EXHIBIT **VIII.C.2.b.** STATUS OF LAND

As described in the Cover Letter, the Site is currently owned by Marx, and pursuant to the Option Agreement by and between Marx and FMI, FMI has the option to purchase the Site during the Option Term (as defined in the Option Agreement). Pursuant to the FMI Agreement, the Applicant has agreed to, among other things, (i) make certain payments to, and loan certain moneys to, FMI at the time of award of the License to allow for FMI to acquire the Site pursuant to the Option Agreement and to compensate FMI for its services and (ii) thereafter lease the Site from FMI on a long-term basis. The FMI Agreement provides for certain major terms of a definitive ground lease agreement between FMI and Applicant, and such ground lease agreement is currently being drafted by the parties. As described in the FMI Agreement, the Applicant has the ability to compel FMI to exercise the option under the Option Agreement and close on the Site, and thereafter the Applicant would enter into the ground lease with FMI. As such, the Applicant will be able to satisfy the obligation to acquire a leasehold ownership interest in the Site within sixty days after a License has been awarded. Please refer to the attached copies of the Option Agreement and the FMI Agreement for additional details. Additionally, the Applicant is potentially considering acquiring or leasing certain other parcels within the City of Rensselaer for off-site parking.

NYS FUNDING LLC
c/o OCH-ZIFF REAL ESTATE
9 WEST 57th STREET, 39th FLOOR
NEW YORK, NEW YORK 10019

June 23, 2014

Flaum Management Company Inc.
400 Andrews Street, Suite 500
Rochester, New York 14604

Re: Rensselaer Site, Rensselaer, New York

Ladies and Gentlemen:

This binding letter agreement (this "Letter Agreement") sets forth the mutual understanding and current intention of Flaum Management Company Inc., a New York corporation ("Landlord"), and NYS Funding LLC, a Delaware limited liability company ("Tenant"), concerning (x) the potential acquisition by Landlord of certain real property being, lying and situated in the City of Rensselaer, County of Rensselaer, State of New York known as 555 Broadway with a total of approximately twenty-seven (27) acres, as more particularly described in the Option Agreement defined below (the "Leased Premises") pursuant to Landlord's exercise of an option to purchase the Leased Premises (the "Option") under that certain Exclusive Option Agreement for Purchase of Real Property, dated as of June 3, 2014, by and between Marx Properties, Inc., a New York corporation, as seller, and Landlord, as purchaser (the "Option Agreement"); and (y) the entering into of a ground lease for the Leased Premises between Landlord and Tenant (the "Ground Lease") pursuant to which Tenant intends to lease from Landlord, and Landlord intends to lease to Tenant, the Leased Premises for the purpose of operating a gaming facility and related uses thereon, the material terms of which are set forth in Exhibit A attached hereto.

Landlord and Tenant previously entered into that certain (x) Letter Agreement, dated April 23, 2014, by and between Landlord and Tenant, regarding the Noonan Site, located in the City of Albany, Albany County, New York (the "Albany Agreement"), and (y) Letter Agreement, dated June 3, 2014, by and between Landlord and Tenant, regarding the Premises (the "Interim Rensselaer Letter," and together with the Albany Agreement, the "Previous Agreements"). Each of Landlord and Tenant hereby acknowledges and agrees that (i) each of the Previous Agreements is hereby terminated and is of no further force or effect, such that none of Landlord, Tenant or any of their respective affiliates shall have any further rights, responsibilities or obligations thereunder (except as expressly set forth herein and with respect to the provisions of the Previous Agreements that, by their own terms, expressly survive the termination of the Previous Agreements), and (ii) this Letter Agreement supersedes each of the Previous Agreements (except as expressly set forth herein) and any and all other understandings between the parties with respect to such subject matter thereof and hereof.

1. Request for Application Process. Tenant, as applicant, shall be responsible for commencing the process to apply to the New York State Gaming Commission and the Gaming Facility Location Board for a gaming license (the "License") for the operation of a gaming facility and related uses at the Leased Premises.

2. Payment of Option Fee and Purchase Price; Exercise of the Option to Purchase; Entering Into Ground Lease.

(a) Each of Landlord and Tenant acknowledges and agrees that (i) on June 3, 2014, Tenant advanced to Landlord an amount equal to [redacted], which amount was utilized by Landlord to fulfill its obligation to fund the initial portion of the Option Fee (as defined in the Option Agreement) and (ii) subject to the terms of this Letter Agreement, at such time as may be required pursuant to the Option Agreement, Tenant shall advance to Landlord an amount equal to [redacted], which amount shall be utilized by Landlord to fulfill its obligation to fund the remaining portions of the Option Fee.

