conditions and restrictions to the extent that they relate to such part); provided, however, that if any assignee or transferee shall fail to assume such obligations, or having agreed to assume such obligations, shall fail to perform (in whole or in part), such failure shall not relieve such transferee or successor of or from such obligations, conditions or restrictions, or deprive or limit the Commission of, or with respect to any rights or remedies or controls concerning the Property or the construction of the improvements; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect, to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the Commission of or with respect to the property and the construction of the improvements that the Commission would have had, had there been no such transfer or change or assignment;

- (iii) There has been submitted to the Commission for review, and the Commission has approved, all instruments and other legal documents involved in effecting the proposed transfer;
- (iv) The consideration payable for the transfer by the transferee or on its behalf shall not exceed an amount presenting the actual cost (including carrying charges) to the Developer of the Property (or allocable to the part thereof or interest therein by it) it being the intent of this provision to preclude assignment of this Agreement or transfer of the Property (or any parts thereof) other than those referred to in clause (b) (ii) of this Section 6 for profit prior to the completion of the improvements and to provide that in the event any such assignment or transfer is made (and is not cancelled), the Commission shall be entitled to increase the purchase price to the Developer of the property provided in Section 1 of the Agreement by the amount that the consideration payable for the assignment or transfer is in excess of the amount authorized in this paragraph, and such consideration shall, to the extent it is in excess of the amount authorized, belong and be paid to the Commission.
- (v) The Developer and its transferee shall comply with such other conditions as the Commission may require in order to achieve and safeguard the purposes of the Provisions of Chapter 132 of the General Statutes of Connecticut, as amended, and the Putnam Industrial Park Project Plan; provided that, in the absence of specific written agreement by the Commission to the contrary, no such transfer or approval by the Commission thereof shall be deemed to relieve the Developer or any other party bound in any way by this Agreement or otherwise with respect to the construction of the improvements from any of its obligations with respect thereto.

d. Information as to Stockholders and/or Partners and/or Principals. In order to assist in the effectuation of the purposes of this Section and the statutory objectives generally, the

Developer agrees for itself and its successors and assigns that, during the period between the execution of this Agreement and issuance of the Certificate of Completion by the Commission:

- (i) The Developer shall promptly notify the Commission of any and all changes, whatsoever, in the ownership of stock representing an interest of ten (10%) percent or more, of any privately held (non-public) corporation; or of partnership shares representing an interest of ten (10%) percent or more of a partnership, or of any other act or transaction involving or resulting in any change of ownership of such stock interests, or such partnership shares, or in the relative distribution thereof, or with respect to the parties in control of the Developer or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information; and,
- (ii) The Developer shall, at such time or times as the Commission may request, furnish the Commission with a complete statement, subscribed and sworn to by the President or other executive officer or principal of the Developer, setting forth all of the stockholders of the Developer in the case of a privately held corporation; or partners in the case of a partnership; and the extent of their respective holdings, and in the event any other parties have a beneficial interest in such stock or partnership shares, their names and the extent of such interest; all as determined or indicated by the records of the Developer, by specific inquiry made by any such officer; of all parties who on the basis of such records own ten (10%) percent or more of such stock or partnership shares in the Developer. Such lists, data and information shall, in any event, be furnished to the Commission immediately prior to the delivery of the Deed to the Developer and as a condition precedent thereto, and annually thereafter on the anniversary date of the deed until the issuance of a Certificate of Completion by the Commission.

Section 8. Mortgage Financing: Rights of Mortgagees.

a. Limitation upon Encumbrance of Property. Prior to the issuance of the Certificate of Completion by the Commission, neither the Developer nor its successors and assigns shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the property, except for the purposes only of obtaining (1) funds only to the extent necessary for making the improvements, and (2) such additional funds, if any, in an amount not to exceed the Purchase Price paid by the Developer to the Commission. Until the Certificate of Completion has been issued, the Developer (or its successors and assigns) shall notify the Commission in advance of any financing, secured by mortgage or other similar lien instrument, it proposes to enter into with respect to the property, and of any encumbrance or lien that has been created on or attached to the property, whether by voluntary act of the Developer or otherwise.

