

LEASE

THIS AGREEMENT of Lease, made this 13 day of November, 2013, between the **VILLAGE OF ELLENVILLE** (for the purpose of this Lease to be known as the "Lessor" or "Landlord") with its principal place of business located at the Ellenville Government Center, 2 Elting Court, Ellenville, New York 12428 and **NEVELE INVESTORS, LLC**, a Delaware Limited Liability Company, having an address of P.O. Box 388, Ellenville, New York 12428 (for the purpose of this Lease to be known as the "Lessee" or "Tenant").

WITNESSETH, that the said Lessor, in consideration of the rents and covenants hereinafter mentioned, does demise and Lease unto the said Lessee, all that certain space which cover approximately 4,000 square feet, consisting of the entire fifth (5th) floor, of the Ellenville Municipal Government Center located at 2 Elting Court, Ellenville, New York 12428 (hereinafter referred to as the "Demised Premises"), together with the exclusive use of the restrooms located on that floor.

TO HAVE AND TO HOLD unto the Lessee, subject to the conditions of this Agreement for the term beginning on the 1st day of December, 2013 and ending on the 30th day of November, 2018.

IN CONSIDERATION of which, the said Lessee agrees to pay to the said Lessor for the use of said premises, rent in accordance with the terms of this Lease.

1. **Rent.** The rent shall be as follows:

The rent shall be payable on the first (1st) day of each month during the term of this Lease at the rate as follows:

| <u>Year</u> | <u>Annually</u> | <u>Monthly</u> |
|-------------|-----------------|----------------|
| 2013-2018 | \$25,000.00 | \$2,083.33 |

The Lessee shall receive a credit of up to \$25,000.00 for renovations it makes to the premises; copies of all paid receipts need to be furnished to the Landlord for verification. Upon termination of this Lease all renovations to the premises shall be property of the Landlord.

2. **Security Deposit.** A deposit in the sum of two (2) months rent, Four Thousand One Hundred Sixty-Six and 67/100 Dollars (\$4,166.67), as security for the payment of all rent and other sums of money which shall or may be payable for the full stated term of this Lease and any extension or renewal thereof and for the faithful performance by Lessee of all other covenants and agreements made on Lessee's part in this Lease, but Lessee shall have no right to require Lessor to indemnify itself from said sum of money or any part thereof with respect to any particular violation or default of Lessee, and the appropriation of said sum of money or part thereof to indemnify for any such default or violation shall be at all times discretionary with Lessor. Said sum of money, or such part thereof as has not been appropriated by Lessor in accordance with the foregoing provisions of

this paragraph, shall be returned to Lessee only after the expiration of the full stated term of this Lease and any renewal or extension thereof, notwithstanding that this Lease may have been terminated by Landlord prior thereto in accordance with its provisions; it being the intention of the parties that said sum of money shall secure Lessor not only as to default by Lessee prior to such termination, but also as to any deficiency of rent received by Lessor thereafter or for sums expended to cure any other default of Lessee hereunder under the liability of Lessee as herein expressed for the full stated term as aforesaid. Security deposit may not be used as rent, including the last month's rent.

3. **Late Fee.** A service charge of five percent (5%) per month may be charged on all rents not paid within the first fifteen (15) days from the date it becomes due.

4. **Access to Demised Premises.**

(a) Lessor will provide that the Lessee will have access to the demised space at all times during the lease. Access limitation shall not be imposed based on hours or time of day, holidays, weekends or the like. Access to demised space through public building space shall be made to Lessee at all times including such times as when such space might otherwise be closed to the public.

(b) Lessor shall provide that the demised space be private and securable for the exclusive use of the Lessee. Locking or similar security devices shall be provided. The Lessee shall provide to the Lessor at least one copy of any or all keys or other unlocking devices necessary to gain entry into the Demised Premises.