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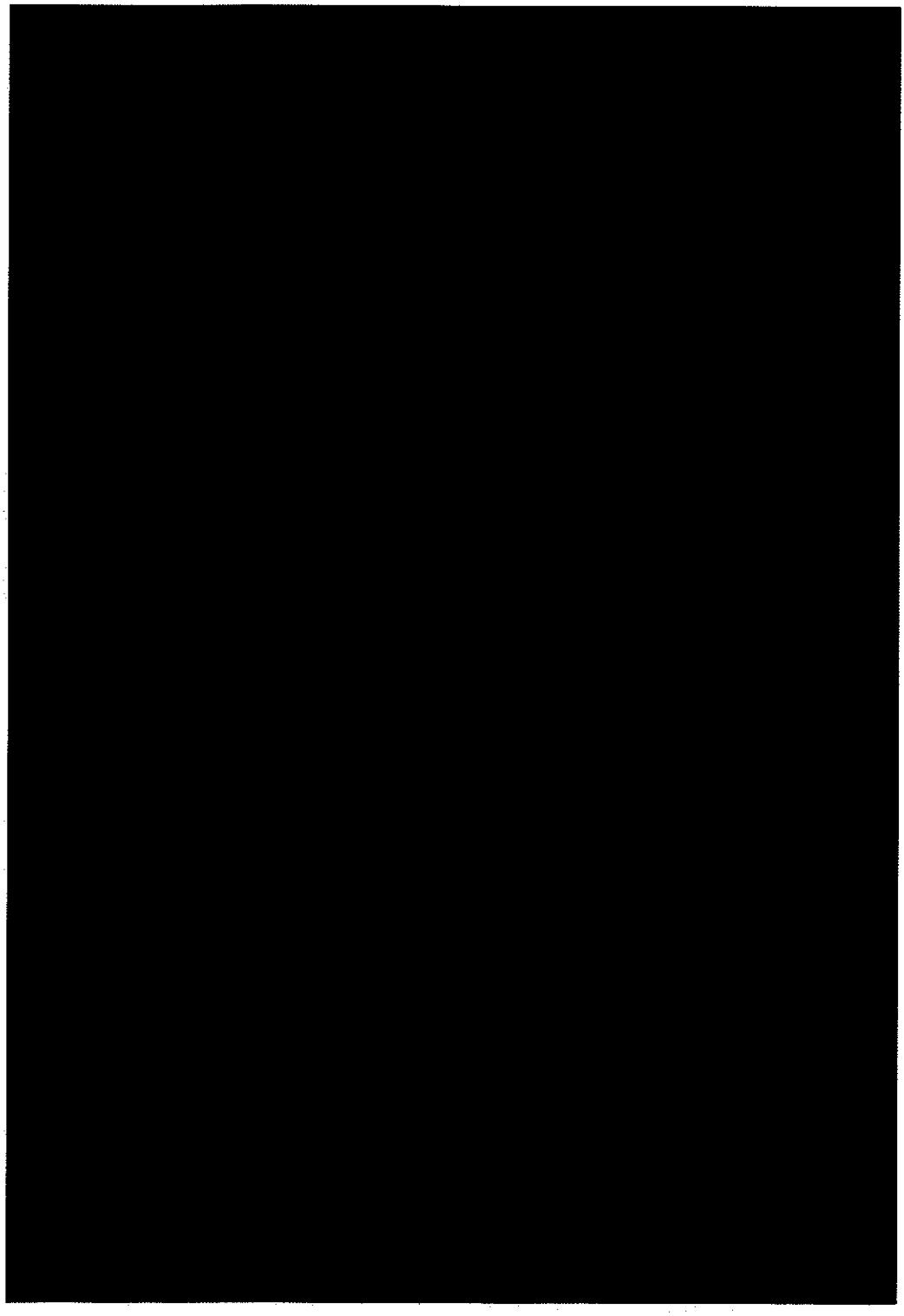

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[redacted]

(d) Unless Tenant elects to withdraw in accordance with Paragraph 6 below, the parties shall proceed to enter into a fully-negotiated Ground Lease (including the terms set forth on Exhibit A attached hereto) and Note (including the terms set forth in Paragraph 2(c)), in each case the effectiveness of which shall be conditioned only upon (i) the License being awarded to Tenant for the Leased Premises and (ii) the exercise of the Option and the closing under the Option Agreement.

(e) Landlord covenants and agrees that it shall not take any action or fail to take any action under or with respect to the Option Agreement, the Leased Premises or the Ground Lease without the prior written consent of Tenant. Landlord hereby represents and warrants to Tenant that (a) Landlord has furnished to Tenant a true and complete copy of the Option Agreement, together with all schedules, exhibits and other attachments thereto, which has not been amended or modified and which is in full force and effect as of the date hereof; (b) Landlord's execution of the Option Agreement was duly authorized by Landlord and, to the best of Landlord's knowledge and belief, the Option Agreement is enforceable against all of the parties thereto and no party to the Option Agreement is in default thereunder or has waived any default thereunder; and (c) Landlord has provided (and hereafter will provide) Tenant with all due diligence documents requested by Tenant in Landlord's or Landlord's affiliates' possession with respect to the Leased Premises and/or the Option. During the pendency of the exercise of the Option Agreement and the entering into the Ground Lease, Landlord shall timely furnish and/or make available to Tenant all materials and other material information (both written and oral) with respect to the Option Agreement, the Leased Premises or the Ground Lease that comes into its possession, and Landlord shall otherwise keep Tenant regularly apprised as to all material aspects thereof.

[redacted]

4. Pursuit Costs. For purposes of this Letter Agreement, "Pursuit Costs" means (i) all Pursuit Costs (as such term is defined and used in the Albany Agreement) incurred during the period commencing on April 23, 2014 and ending on the date that immediately precedes the date hereof and otherwise incurred in accordance with the terms and provisions of the Albany Agreement and (ii) all out-of-pocket expenses incurred from and after the date hereof by (x) Tenant or its affiliates, or (y) Landlord or its affiliates with Tenant's prior written approval, in each case, in connection with the transactions contemplated by this Letter Agreement, including without limitation costs and expenses associated with (a) the determination of the scope, budget and construction timeline of the development of the Leased Premises; (b) all design, programming, layouts and architectural work; (c) all engineering, geotechnical, environmental and other development related studies; (d) all public infrastructure and traffic studies; (e) an independent gaming market survey; (f) independent economic impact studies (local, regional, state); (g) seeking to obtain the License for the Leased Premises; and (h) all payments and expenses to be made or incurred by Landlord (if any) in connection with the Option (excluding any payments made by Landlord pursuant to the Option Agreement), including but not limited to public relations consultants, political consultants, and any other consultant or professional paid by Landlord. Tenant shall be responsible for all Pursuit Costs, and shall promptly

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reimburse Landlord for any Pursuit Costs that are incurred by Landlord in accordance with the terms of this Letter Agreement. The foregoing is subject to the provisions of Paragraph 6(a) below.