b. Mortgagee Not Obligated to Construct Improvements. Notwithstanding any of the provisions of this Agreement or of the Deed, the holder of any mortgage authorized by this Agreement shall not be obligated by the provisions of this Agreement to construct or complete the construction of the improvements or to guarantee such construction or completion. This

provision shall also apply to any mortgage holder who obtains title to the property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but shall not apply to (1) any other party who thereafter obtains title to the property or such part from or through such holder, or (2) any other Developer at foreclosure sale other than the mortgage holder itself.

c. Mortgagee's Option to Cure Defaults. After any breach or default by the Developer under this Agreement, each mortgage holder shall (insofar as the rights of the Commission are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Property covered by its mortgage or title) and to add the cost thereof to the mortgage debt and the lien of its mortgage: Provided, that if the breach or default is with respect to construction of the Improvements, nothing contained in this Section or any other Section of this Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect Improvements or construction already made) without first (1) having expressly assumed the obligation to the Commission, by written agreement satisfactory to the Commission, to complete in the manner provided in this Agreement the Improvements of the property or the part thereof to which the mortgage or title of such holder relates, and (2) having submitted evidence satisfactory to the Commission that it has the qualifications and financial responsibility necessary to perform such obligation.

Any such holder who properly completes the Improvements relating to the property or applicable part thereof shall be entitled, upon written request made to the Commission, to a Certificate of Completion by the Commission in accordance with Section 5(d). If so requested by such holder, such Certificate shall mean and provide that any remedies or rights with respect to recapture, reversion or re-vesting of title to the Property that the Commission is entitled to because of failure of the Developer or its successors and assigns to cure or remedy any default with respect to the construction of the Improvements on other parts or parcels of the Property, or because of any other default in or breach of this Agreement by the Developer or its successors and assigns, shall not apply to the part or parcel of the property to which such Certificate relates.

d. Commission's Option to Pay Mortgage Debt or Purchase Property. In the event that, subsequent to default or breach of this Agreement by the Developer or its successors and assigns, the holder of any mortgage on the Property or part thereof;

- (i) has, but does not exercise, or would otherwise have but cannot (because of inability or failure to submit evidence satisfactory to the Commission that it has the necessary qualifications and financial responsibility, or otherwise) exercise the option to complete the Improvements relating to the Property or part thereof to which the mortgage or title of such holder relates, and such inability or failure continues for a period of sixty-five (65) days after the holder has been notified or informed of the default or breach; or
- (ii) undertakes completion of the Improvements but does not complete them within the time period agreed upon by the Commission and such holder (which period shall in any event be at least as long as the period prescribed for such completion in this Agreement), and

such default shall not have been cured within sixty-five (65) days after written demand by the Commission to do so, the Commission shall have the option of paying to the holder the amount of the mortgage debt and securing an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Property or part thereof has vested in such holder by way of foreclosure or action in lieu thereof, the Commission shall be entitled at its option to conveyance to it of the Property or part thereof (as the case may be) upon payment so such holder of an amount equal to the sum of:

- (iii) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals received during foreclosure proceedings);
- (iv) all expenses with respect to the foreclosure;
- (v) the net expenses, if any (exclusive of general overhead), incurred by such holder in and as a direct result of the subsequent management of the Property;
- (vi) the costs of any Improvements made by such holder; and
- (vii) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

e. Commission's Option to Cure Mortgage Default. In the event of a default or breach prior to the completion of the Improvements by the Developer or its successors and assigns in or of any of its obligations under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the Commission may at its option cure such default or breach, in which case the Commission shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by this Agreement, operation of law, or otherwise, to reimbursement from the Developer or its successors or assigns of all costs and expenses incurred by the Commission in curing such default or breach and to a lien upon the Property (or part thereof to which the mortgage or title of such holder relates) for such reimbursement: Provided, that any such lien shall be subject always to the lien of (including any lien contemplated by, because of advances yet to be made) any then-existing mortgages on the property authorized by this Agreement and executed for the sole purpose of obtaining funds to construct the Improvements.

f. "Mortgage" and "Holder" Defined. For the purposes of this Agreement, the term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan; the term "holder" in reference to a mortgage shall be deemed to include any insurer or guarantor of any obligation or condition secured by such mortgage.