(c) Parking space for use by the Lessee, employees and guests shall be allowed in the general parking lot. The parking spaces shall be allowed in the signed spaces at Sterling National Bank or on the north side of building behind the hedge.

5. **Place of Payment.** The rent reserved shall be promptly paid on the several days and times specified herein without deduction or abatement, unless hereinafter provided on the contrary, at the principal office of the Lessor.

6. **Utilities, Janitor, etc.** The Lessor agrees to provide, at Lessor's cost, all utilities (electricity sufficient to provide an adequate and uniform level of illumination, air conditioning, heat, and other building machinery and equipment, etc. - hot and cold water - etc.), Property and Premises Liability Insurance, HVAC repairs, plumbing repairs, structural and roof repairs, trash removal from complex, landscaping, and the required removal of snow and ice from the pavements, driveways, and parking areas. The Lessee is responsible for interoffice janitorial and trash removal from within the leased space for disposal by the Lessor in the dumpster used by the Lessor and Lessee shall be responsible for minor repairs and maintenance (e.g. light bulb replacement, carpet cleaning, etc.).

7. **Negative Covenants of Lease.**

(a) Waste Damage or Injury to Premises, Restoration. No waste, damage or

injury to the premises shall be committed and at the end of the term the demised premises shall be restored, at the option of the Lessor, to the same condition in which they were at the commencement of the term, and the cost of said restoration shall be paid by the Lessee, which cost shall be treated as additional rent due and owing under the terms of the Lease. This paragraph is subject to the exception of ordinary wear and tear and unavoidable damage by fire, elements, casualty, or other cause of happening not due to the Lessee's negligence; further, this paragraph shall not be construed to require reconfiguration of interior partitioning.

(b) **Lawful Possession, Fire Prevention.** Lessee warrants and represents that the use of the Demised Premises is strictly for offices providing any and all professional services and consulting work that is normally offered by the Lessee and which constitutes the general areas of business practice of Nevele Investors, LLC only. Lessee shall not carry on any unlawful or immoral business in or about the demised premises, and shall not carry on any business which will endanger the building from fire or which will knowingly cause a forfeiture of any fire insurance that the Lessor has on said building. The Lessee shall use precaution against fire or activities, which would knowingly cause a forfeiture of any fire insurance that the Lessor has on said building. The Lessee shall not operate any machinery or equipment that may be harmful to the building or disturbing to other occupants of the building.

(c) **Signs.** No showcase, sign, hanging or protruding, and permanent obstruction of any kind shall be kept or maintained by the Lessee on any part of the building or sidewalk in front of the demised premises, said space to be used only for purposes of ingress and egress; however, Lessor shall provide for representation on the building directory. Further, this shall not be construed to prohibit a sign (consistent with other tenants in the building) on the door or immediately adjacent wall of the demised premises.

(d) **Alterations and Improvements.** The Lessee shall not have the privilege of improving the leased premises for Lessee's own purposes, unless the Lessor approves any proposed improvement(s) in writing, and improvements are made at Lessee's expense. Lessee will be responsible for obtaining building permits, if necessary, at its own cost and expense prior to construction.

(e) **Subletting and Assignment by Lessee.** Lessee shall not sublet Lessee's office space or any part thereof. Lessee shall not assign this Lease or allow it to be assigned in whole or in part.

8. Lessor's Rights.

(a) **Right of Inspection.** It is agreed and understood that the Lessor, Lessor's duly authorized agents, and Lessor's administrators, may enter the premises hereby leased at reasonable times with reasonable notice during the term, for the purpose of inspection.

(b) **Rules and Regulations.** The Lessor may from time to time establish reasonable rules and regulations for the safety, care and cleanliness of the premises, and for the preservation of good order therein. No rules or regulations shall be arbitrary, but shall be

reasonable in every respect.