5. Consulting Services.

(a) Landlord shall provide consulting and other specified services to Tenant, as reasonably requested by Tenant, in support of Tenant's application for the License for the Leased Premises. The foregoing obligations shall automatically cease upon the commencement of any vertical construction of a new casino project in Region 2 (the "Capital Region"). Third-party Pursuit Costs incurred by Landlord in connection with performing such services shall be reimbursed as provided for above.

(b) In consideration for consulting services to be provided by Landlord to Tenant pursuant to Paragraph 5(a) above, Tenant shall pay to Landlord a fee of [redacted] on the date of Landlord's closing on the Leased Premises, and solely if, the License for the Leased Premises is awarded to Tenant, which award must be final, non-appealable and not subject to any further conditions, approvals, or requirements. If the foregoing condition precedent to the payment of such fee is not satisfied, then no such payment shall be due to Landlord until such condition is satisfied, if ever. Moreover, other than payments due to Landlord under the Ground Lease, the payments described in this Paragraph 5(b) and in Paragraph 4 of this Letter Agreement shall constitute Landlord's sole compensation for services provided. Notwithstanding anything to the contrary contained in this Letter Agreement, none of NYS Funding LLC or its affiliates shall be liable for any fee referenced in this Paragraph 5(b) if NYS Funding LLC (in its capacity as Tenant hereunder) effects a Withdrawal pursuant to Paragraph 6 below. Notwithstanding anything to the contrary in this Letter Agreement, the amounts due under this Paragraph 5(b) (if any) are not subject to the Deduction. Notwithstanding anything to the contrary in this Letter Agreement, in the event Landlord assigns or transfers its rights under this Letter Agreement in accordance with the terms hereof, the amounts due under this Paragraph 5(b) (if any) shall be paid to Flaum Management Company Inc. and the transferee or assignee shall have no rights to such amounts (if any).

(c) In connection with providing such consulting services, Landlord shall comply with all laws, including, without limitation, laws relating to "pay-to-play", corruption, bribery and anti-money laundering. In connection with the foregoing, the parties shall comply with the following provisions:

(i) Legal Compliance Provisions.

(1) Both parties, and any affiliates controlling, controlled by, or under common control of either party (collectively, the "Covered Parties"), shall comply with all federal, state and local laws, including, without limitation, laws relating to "pay-to-play", corruption, bribery and anti-money laundering. Without limiting any of the forgoing, neither party shall violate the federal criminal provisions found at 15 U.S.C. §§ 78dd-1, et seq. ("The Foreign Corrupt Practices Act of 1977"), 18 U.S.C. § 201 (bribery of public officials), 18 U.S.C. § 1951 (extortion), 18 U.S.C. § 1341 (mail fraud), 18 U.S.C. § 1343 (wire fraud), and 18 U.S.C. §1956 (money laundering).

(2) No Covered Party shall violate the provisions of the New York Penal Laws, including, but not limited to, the following:

a. No Covered Party shall offer or agree to confer any benefit upon a public servant (as such term is defined under New York state law) upon an agreement or understanding that such public servant's vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced in violation of N.Y. Penal Law §§ 200.00, 200.03 or 200.4.

b. No Covered Party shall knowingly confer, or offer or agree to confer any benefit upon a public servant for having engaged in

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official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation in violation of N.Y. Penal Law § 200.30.

c. No Covered Party shall knowingly confer, or offer or agree to confer, any benefit upon a public servant for having violated his duty as a public servant in violation of N.Y. Penal Law §§ 200.20 or 200.22.

d. No Covered Party shall engage in money laundering in violation of N.Y. Penal Law §§ 470.05, 470.10, 470.15, or 470.20.

e. No Covered Party shall, acting in concert with a public servant, engage in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state in violation of N.Y. Penal Law §§ 496.02, 496.03, 496.04, or 496.05.

f. No Covered Party shall commit the crime of public corruption in violation of N.Y. Penal Law § 496.06.

(3) No Covered Party shall make any contacts with the New York Gaming Commission or the New York Gaming Facility Location Board, including any Executive Chamber staff and Regional Representatives, that do not comply with New York State procurement lobbying law communication restrictions at N.Y. State Finance Law § 139-j(3).

(4) All Covered Parties and their respective officers, directors, employees and agents shall comply with the Memorandum Regarding Communications on the Casino License Request for Application from Mylan Denerstein of the State of New York Executive Chamber, dated March 31, 2014.

(ii) Additional Compliance Provisions.

(1) Both parties agree that Landlord, any affiliates controlling, controlled by, or under common control of the Landlord, and their respective officers, directors, employees and agents (the "Restricted Parties") shall not, with respect to the Leased Premises, directly or indirectly engage in any lobbying (including lobbying contacts or lobbying activity, as such terms are defined under applicable federal, state or local law), including, without limitation, in connection with the activities described in this Letter Agreement, including the application for a gaming license at the Leased Premises and related consulting services, in each case to the extent that such contacts or activity would require registration or reporting to any government agency or official. For the avoidance of doubt, the foregoing shall not prohibit the Restricted Parties from lobbying in connection with the application for a gaming license at a separate site provided that such lobbying is done in accordance with all laws and this Letter Agreement.

(2) Both parties agree that during the term of the Letter Agreement, the Covered Parties and their respective officers, directors, employees and agents shall not directly or indirectly offer or provide any gifts to any covered government employees or officials. For purposes of this provision, the term "gift" is defined to include food and beverages, entertainment, transportation, lodging, free or discounted admission to events, and anything of value, regardless of any exception or allowance provided in law, regulation or rule.