Section 9. Insurance Requirements.

a. Insurance Coverage. The Developer agrees for itself, its successors and assigns, during the period of the Plan (until February 1, 2014), that it shall keep all of the insurable property and equipment in respect to the property insured by fire and extended coverage insurance and insured against such additional risks with respect to which insurance is commonly carried on similar property and equipment in the Town of Putnam. Such fire and extended coverage insurance shall be in amounts sufficient to comply with the co-insurance clause applicable to the location and character of the property or equipment, and, in any event, in amounts not less than eighty (80) percent of the current cash value of such property or equipment. All such insurance shall be by standard policies, obtained from financially sound and responsible insurance companies authorized to do business in the State of Connecticut and shall have attached thereto a clause making the loss payable to the Developer, the mortgagee(s) and, subject to the rights of the mortgagee(s), the Commission and Town, as their respective interests may appear.

b. Effective Date of Coverage. Each insurance policy shall be written to become effective at the time the Developer becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such a period as the Developer is subject to such risk or hazard.

c. Policies to be filed with Agency. All such insurance policies and renewals thereof or certificates of such policies and renewals shall be filed with the Commission.

d. Non-Cancellation Clause. All insurance policies shall provide that they cannot be cancelled or terminated until after a least thirty-five (35) days prior notice has been given to the Commission to the effect that such insurance policies are to be cancelled or terminated at a particular time.

e. Commission May Procure Insurance if Developer Fails To Do So. In the event the Developer at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the Commission, at its option, may procure or renew such insurance, and all amounts of money paid therefore by the Commission shall be payable by the Developer to the Commission, with interest thereon at the rate of twelve (12) percent per annum, from the date the same was paid by the Commission to the date of payment thereof by the Developer in writing of the date, purposes and amounts of any such payments made by it. The Developer agrees in case of lapse in insurance and payment by the Commission or Town that all monies paid by the Commission shall be liens on said property.

f. Developer's Obligations with Respect to Restoration and Reconstruction. Whenever any Improvement, or any part thereof, constructed on the Property shall have been damaged or destroyed during the period of the Plan (until February 1, 2014), the Developer shall proceed promptly to establish and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction. All proceeds of any such claims and any other monies provided for the reconstruction, restoration or repair of any such Improvement, shall be deposited in a separate account.

g. Use of Insurance Proceeds. The insurance money so collected shall be used and expended for the purpose of fully repairing or reconstructing the Improvements which have been destroyed or damaged to a condition at least comparable to that existing at the time of such damage or destruction to the extent that the insurance money may permit. If there is any excess of insurance proceeds after such repair or reconstruction has been fully completed, such excess shall be retained by the Developer.

h. Waiver by Commission. The Developer, with the written approval of the Commission and the mortgagee(s), may determine that all or any part of any such damage to or destruction of such Improvements shall not be reconstructed, restored or repaired and in such event, the proceeds of any claim against insurers or others arising out of such damage or destruction, to the extent not used for reconstruction, restoration or repair shall be retained by the Developer

i. Commencement and Completion of Reconstruction. The Developer shall commence to reconstruct or repair any Improvements and equipment on the Property, or any part thereof, which have been destroyed or damaged during the period of the Plan (until February 1, 2014) within a period not to exceed one hundred eighty-five (185) days after the insurance proceeds in respect of such destroyed or damaged property have been received by the Developer (or, if the conditions then prevailing require a longer period, such longer period as the Commission shall specify in writing) and shall well and diligently and with prompt dispatch prosecute the same as may be necessary to fully complete such reconstruction or repair within three hundred sixty-five (365) days from the start thereof. Such reconstruction or repair to the Improvements and equipment on the Property shall be in accordance with the Plan and this Agreement.

