

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (the "Agreement") is between the Wyoming County Industrial Development Agency (the "IDA") and Indus 19 LLC (the "Company").

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The IDA is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 343 of the Laws of 1974 of the State of New York (collectively the "Act") to participate in the financing of "Projects" (as defined in the Act).

1.02 The purposes of the Act are (i) to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State and (ii) to encourage and assist in providing of industrial pollution control facilities. The Act vests the IDA with all powers necessary to enable it to accomplish such purposes, including the power to issue industrial development revenue bonds.

1.03 The Company requests that the IDA enter into an agreement that will allow the IDA to provide financial incentives for the construction and equipping of a 3-story 32,000+/- sq. ft. nationally branded Wyndham Microtel hotel located at 283 North Main Street, Warsaw, New York (said facilities and equipment herein after are referred to as the "Facility") and lease (with an obligation to purchase) or sell the Facility to the Company.

1.04 The Company hereby represents to the IDA that the financial incentives for the Facility will not result in the removal of a plant or facility from one area of the State to another area of the State or the abandonment of one or more plants of the Company of any other proposed occupant of the Facility located in the State except to the extent necessary to discourage the Company from removing such a plant or facility to a location outside of the State.

1.05 The IDA has determined that the construction and equipping of the Facility, as described in the Company's application (and supporting documentation, if any) to the IDA (the "Application") and the leasing or sale thereof to the Company will promote and further the purposes of the Act.

1.06 On March 13, 2019, the IDA adopted a resolution (the "Resolution"), a copy of which is attached hereto as Schedule A and made a part hereof, authorizing the execution and delivery of a lease agreement and other project documents in order to assist the Company and to effectuate the purposes of the Act subject to satisfaction of the IDA's standard closing requirements and other conditions set forth in the Resolution. The Resolution sets forth the financial assistance to be provided by the IDA for the Project. It is understood and agreed by the IDA and the Company that the IDA has agreed to provide the financial assistance in connection with the Project and to enter into the lease agreement and other project documents in order to promote, develop, encourage and assist in the acquiring, construction, reconstructing, improving, maintaining, equipping and furnishing of the Project to advance the job opportunities, health, general prosperity and economic welfare of the people of the County of Wyoming, New York and to otherwise accomplish the public purposes of the Act.

1.07 In the Resolution, the IDA agreed to provide, in connection with the Project, a fifteen-year abatement from real property taxes (the "PILOT payments") in accordance with the Notice of Deviation From Uniform Tax Exemption Schedule (the "Notice of Deviation"), a copy of which is attached as Schedule B and made a part hereof.

1.08 The PILOT payments to Wyoming County, the Village of Warsaw and the Town of Warsaw shall be due on or before January 30th of each year, and the PILOT payment to the Warsaw Central School District shall be due on or before September 30th of each year. PILOT payments shall be calculated as set forth in the Notice of Deviation.

1.09 In the Resolution, the IDA appointed the Company its agent for the purposes of constructing and equipping the Facility, entering into contracts and doing all things requisite and proper for completing the construction and equipping of the Facility. Upon execution and delivery of this Agreement by the Company, the IDA will provide to the Company a letter to evidence such agency appointment.

Article 2. Undertakings on the Part of the IDA. Based upon the statements, representations and undertakings of the Company regarding the Facility and subject to the conditions set forth herein, the IDA agrees as follows:

2.01 Upon satisfactory completion of any conditions precedent set forth herein and in the Resolution and satisfaction of the IDA's standard closing requirements, IDA will enter into such further documents as may be necessary or advisable for (i) the construction and equipping of the Facility, and (ii) the leasing or sale of the Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the IDA and the Company, including, without limitation a lease agreement between the Company and the IDA (the "Lease Agreement").

Article 3. Undertakings on the Part of the Company. Based upon statements, representations and undertakings of the IDA herein and in the Resolution and subject to any conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01 The Company hereby accepts the appointment made by the IDA in the Resolution to be the true and lawful agent of the IDA to (i) construct and equip the Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions as the stated agent of the IDA and in general to do all things which may be requisite or proper for completing the construction and equipping of the Facility, all with the same powers and the same validity as the IDA could do if acting on its own behalf.

3.02 The Company will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the construction and installation of the Facility (including any necessary contracts for the acquisition of real property or interests therein necessary or useful for said Facility).