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(3) Both parties agree that during the term of the Letter Agreement, the Covered Parties, the Covered Parties' political committees, and their respective officers, directors, employees and agents, and their spouses, shall not make, solicit or direct any political contributions, as such term is defined under applicable federal, state, or local law, to any covered government employees or officials, or to any entity that makes expenditures for or contributions to support the election or defeat of any covered government employee or official.

(4) For purposes of this Paragraph, the term "covered government employees or officials" is defined to include New York State Gaming Commission and Gaming Facility Location Board employees and officials, and any other federal, state or local employees or officials who may have official responsibility, oversight, or involvement in matters related to the application for a gaming license and operation of a gaming facility described in the Letter Agreement.

(iii) Certification of Compliance and Notification of Violation. Both parties agree that during the term of the Letter Agreement the parties will certify as follows: Within thirty (30) days of the date of this Letter Agreement, each party shall deliver to the other a written certification, signed by an officer of such party, that such party has distributed to its officers, directors and employees a copy of the Legal Compliance Provisions and Additional Compliance Provisions found in clauses (i) and (ii) of this Paragraph 5(c) and has conducted the training necessary to ensure their implementation. Thereafter, for the term of the Letter Agreement, on an annual basis, each party shall deliver to the other a written certification, signed by an officer of such party that the party is in full compliance with the Legal Compliance Provisions and Additional Compliance Provisions. In the event that a party becomes aware of a violation of any of the terms contained in the Legal Compliance Provisions or Additional Compliance Provisions, it shall notify the other party immediately, but not later than twenty-four (24) hours after notice of such violation.

(d) In connection with providing such consulting services, Landlord hereby represents, warrants and covenants that (i) Landlord, and any person or entity owning a ten percent (10%) or greater direct or indirect interest in Landlord, (A) is not currently identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury (or any other similar list maintained by the Office of Foreign Assets Control pursuant to any authorizing statute, executive order or regulation) and (B) is not a Person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order of the President of the United States, and (ii) Landlord has implemented procedures, and will consistently apply those procedures, to ensure that the foregoing representations and warranties are, as of the date hereof, and shall remain at all times, true and correct.

[redacted]

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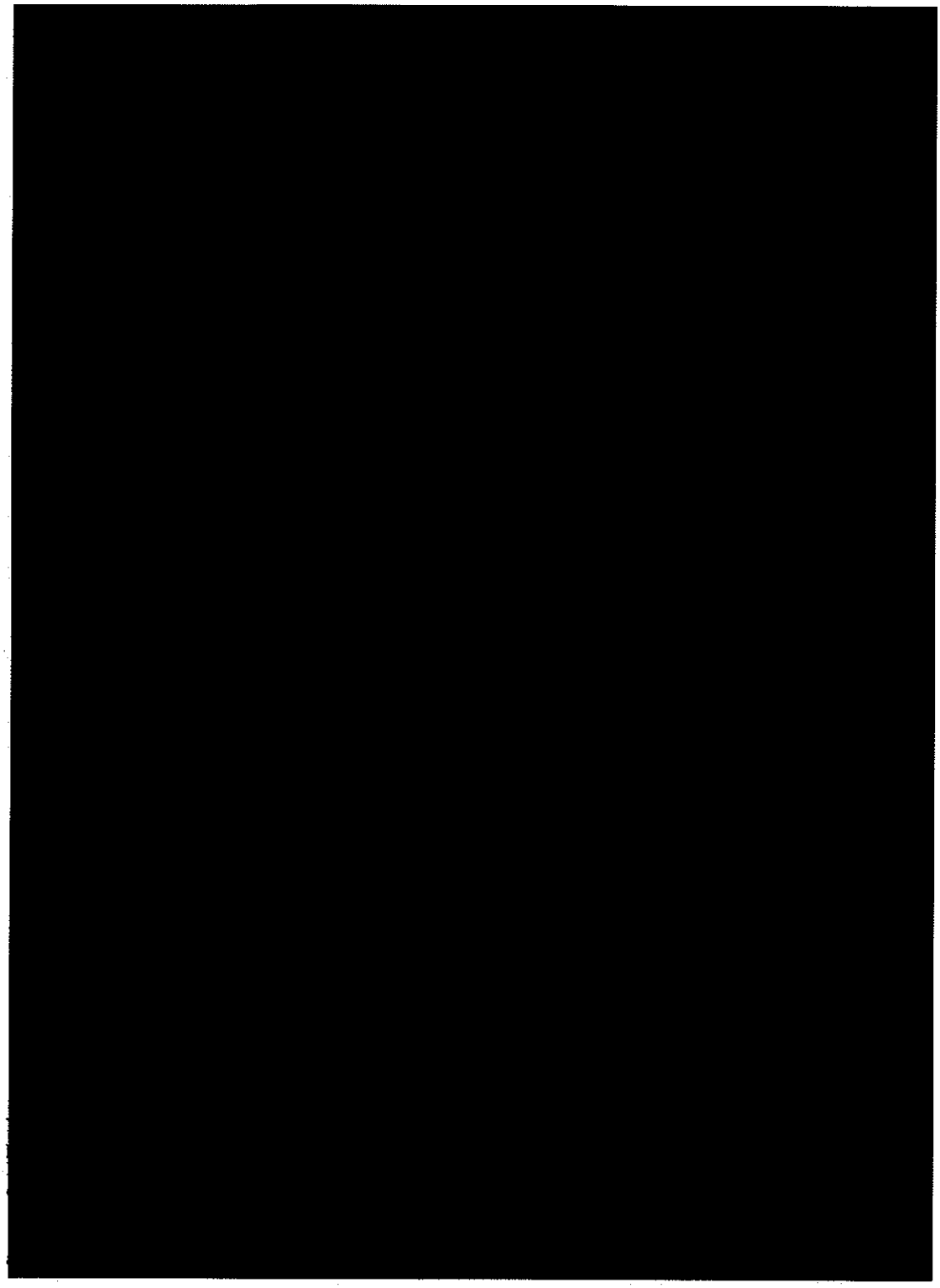