Section 10. Special Provisions.

a. Developer's Obligations Contingent Upon Approvals. The Developer's obligations under this Agreement shall be contingent upon the Developer's procurement of all necessary approvals, as required, from those local Boards and Commissions which regulate site development. The Developer shall file any and all applications associated with these approvals and shall pursue their procurement with due diligence. If the Developer is unable to obtain all necessary approvals within the time period specified in Section 5 (a), but has diligently pursued their procurement, and so notifies the Commission in writing prior to the expiration of this time period, then the Town, at the Developer's request, shall return the Deposit, without interest, to the Developer and this Agreement shall be terminated. If the Commission determines that the Developer has not diligently pursued the procurement of all necessary approvals, the Town shall have the right to retain the Deposit as partial liquidated damages.

b. Access to Property. Prior to conveyance of the Property by the Town to the Developer, the Town shall permit the Developer or its representatives to have access to any part of the Property at all reasonable times for the purpose of performing, at its own expense, soil boring tests and other such work preparatory to, but not including, the actual commencement of excavation or construction. In the event such tests or work is undertaken, the Developer agrees to maintain adequate liability insurance, to hold the Town and the Commission harmless from

any and all claims made by third parties as a result of such tests or work, and to not make any of its own claims against the Town or the Commission. Such tests or work must be authorized in writing by the Commission, and the results of any such tests or work shall in no way affect the Developer's obligations under the Agreement.

After conveyance of the Property by the Town to the Developer, the Developer shall permit the Town, and the Commission or its representative, to have access to any part of the Property at all reasonable times for the purposes of this Agreement including but not limited to, inspection of all work being performed in connection with construction of the Improvements.

c. Restriction on Use and Prohibition Discrimination. The Developer agrees for itself, and its successors and assigns, and every successor in interest to the property, or any party thereof, that the Developer and such successors and assigns, shall:

- (i) Devote the Property to, and only to and in accordance with the uses specified in the Project Plan; and,
- (ii) Not discriminate or permit discrimination against any person or group of persons on the grounds of age, mental retardation, race, color, religion, national origin, marital status, sex or physical disability, including, but not limited to, blindness (unless it is shown by such Developer that such disability prevents performance of the work involved) in any manner prohibited by the laws of the United States or of the State of Connecticut, in the sale, lease or rental or in the use or occupancy of the Property or any Improvements erected or to be erected hereon, or any part thereof. Said restrictions shall be made a part of the deed of Conveyance.

d. Conflict of Interests: Agency Representative Not Individually Liable. No member, officer or employee of the Commission or Town shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, officer, or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested. No member, officer, employee or legal counsel of the Commission or Town shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Commission or Town or for any amount which may become due to the Developer or successors or on any obligations under the terms of this Agreement.

Section 11. Notices and Demands. Any notice, demand or other communication under this Agreement shall be considered sufficiently given or delivered if it is dispatched registered or certified mail, postage prepaid, return receipt requested or delivered personally to:

- a). In the case of the Developer, to:

- b). In the case of the Commission, to:
Putnam Economic Development Commission
156 Main Street
Putnam CT 06260

or to such other address with respect to either such party as that party may from time to time designate in writing and forward to the other party as required in this Section.

Section 12. Provisions Not Merged with Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any Deed transferring title to the Property from the Town to the Developer or any successor in interest, and any such Deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 13. Invalidity of One or More Provisions. If any court shall hold a provision or provisions of this Agreement to be invalid, the remainder of this Agreement shall not be thereby affected if this Agreement can be effectively accomplished pursuant to the terms of such remainder.

Section 14. Title of Sections. Any titles of the several Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 15. Legal Review. This Agreement is expressly subject to review & approval by Commission's attorney as indicated below.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on the day and year first above written.

WITNESS:

DEVELOPER:

_____ **By:**_____

COMMISSION:

_____ **By:**_____ **Delpha Very, Director**

STATE OF)
) ss. _____, 2015
COUNTY OF)

Personally appeared _____, who acknowledged himself to be the _____, of _____, a _____, and that he being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as _____ and acknowledged the same to be his free act and deed and the free act and deed of the Developer.