3.03 (a) The Company shall not permit to stand, and will, as its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the IDA and its counsel), any mechanics' or other liens against the Facility for labor or materials furnished in connection with the acquisition and installation of the Facility. The Company shall forever defend, indemnify and hold the IDA, its members, officers, employees and agents, and anyone for whose acts or omissions the IDA or any of them may be liable, harmless from and against all costs, losses, expenses, claims, damages and liabilities of whatever kind of nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including the Facility, ordered or used in connection with the construction and equipping of the Facility or arising out of any contract or other arrangement therefor (and including any expenses incurred by the IDA in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the IDA pursuant to this Agreement or otherwise.

(b) To the fullest extent permitted by law, the Company shall forever defend, indemnify and hold harmless the IDA, its members, officers, employees and agents, and anyone for whose acts or omissions the IDA or any of them may be liable, from and against all claims, causes of action, liabilities and expenses howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Facility, including the failure to comply with the provisions of Article 3.03 hereof, or arising, directly or indirectly, out of the ownership, construction, installation, operation, maintenance, repair or financing of the Facility, and including, without limitation, any expenses incurred by the IDA in defending any claims, suits or actions which may arise as a result of the foregoing.

(c) To the fullest extent permitted by law, the defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the IDA, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the IDA or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(d) The Company shall provide and carry worker's compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protective for the benefit of the IDA and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the IDA but in no event providing coverage in an amount less than \$1,000,000 per occurrence. The IDA shall be named as an additional insured on the comprehensive liability coverage on a primary, non-contributory basis and without any right of contribution from any other insurance carried by the IDA, and such policy shall provide for delivery of thirty (30) days' prior written notice of cancellation to the IDA. Upon the request of the IDA, the Company shall provide certificates in form satisfactory to the IDA evidencing such insurance.

3.04 The Company agrees that, as agent for the IDA or otherwise, it will comply with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the IDA and/or the Company with respect of the Facility, the construction, reconstruction and equipping thereof, the operation and maintenance of the Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions. Without limiting the foregoing, the Company shall comply with, and shall be subject to, the provisions set forth on Schedule C attached to and made a part of this Agreement. The Company also certifies, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

3.05 The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.06 If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or Facility, materials or supplies in connection with the Facility, or are in any manner otherwise payable directly or indirectly in connection with the Facility, the Company shall pay the same and defend

and indemnify the IDA from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

Article 4. General Provisions

4.01 This Agreement shall take effect on the date of execution hereof by the IDA and the Company and shall remain in effect until the Lease Agreement becomes effective, unless sooner terminated in accordance with the terms of this Agreement. It is the intent of the IDA and the Company that this Agreement be superseded in its entirety by the Lease Agreement, except for the indemnities contained herein, which shall survive.

4.02 The Company agrees that it will reimburse the IDA for all reasonable and necessary direct out-of-pocket expenses which the IDA may incur as a consequence of executing this Agreement or performing its obligations hereunder. The Company also agrees to pay an administrative fee equal to 1% of the project's total cost to the IDA.

4.03 If for any reason the Lease Agreement is not signed by both parties on or before one (1) year from the execution hereof, the provision of this Agreement shall, unless extended by agreement of the IDA and the Company or unless otherwise set forth below, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except as set forth below. In addition, in the event the Company (i) fails to maintain and provide evidence of the insurance required under this Agreement, (ii) fails to observe or perform any other covenant or condition of this Agreement and such failure continues for a period of thirty (30) days after receipt by the Company of written notice from the IDA specifying the nature of such failure, (iii) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect) or otherwise seeks advantage of any law relating to bankruptcy, insolvency, reorganization or winding up or has any such proceeding commenced against it (and fails to have such involuntary proceeding dismissed within sixty (60) days of the commencement thereof) or (iv) ceases operations as a going business concern within Wyoming County, the IDA may terminate this Agreement and/or take any further action at law or in equity to enforce performance or observance of any obligations, agreements or covenants of the Company under this Agreement. In the event of any termination of this Agreement in accordance with the provisions of this Article 4.03, the provisions of Articles 3.03, 3.04, 3.05 and 3.06 above shall survive and:

(a) The Company shall pay the IDA for all expenses which were authorized by the Company and incurred by the IDA in connection with the construction and installation of the Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the IDA at the request of or as agent for the Company in connection with the Facility, and

(c) The Company will pay the out-of-pocket expenses of members of the IDA, and counsel for the IDA incurred in connection with the construction and equipping of the Facility or any enforcement of the IDA's rights under this agreement.

4.04 The Company agrees to assume and pay all attorney fees and disbursements as applicable incurred by the IDA in performing its obligations and functions under the terms of this Project Agreement and any subsequent legal fees incurred by the IDA in connection with legal work necessary to complete, monitor, participate and/or enforce its rights in connection with the proposed project.

28th IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on this day of May, 2019.

WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By James Preice
Its Executive Director

Indus 19 LLC

By ATLLC
Its Authorized Officer

Schedule A

Resolution

Schedule B

Notice of Deviation

Schedule C

In addition to any other terms or conditions of the Project Agreement, to which this Schedule C is attached and made a part of, the Company shall comply with the following terms and conditions:

A) Job Listings. In accordance with Section 858-b(2) of the New York General Municipal Law, the Company shall, except as otherwise provided by collective bargaining agreements, list new employment opportunities created as a result of the construction and equipping of the Facility as described in the Project Agreement (the "Project") with the New York State Department of Labor Community Services Division (the "DOL") and the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the Federal Job Training Partnership Act (Public Law 97-300) (or any successor legislation) in which the Facility is located.

B) First Consideration for Employment. In accordance with Section 858-b(2) of the New York State General Municipal Law, except as otherwise provided by collective bargaining agreements, where practicable, the Company will first consider persons eligible to participate in Workforce Investment Board (WIB) programs who shall be referred by the WIB entities for new employment opportunities created as a result of the Project.

C) Annual Sales Tax Filings and Tax Exemption Reports/Recapture. In accordance with Section 874(8) of the New York State General Municipal Law, the Company will file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance describing the value of the sales tax exemptions claimed by the Company and all consultants or subcontractors retained by the Company. In addition, the Company shall be required to report to the IDA, at such times as the IDA may require (or as otherwise prescribed by the Department of Taxation and Finance), (i) the value of all sales tax exemptions claimed by the Company and all consultants and subcontractors retained by the Company, (ii) the value of any real property tax and/or mortgage tax exemptions claimed by the Company and (iii) the amount of payments in lieu of taxes paid by the Company. In the event, because of the involvement of the IDA, the Company claims an exemption from the New York State portion of any sales taxes in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder or under the Resolution, or which exemption is in excess of the amounts authorized hereunder or under the Resolution, or is otherwise not permitted under this Project Agreement or the Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the IDA as set forth in this Project Agreement, the Resolution or in any other document entered into between the Company and the IDA in connection with the Project (collectively, the "Project Documents"), then the Company shall be required to remit to the IDA an amount equal to the amount of New York State portion of any Sales Taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of Taxation and Finance of the New York State portion of any sales taxes, together with any relevant penalties and interest. In addition, in the event the IDA determines, in its sole discretion, that the Facility has failed to meet its intended goals, including, but not limited to, a sale or closure of the Facility, a material shortfall in the Company's stated job creation or retention, a significant change in the use of the Facility, a significant change in the business activities of the Company or other operator of the Facility, a material noncompliance with the Project Documents or violation of zoning or land use laws or regulations, or federal, state or local environmental laws or regulations, or if, the financial assistance described in the Resolution and this Project Agreement was obtained based on fraud or intentional misrepresentation of material facts regarding the Project, the IDA may suspend or discontinue any or all exemptions granted with respect to the Project pursuant to the Resolution and this Project Agreement, require the Company to repay the value of any or all exemptions granted with respect to the Project pursuant to the Resolution and this Project Agreement, or may require a modification of the terms of the Project Documents, including any payment in lieu of tax agreement. Upon receipt by the IDA of any repayment of exemptions granted, the IDA shall redistribute the amounts received to the appropriate affected tax jurisdictions unless otherwise agreed to by any affected tax jurisdiction.

D) New York State Department of Taxation and Finance Form ST-60. In accordance with Section 874(9) of the New York General Municipal Law, the Company and each agent, subagent, contractor and/or subcontractor appointed by the Company and claiming a sales tax exemption in

connection with the Project must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form ST-60 must be delivered to the IDA within five (5) days of the appointment of the Company or any such agent, subagent, contractor and/or subcontractor as agent of the IDA for purposes of completing the Project. Failure to comply with these requirements may result in loss of sales tax exemptions for the Project.

E) Reports and Certifications. The Company shall submit to the IDA, annually (or more frequently if requested by the IDA), a certification of capital investment by the Company in connection with the Project (including total capital investment upon completion of the Project), on the IDA's approved form. The Company shall also file with the IDA, on an annual basis (or more frequently if requested by the IDA), certified reports regarding the number of people employed at the Project site, on the IDA's approved form, which shall include such further information as the IDA shall require, including, but not limited to (i) the full time equivalent jobs retained and the full time equivalent jobs created as a result of the IDA's financial assistance, by category, including full-time equivalent independent contractors and employees of independent contractors that work at the Project location and (ii) a certification by the Company that the information contained in the Application regarding the salary and fringe benefit averages or ranges for categories of jobs created and jobs retained is still accurate. If not accurate, the Company shall provide a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created.