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8. Exclusivity. In consideration of the time and effort which Landlord and Tenant are committing to this undertaking and in recognition of the time necessary to successfully consummate the transactions contemplated by this Letter Agreement (the "Transaction"), until the earliest to occur of (i) a Withdrawal, (ii) Landlord making the payments described in the first sentence of Paragraph 6(a), (iii) Tenant making the payment described in Paragraph 7, or (iv) the mutual agreement of Landlord and Tenant to terminate this Letter Agreement:

(a) Landlord hereby agrees, on its own behalf and on behalf of its direct and indirect owners, agents and representatives, that it shall not directly or indirectly enter into (or participate in any negotiations or discussions to enter into or solicit or accept any offer to enter into) any contract, agreement, joint venture or similar transaction (whether in the form of equity, debt or otherwise) with any prospective applicant for a license to operate a gaming facility within the Capital Region other than Tenant, or take any action that would impair or prevent or be competitive with the transactions contemplated by this Letter Agreement (including the Transaction).

(b) Tenant hereby agrees, on its own on its own behalf and on behalf of its direct and indirect owners, agents and representatives, that it shall not directly or indirectly enter into (or participate in any negotiations or discussions to enter into or solicit or accept any offer to enter into) any contract, agreement, joint venture or similar transaction (whether in the form of equity, debt or otherwise) with respect to the operation of a licensed gaming

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facility located within the Capital Region other than at the Leased Premises, or take any action that would impair or prevent or be competitive with the transactions contemplated by this Letter Agreement (including the Transaction).

Notwithstanding the foregoing provisions of this Paragraph 8(b):

(i) Tenant may enter into agreements to provide financing to another bidder or site so long as Tenant does not have majority ownership in such project,

(ii) Nothing shall prohibit any party, or any of its affiliates, from purchasing or owning stock in any publicly traded company, or

(iii) With respect to Tenant and its affiliates, the foregoing provisions of Paragraph 8(b) above shall not apply to any entities that are not controlled by Och-Ziff Real Estate Advisors LP.

10. Termination. Immediately upon the commencement of any vertical construction of a new casino project in the Capital Region, this Letter Agreement shall automatically terminate and be of no further force or effect, except that the parties hereby agree that Paragraphs 3, 4 and 12 shall survive such termination.

11. Brokerage. Landlord and Tenant each represent and warrant to and in favor of each other that they have not dealt with any broker, finder or similar party in connection with the transactions contemplated by this Letter Agreement. Each party indemnifies and holds harmless the other from and against any losses, costs, expenses and liabilities (including reasonable attorneys' fees and enforcement) arising out of the falsity of its respective representation contained in this Paragraph 11.

12. Confidentiality. Each of Landlord and Tenant and their respective agents shall maintain the confidentiality of all documents, instruments and information obtained by Landlord or Tenant or such agents, respectively, hereunder or otherwise in connection with the Option Agreement, the Leased Premises, and the Ground Lease, and shall not, without the other party's prior written consent, disclose any of such information to any other person or use any of such information for any purpose other than as contemplated herein. Notwithstanding the foregoing, each of Landlord and Tenant may disclose any of such information to its proposed investors and lenders and its members, officers, directors, employees, agents, attorneys, accountants, consultants and other professionals to whom such disclosure is reasonably necessary for the consummation of the transactions contemplated hereby, provided that each such person agrees to maintain such information in a confidential manner.

13. Notices. Notices hereunder shall be by receipted hand delivery, recognized overnight courier service or email to the mailing address or email address, respectively, as follows (i) notices to Landlord will be delivered to 400 Andrews Street, Suite 500, Rochester, New York 14604, Attention: David M. Flaum, email: dmf@flaummgt.com, with a copy to James H. Messenger, Jr., Esq., 441 South Salina Street, Suite 211, Syracuse, New York 13202, email: jim@messengerlaw.net, and (ii) notices to Tenant will be delivered to c/o Och-Ziff Real Estate, 9 West 57th St, 39th Floor, New York, New York 10019, Attention: Steven E. Orbuch, email: sorbuch@ozcap.com with a copy to Ronald B. Emanuel, Esq., c/o Bryan Cave LLP, 1290 Avenue of the Americas, New York, New York 10104, email: RBEmanuel@bryancave.com. Notices shall be effective on the date received, or proper delivery refused, in the case of hand delivery or overnight courier, or upon transmission, in the case of

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email.

14. Prevailing Party Entitled to Reimbursement of Costs. In the event of any litigation between the parties arising out of this Letter Agreement, the prevailing party shall be entitled to receive from the losing party an amount equal to the prevailing party's costs incurred in such litigation, including, without limitation, the prevailing party's reasonable attorneys' fees, costs and disbursements.

15. Miscellaneous. This Letter Agreement shall be governed by the law of the State of New York (without giving effect to principles of conflicts of laws). This Letter Agreement may be executed in multiple counterparts (whether original, facsimile, portable document format or otherwise) all of which taken together shall constitute one executed original. Any amendment hereto to be effective must be in writing and signed by all parties hereto. No waiver of any provision hereof shall be effective as against any party hereto unless such party has waived such terms or provision in writing. This Letter Agreement shall be binding upon and shall inure to the benefit of the parties and to their respective heirs, executors, personal representatives, successors and assigns. All persons signing below covenant that they possess the necessary capacity and authority, including but not limited to the authority to bind their respective entities based on board of director or other approval, to sign and enter into this Letter Agreement.