, Notary Public
My Commission Expires: _____

STATE OF CONNECTICUT)
) ss. Putnam _____, 2015
COUNTY OF WINDHAM)

Personally appeared Delpha Very, who acknowledged herself to be the Director of the Putnam Economic Development Commission, Signer and Sealer of the foregoing instrument, and that he being authorized by the Commission so to do, executed the foregoing instrument for the purposes therein contained, by signing his name as Director and acknowledged the same to be his free act and deed and the free act and deed of the Commission.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

, Notary Public
My Commission Expires: _____

**PUTNAM INDUSTRIAL PARK
PERFORMANCE SECURITY AGREEMENT**

THIS AGREEMENT is entered into between _____
("Applicant") and the **PUTNAM ECONOMIC DEVELOPMENT COMMISSION**, ("Commission").

1. The applicant has entered into a Sales and Disposition Agreement to purchase land and construct a building on Lot ____ within the Putnam Industrial Park for a project known as _____. In its approval of the Final Development Plan for this project, hereby attached and incorporated into this Agreement, the Commission has required landscaping and other site development improvements as indicated thereon, as well as exterior façade improvements as described below:

2. The Commission has reviewed the Applicant's estimated cost to fully perform the work referred to in Paragraph One and has determined that the cost is expected to be approximately:

\$ _____ for _____

\$ _____ for _____

\$ _____ for _____

\$ _____ for _____

3. The applicant shall file with the Commission one of the following as security for performance of the work which security shall name the Putnam Economic Development Commission as the beneficiary or obligee of said security (check appropriate method below):

_____ a. An assignment of funds on deposit in bank account (Acct. No. _____). Attach "**SECURITY AGREEMENT AND ASSIGNMENT OF BANK ACCOUNT FOR CONSTRUCTION OF IMPROVEMENTS**" form;

_____ b. An assignment of existing construction loan proceeds (Acct. No. _____). Attach "**SECURITY AGREEMENT AND ASSIGNMENT OF LOAN PROCEEDS FOR CONSTRUCTION OF IMPROVEMENTS**" form;

_____ c. An irrevocable letter of credit issued by a federal or state chartered bank having a banking office in the State of Connecticut (Acct. No. _____). Attach letter of credit;

_____ d. A cash deposit in lieu of bond (Check No. _____);

_____ e. A performance bond provided by site and/or building contractors and issued by a surety company licensed as such in the State of Connecticut (Bond No. _____). Attach "**CONSTRUCTION AND IMPROVEMENT PERFORMANCE BOND**" form; or

_____ f. Alternative form approved by the Commission. Attach such alternative form of performance security as Exhibit B.

4. If the applicant fails to complete the work described in Paragraph One above to the satisfaction of the Commission, the Commission shall take all steps necessary to enforce the security device listed in

Paragraph Two. Funds received by the Commission from the security device shall be used solely for the purpose of completing the work described in Paragraph One. If the funds received by the Commission from the security device are insufficient to pay in full for the work, the Commission shall obtain a contract proposal and cost proposal for the additional work, and the applicant shall be billed for the additional cost. If funds received by the Commission from the security device exceed the actual cost of the work required to be completed by the Commission, any surplus remaining following completion of the work shall be returned, without interest, to the order of the Applicant and the surety or bank, if applicable. If requested by the applicant and certified by the Commission, partial payments may be made in accordance with the schedule in Exhibit A.

5. If the Commission is required to file suit to enforce this agreement or to enforce or collect on any security provided pursuant to this agreement, the Commission shall be entitled to recover all reasonable costs and attorneys' fees incurred therein.
6. This agreement shall be binding on the heirs, assigns, successors, administrators, and executors of the parties.

DATED this _____ day of _____, 2015.

_____	_____
(Applicant)	(Commission)
By: _____	By: _____
(Print name)	(Print name)
_____	_____
(Signature)	(Signature)
Its: _____	Its: _____

EXHIBIT A
SCHEDULE OF DRAW DOWN FROM CASH FUND

<u>PERCENT OF WORK COMPLETED</u>	<u>AMOUNT OF FUNDS TO BE RELEASED</u>
0-40 %	0%
50%	50%
75%	75%
100%	90%
Final Commission approval	100%

The amount of the funds released is based on obtaining the percentage completion indicated above and no prorated percentages other than those indicated will be allowed.