

FIRST AMENDMENT TO AGENT AND FINANCIAL ASSISTANCE AGREEMENT

THIS FIRST AMENDMENT TO AGENT AND FINANCIAL ASSISTANCE AGREEMENT, dated as of December 31, 2016, is by and between **ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 95 Perry Street, Suite 403, Buffalo, New York 14203 (the "Agency") and **SELECTONE RE HOLDINGS, LLC**, a limited liability company duly organized and validly existing under the laws of the State of New York with offices at 2813 Wehrle Drive, Suite #3, Williamsville, New York 14221 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 293 of the Laws of 1970 of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the leasehold interest in a .36+/- acre parcel of land located at 760 Seneca Street in the City of Buffalo, Erie County, New York (the "Land") together with an existing 12,000+/- SF three-story brick building thereon (the "Existing Improvements"), (ii) the renovation, upgrading and equipping of the Existing Improvements thereon into the new corporate headquarters of the Company consisting of the second and third floors (8,000+/- SF) and commercial tenant space on the first floor (4,000+/- SF) (the "Improvements"), and (iii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property (the "Equipment," and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, by Resolution adopted on October 22, 2014 (the "Resolution"), the Agency authorized the Company to act as its Agent for the purposes of acquiring, constructing and/or equipping the Facility subject to the Company entering into an Agent Agreement; and

WHEREAS, the Agency and the Company entered into that certain Agent and Financial Assistance Agreement, dated as of December 18, 2015, as may be amended from time to time, (collectively, the "Agent Agreement"); and

WHEREAS, the Company has notified the Agency that the project has not been completed and has requested an additional extension of the New York State and local sales and use tax exemption benefit provided by the Agency, which the Agency has agreed to provide to the Company; and

WHEREAS, the Agency requires a First Amendment to Agent Agreement be executed, and the Company and the Agency have agreed to execute the First Amendment to Agent Agreement to reflect the additional extension of the New York State and local sales and use tax exemption benefit provided by the Agency and any additional amendments thereto.

WHEREAS, the Company and the Agency desire to amend the Agent Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

The Agent Agreement is amended as follows:

1. Any references to the sales tax exemption expiration in the Agent Agreement shall be changed from **December 31, 2016** to **May 31, 2017**.

2. Paragraph 4 of the Agent Agreement shall be amended and replaced by the following paragraph:

Insurance Required. During the term of an Agent Agreement and/or a Lease Agreement entered into with the Agency, an **ACORD 25-Certificate of Liability Insurance and ACORD 855 NY-New York Construction Certificate of Liability Addendum** shall be provided evidencing the following insurance is currently maintained and in force with an insurance carrier approved to do business in the State of New York and maintaining an A.M. Best Rating of A- or better showing the Agency as Certificate Holder.

Acceptable Certificates of Insurance shall indicate the following minimal coverage, limits of insurance, policy numbers and policy effective and expiration dates.

(a) **Commercial General Liability:** Agent and subcontractors shall provide such coverage on an occurrence basis for the named insured's premises & operations and products-completed operations. Blanket Contractual Liability provided within the "insured contract" definition may not be excluded or restricted in any way. Property damage to work performed by subcontractors may not be excluded or restricted nor shall the Additional Insured's coverage for claims involving injury to employees of the Named Insured or their subcontractors be excluded or restricted. The "insured contract" exception to the Employers Liability exclusion also may not be removed or restricted in any way.

These coverages are to be properly evidenced by checking the appropriate box(es) on the **ACORD 855-NY Construction Certificate of Liability Addendum's Information Section, Items G, H, I and L.** Policy shall have attached **Designated Location(s) General Aggregate Limit CG 25 04 endorsement.**

Limits expressed shall be no less than:

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Per Occurrence	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Fire Damage Liability	\$ 100,000
Medical Payments (per person)	\$ 5,000

Agency shall be named as Additional Insured per **ISO Form CG 20 26-Additional Insured Designated Person or Organization** to provide coverage for the Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis. All insurance required of the Company shall waive any right of subrogation of the insurer against any person insured under such policy, and waive any right of the insurer to any off-set or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under such policy.

(b) ACORD 855 NY-New York Construction Certificate of Liability Insurance: It is not uncommon for insurers to modify the standard ISO policy language with endorsements that result in modifications to language preferred by the insurer. **This addendum is required to supplement the ACORD 25-Certificate of Liability Insurance with additional information that provides a more detailed expression of the types of coverage required.** Specifically required coverages may be excluded or limited by the attachment of exclusionary or limitation endorsements. This addendum provides the insurer the ability to certify coverage provided by the absence of such exclusionary or limiting modifications.

(c) Umbrella/Excess Liability: Commercial Umbrella or excess liability for a limit of at least \$5,000,000 per occurrence with a \$5,000,000 Aggregate. Coverage should respond on a follow-form basis and excess over the aforementioned underlying policy limits. Agency shall be named as Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis.

(d) Workers Compensation/Disability Insurance: The Company and/or Project Owner shall provide evidence of insurance and maintain Workers Compensation/Disability insurance as required by statute.

i) Accepted Forms:

Workers Compensation Forms		DBL (Disability Benefits Law) Forms	
CE-200	Exemption	CE-200	Exemption
C-105.2	Commercial Insurer	DB-120.1	Insurers
SI-12	Self-Insurer	DB-155	Self-Insured
GSI-105.2	Group Self-Insured		
U-26.3	New York State Insurance Fund		

If the Company and/or Project owner have no employees, the Company and/or Project owner shall provide a completed and signed Form CE-200 or later revision, which is found on the New York State Workers Compensation Board website: www.wcb.ny.gov/. This form is to be completed on-line, printed, and signed.

ECIDA Address: All evidence of insurance shall be sent to:
 Erie County Industrial Development Agency
 95 Perry Street, Suite 403
 Buffalo, NY 14203

Unless otherwise amended pursuant to the terms contained herein, the terms of the Agent Agreement shall remain unchanged.

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[Signature/Acknowledgment Page to First Amendment to Agent and Financial Assistance Agreement]

IN WITNESS WHEREOF, the Agency and the Company have caused this First Amendment to Agent and Financial Assistance Agreement to be executed in their respective names, all as of the date first above written.

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: Karen M. Fiala
Name: Karen M. Fiala
Title: Assistant Treasurer

SELECTONE RE HOLDINGS, LLC

By: _____
Name: Ronald C. Faso
Title: Manager

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

On the 4 day of January, 2017, before me, the undersigned, personally appeared **KAREN M. FIALA**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Dawn M. Boudreau
Notary Public

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

DAWN M. BOUDREAU
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires May 27, 2019

On the _____ day of January, 2017, before me, the undersigned, personally appeared **RONALD C. FASO**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public