[Signature Pages to Follow]

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Very Truly Yours,

NYS FUNDING LLC

By: _____
Name: Steven E. Orbuch
Title: Authorized Person

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Accepted and Agreed to as of the date first written above.

FLAUM MANAGEMENT COMPANY INC.

By: _____
Asher Flaum, President

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EXHIBIT A

TERMS OF RENSSELAER GROUND LEASE

1. **LANDLORD:** Flaum Management Company Inc., a New York corporation, or an assignee thereof as permitted pursuant to Paragraph 9 of this Letter Agreement.

2. **TENANT:** NYS Funding LLC, a Delaware limited liability company, or an affiliate thereof.

3. **LEASED PREMISES:** 555 Broadway, located in the City of Rensselaer, County of Rensselaer, State of New York consisting of +/- 27 acres, as more particularly described in the Option Agreement (the "Leased Premises").

4. **TERM:** The term (the "Term") of the Ground Lease shall commence upon the delivery of the Leased Premises to Tenant (which shall occur at the same time Landlord acquires fee simple title to the Leased Premises pursuant the Option Agreement and in accordance with the terms of the letter agreement to which this Exhibit A is attached), and shall expire [redacted] thereafter. Without limiting the generality of the foregoing, it shall be a condition precedent to the effectiveness of the Ground Lease (and the commencement of the Term) that Tenant shall have been awarded the License for the Leased Premises.

5. **RENT COMMENCEMENT:**

The "Rent Commencement Date" shall be the date of the Opening. Notwithstanding the foregoing, Tenant shall be responsible for all costs and expenses related to the Leased Premises upon the closing of the purchase thereof.

[redacted]

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[redacted]

9. ALTERATIONS: For avoidance of doubt, Tenant shall have sole discretion over the design, scope, development, and operation of the casino project.

10. CAPITAL OTB SUBLEASE:

Unless prohibited by a Regulatory Authority, Tenant is required to sublease space to Landlord or an affiliate of Landlord within Tenant's casino building for the sole purpose of subleasing to Capital OTB to operate a racebook operation, on an exclusive basis, on terms and conditions to be mutually agreed upon between Tenant and Landlord. Tenant acknowledges that Capital OTB and Landlord are partners involved in this project and have formed an entity known as Capital Gaming, LLC for such purposes.

[redacted]

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CONFIDENTIAL

EXCLUSIVE OPTION AGREEMENT FOR PURCHASE OF REAL PROPERTY

THIS EXCLUSIVE OPTION AGREEMENT ("Agreement") made and entered into this 3rd day of June, 2014, by and between Marx Properties, Inc. a New York corporation having an address of 20 Gurley Avenue, Troy, New York 12182. (hereinafter referred to as "Seller"), and Flaum Management Company Inc., on behalf of an entity to be formed, whose principal address is 400 Andrews Street, Suite 500, Rochester, New York 14604 (hereinafter referred to as "Purchaser"). Seller and Purchase may be referred herein, individually, as a "party", and collectively, as the "parties".

WITNESSETH:

WHEREAS, Seller is the fee simple owner of certain real property being, lying and situated in the City of Rensselaer, County of Rensselaer, State of New York, such property being more particularly described as follows: 555 Broadway with a total of twenty seven (27) acres, further described as tax parcel 143.52-1-1.1 (the "Property"), it being understood that the acreage amounts listed are merely estimates and not representations;

WHEREAS, Seller has represented and warranted to Purchaser that the Property is approved by the City of Rensselaer for a "PDD mixed use development" with allowable square footage of build-out to be a total of One Million Three Hundred (1,300,000) sq. ft. (as defined more fully thereby) and has, to Seller's actual knowledge, SEQRA approvals consistent with that designation; and

WHEREAS, Purchaser desires to procure an exclusive option to purchase the Property upon the terms and provisions as hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, and for the mutual covenants contained herein, Seller and Purchaser hereby agree as follows:

1. **DEFINITIONS**. For the purposes of this Agreement, the following terms shall have the following meanings:

(a) "Execution Date" shall mean the day upon which the last party to this Agreement shall duly execute this Agreement;

(b) "Host Community Resolution of Support" shall mean a resolution approved and adopted by the City of Rensselaer supporting a casino project to be located on the Property which resolution is acceptable for and consistent with the Upstate New York Gaming Economic Development Act of 2013;

[redacted]

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(d) "Option Term" shall mean that period of time from the date hereof until the date which is [redacted] from the date hereof; provided, however, (i) this Agreement shall terminate in the event of the selection of an Applicant or Applicants, other than, and not including, NYS Funding LLC, in the Capital Region by the New York State Gaming Facility Location Board for licensure consideration by the New York State Gaming Commission (such termination, a "Selection Termination") and (ii) in the event of a Selection Termination, Seller shall not, until the date which is 14 months from the date hereof, enter into any agreement, the effect of which would allow the Property to be used, including by a subsequent owner, for the development of a gaming casino, which covenant shall survive any termination of the Option Term and this Agreement; and

(e) "Option Exercise Date" shall mean that date, within the Option Term, upon which the Purchaser shall send its written notice to Seller exercising its Option to Purchase but not before July 1, 2014.

2. **GRANT OF OPTION**. For and in consideration of the Option Fee payable to Seller as set forth herein, Seller does hereby grant to Purchaser the exclusive right and Option ("Option") to purchase the Property upon the terms and conditions as set forth herein.

3. **PAYMENT OF OPTION FEE**. The Purchaser shall deliver to Seller a portion of the Option Fee upon the execution of this Agreement and such portion of the Option Fee shall become non-refundable for any reason upon Seller's delivery to Purchaser of the Host Community Resolution of Support and as provided below.

(a) First, [redacted] payable upon execution of this Agreement. This Agreement shall not be effective until and unless such payment is made. Such payment shall be immediately released to Seller and non-refundable, without further recourse, upon Seller's delivery of the Host Community Resolution of Support to Purchaser.

(b) Balance of Option Fee, [redacted] If Purchaser fails to make such payment, this Agreement shall terminate and Seller shall be entitled to retain any portion of the Option Fee previously tendered as its sole remedy for such failure.

4. **EXERCISE OF OPTION**. Purchaser may exercise its exclusive right and option to purchase the Property pursuant to this Agreement at any time during the Option Term, by giving written notice thereof to Seller. As provided for above, the date of sending of said notice shall be the Option Exercise Date. In the event the Purchaser does not exercise its exclusive right to purchase the Property granted by the Option during the Option Term, this Agreement shall become null and void, and neither party hereto shall have any other liability, obligation or duty pursuant to this Agreement.

5. **EXCLUSIVE USE AND INTENT TO PURCHASE.** Purchaser agrees to cause the submission of an application for selection of the Property for the exclusive use of constructing and operating a casino and ancillary buildings and amenities in coordination and conformance with the requirements of the "RFA" released by the State of New York for casino site selection in the New York State Capital Region (the "RFA Process"). Should Purchaser fail to cause to be submitted such an application by the deadline of the RFA Process (currently June 30, 2014), this Agreement shall immediately terminate, and the sole remedy for such failure shall be that the Option Fees paid to that date shall be forfeited. During the term of this Agreement, Purchaser also agrees the application to be submitted for the Property for site selection in the Capital Region shall be the only submission the Purchaser shall make or have any involvement with whatsoever (actively or passively; directly or indirectly) in the Capital Region and the Purchaser agrees it will not participate in any other application, development, investment for any other possible gaming sites, projects or property in the Capital Region. Should the New York State Gaming Facility Location Board (i) select an Applicant or Applicant(s), other than, and not including, NYS Funding LLC, in the Capital Region for licensure consideration by the New York State Gaming Commission, or (ii) in a decision, elect not to select an Applicant in the Capital Region for licensure consideration by the New York State Gaming Commission, this Agreement shall terminate immediately and all Option Fees paid to that date shall be forfeited to the Seller without set-off, reduction or exception. In the event Seller has not delivered the Host Community Resolution of Support by June 11, 2014, this Agreement shall terminate and be of no further force and effect and Purchaser shall be entitled to the return of any portion of the Option Fee paid to Seller.

6. **REPORTS, STUDIES, PLANS AND ENVIRONMENTAL IMPACT STATEMENT.** Seller shall deliver to Purchaser within forty-eight (48) hours after the Execution Date of this Agreement all (if any) reports, studies, plans, diagrams, surveys, title reports, any environmental impact statements and SEQRA approvals that Seller is aware of either in its possession or from a third party. Both Parties agree the documents to be delivered to the Purchaser are what is currently in the Seller's possession and the Seller makes no warranties as to the accuracy, validity or completeness of said documents. Purchaser agrees to review the documents within seven (7) days of the date hereof and will notify the Seller, which notice may be delivered by electronic mail, within that time if Purchaser wishes to terminate this Agreement for any reason. Failure to notify the Seller within seven (7) days will be deemed by both Parties as full acceptance of the conditions set forth therein. If this Agreement is terminated pursuant to this Section 6, any amounts of the Option Fee paid by Purchaser to Seller shall be returned to Purchaser and neither party shall have any further liability under this Agreement.

7. **INSPECTION RIGHTS OF PURCHASER.** During the Option Term, Purchaser and Purchaser's representatives shall have the right to enter upon the Property for the purpose of conducting land surveys, inspections, soil tests, core drillings, environmental tests and such other examinations and investigations as the Purchaser may desire. Purchaser shall repair any and all damage by reason thereof, and shall indemnify and save Seller harmless from and against any loss, damage and liability resulting from or arising out of such activity, which obligations shall survive the closing or termination of this Agreement. If Purchaser wishes to conduct soil tests, borings, or the like at the Property: (a) Purchaser shall give reasonable advance notice to Seller of its intention so that Seller can have its own consultant present to

observe said testing; (b) all findings shall be immediately reported to the Seller by Purchaser; and (c) Seller shall have the exclusive right and obligation to report any reportable findings to the applicable government authorities. Prior to entering the Property, Purchaser, its agents, employees and consultants shall name Seller as an additional insured on, and provide Seller with evidence of, a liability insurance policy in form and substance reasonably acceptable to Seller.

Seller hereby authorizes any and all applicable governmental agencies and authorities to provide Purchaser and Purchaser's representatives copies of their records, if any, regarding the Property. Upon request, Seller shall furnish to Purchaser an authorization necessary to enable Purchaser to make inquiries of any governmental authorities about the existence or status of violations of any governmental requirements at the Property to facilitate the subject sale.

Purchaser shall order a Title Commitment immediately upon execution of this Agreement and deliver same to Seller. Upon receipt of such Title Commitment and all underlying exception documents, Purchaser shall have 7 days to object to such Title Commitment. In the event Purchaser objects to such Title Commitment, this Agreement shall terminate and be of no further force and effect and Seller shall be entitled to retain any portion of the Option Fee previously paid to Seller.

8. **CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY.** In the event that the Purchaser exercises its exclusive Option as provided for in herein, Seller agrees to sell and Purchaser agrees to buy the Property, and both parties agree to execute within 4 days of the option Exercise Date, a Contract or Purchase Agreement (as such terms are defined below) which shall contain the following terms and conditions:

(a) Purchase Price. The purchase price for the Property shall be the sum of Nine Million Two Hundred Thousand Dollars ($9,200,000.00). The Option Fee (as and to the extent tendered on or before the time of Closing) shall be a credit against the Purchase Price;

[redacted]

(c) Closing Adjustments. Adjustments for taxes and utilities shall be as of the date of closing.

(d) Default by Purchaser; Remedies of Seller. In the event Purchaser, after exercise of the Option, fails to proceed with the closing of the purchase of the Property pursuant to the terms and conditions of the Contract or the subsequent Purchase Agreement, Seller shall have the right to retain all Option Fees received by Purchaser as well as enforce all rights and remedies set forth in the Purchase Agreement.

(e) Successors and Assigns. This Agreement shall not be assigned by either party (other than to an affiliate of Purchaser) unless agreed to in writing by both parties.

(f) Default by Seller; Remedies of Purchaser. In the event Seller fails to close the sale of the Property pursuant to the terms and provisions of this Agreement and/or under the subsequent Purchase Agreement for reasons within its control, Purchaser shall be entitled to those rights and remedies set forth in the Purchase Agreement and the right to seek specific performance of this Agreement.

(g) The Property is to be conveyed subject to: (a) building and zoning regulations; (b) conditions, agreements, restrictions and easements of record so long as no new conditions, agreements, restrictions and easements of record have been recorded against the Property subsequent to the Execution Date which will prevent use of the Property for their intended use as a resort and casino facility; (c) any state of facts an inspection or survey of the Property may show as long as it does not make the title to the property unmarketable; (d) unpaid assessments payable after the date of the transfer of title and (e) as more fully specified in the Purchase Agreement.

(h) At the Closing, Seller shall deliver to Purchaser a bargain and sale deed with lien covenant so as to convey a fee simple title to the Property free and clear of all encumbrances except as provided in this Agreement including what a survey or title commitment would show. The deed shall be prepared, signed and acknowledged by Seller and transfer tax stamps in the correct amount shall be affixed to the deed, all at Seller's expense.

(i) Seller shall not, from the date of this Agreement and thereafter, permit or cause to be permitted any liens, easements or other encumbrances to be entered into and/or filed without Purchaser's specific written consent.

(j) Upon the execution of the Purchase Agreement, that document shall control and this Agreement shall be deemed to be superseded.

[redacted]

[redacted]

9. **CONFIDENTIALITY AND NON-DISCLOSURE**. Seller and its employees, agents and affiliates, hereby agree that it will not disclose and will keep confidential the identity of the Purchaser and any entity affiliated with Purchaser until such time as it becomes publically known. This is a material consideration of this Agreement, and Seller acknowledges that Purchaser may incur damages if disclosure were to occur in violation of this paragraph. A violation of this paragraph by Seller and its employees, agents and affiliates, will entitle Purchaser to seek actual damages from Seller by litigation or other legal remedies. Statements made by elected or governmental officials or employees and third parties shall not be imputed to Seller.

10. **Reserved.**

11. **MISCELLANEOUS.**

(a) Execution by Both Parties. This Agreement shall not become effective and binding until fully executed by both Purchaser and Seller and receipt by Seller of One Hundred Thousand Dollars of the Option Fee.

(b) Notice. All notices, demands and/or consents provided for in this Agreement shall be in writing and shall be delivered to the parties hereto by overnight courier (such as FedEx, UPS, etc) or certified mail with postage pre-paid. Such notices shall be deemed to have been served on the date received. All such notices and communications shall be addressed to the Seller at the address shown at the beginning of this Agreement, and to Purchaser at the address shown at the beginning of this Agreement, or at such other address as either may specify to the other in writing, at least five (5) business days in advance. Notices by electronic mail shall be sent to (i) Purchaser - dflaum@flaummgt.com ; and (ii) Seller jwest@uwmarx.com

(c) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Jurisdiction and venue shall be in Rensselaer County, New York.

(d) Time. Time is of the essence of this Agreement including, without limitation, the payment of the Option Fee.

(e) Headings. The headings inserted at the beginning of each paragraph and/or subparagraph are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any terms or provisions hereof.

(f) Cost of this Agreement. Any cost and/or fees incurred by the Purchaser or Seller in executing this Agreement shall be borne by the respective party incurring such cost and/or fee.

(g) Entire Agreement. This Agreement contains all of the terms, promises, covenants, conditions and representations made or entered into by or between Seller and Purchaser and

supersedes all prior discussions and agreements whether written or oral between Seller and Purchaser with respect to the Option and all other matters contained herein and constitutes the sole and entire agreement between Seller and Purchaser with respect thereto. This Agreement may not be modified or amended unless such amendment is set forth in writing and executed by both Seller and Purchaser with the formalities hereof.

(h) This agreement, or any memorandum thereof, shall not be recorded. Any recordation or attempted thereof shall be a material breach of this Agreement and if by Purchaser, shall entitle Seller to declare this Agreement null and void and seek all rights and remedies as set forth herein.

(i) Each party represents and warrants that it has received the necessary corporate authorization to execute this Agreement.

[End of text - signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under proper authority:

As to Seller this 3rd day of June, 2014

As to Purchaser this 3rd day of June, 2014

SELLER:

MARX PROPERTIES, INC.

By: Peter Marx
Its: President

PURCHASER:

FLAUM MANAGEMENT COMPANY INC.

By: David M. Flaum
Its: CEO