9. Responsibility of Lessee.

(a) **Damage or Injuries to Property.** All damages or injuries done to the premises by the Lessee and/or said Lessee's customers, clerks, servants, agents, employees, visitors of the Lessee, and individuals for whom the Lessee is legally responsible, other than those caused by ordinary wear and tear, shall be repaired by the Lessee herein. Lessee agrees to make said repairs upon Twenty (20) days' written notice given to Lessee by the Lessor, unless some extended time frame for such repairs shall be necessary and agreed upon by both parties.

(b) **Payment of Judgments, etc.** The Lessee shall bear, pay and discharge when and as the same become due and payable all judgments for damages or otherwise against said Lessor, caused by the negligence of the Lessee or the Lessee's agents, clerks, servants, employees, visitors, customers, independent contractors, and/or individuals for whom the Lessee is legally responsible.

(c) **Fixtures Peculiarly Common to Lessee's Business.** Fixtures peculiarly common to the Lessee's business and function of the same shall be provided and installed by the Lessee.

(d) **Lessee shall also be responsible for all real estate taxes attributable to Lessee's occupancy. This has been determined by the Town Assessor to currently total \$1.15 per square foot. The real estate taxes will be assessed by the County and Town in January of each year and by the School District in September. These taxes will not begin until the lease values have been added to the assessment roles.**

10. Responsibility of Lessor.

(a) **Partial or Total Destruction of Property.** In the event that the building on the demised premises shall, during the term of said Lease, or any renewal thereof, be destroyed by fire or otherwise thereupon making the premises untenable and unfit for occupancy, the Lessee shall have the right to cancel and terminate this Lease upon giving notice in writing to the Lessor herein, within fifteen (15) days from the date of destruction, and the term of this Lease shall cease as of the date of destruction. In the event, however, that the said building shall be damaged, by fire or otherwise, but not destroyed, the Lessor shall thereupon cause the same to be repaired and restored to its former condition and to act with the greatest possible diligence. If the said fire, or other causes, shall have rendered the premises partially or totally untenable, payment of rent thereunder shall be reasonably abated to continue from the time when the Lessee herein shall notify the Lessor of such condition until such time as the building is so repaired and again ready for occupancy, and the Lessee herein agrees that, in the event that the building shall be partially destroyed by fire, or otherwise, as to render said repairs necessary, that the servants and agents of any contractor employed by the Lessor shall have the right to enter for the purpose of making such repairs and the so taking of possession shall not be an eviction of the Lessee and shall in no manner affect the term of Lease. Partial destruction is to be restored within ninety (90) days from the date of destruction.

(b) **Damage for Interruption of Use.** The Lessor shall not be liable for any damage, compensation or claim by reason of inconvenience or annoyance arising from the necessity of making repairs, alterations and/or additions to any portion of the premises, the interruption in the use of the premises or the termination of this Lease by reason of the destruction of the premises-unless attributable to Lessor's gross negligence.

(c) **Maintenance and Repairs.** Except for repairs described in Paragraphs 8 and 10 required to be performed at Lessee's cost, the Lessor, at its sole cost and expense, shall keep and maintain the leased premises (excluding Janitorial within the demised premises), the building, and the common areas in good condition and shall make all necessary repairs thereto, whether inside or outside, structural or non-structural. Such maintenance and repairs will be undertaken via methods and in a manner that are at Lessor's discretion.

11. Remedies of Lessor. If the Lessee should remove or prepare to remove, or attempt to remove from the premises hereby leased before the expiration of the term or at any time during the continuance of the Lease, or if the Lessee shall be in default in the payment of any installment of rent for the period of twenty (20) days, or should there be a default in any of the covenants or conditions as herein contained, and should the Lessee fail to remedy such default within twenty (20) days of notice, or if the Lessee should become insolvent, or make an assignment for the benefit of creditors, or if a petition in bankruptcy is filed by the Lessee or if proceedings for reorganization for composition with creditors under any state or federal law be instituted by or against Lessee, or if a material portion of the personal property of the Lessee shall be sold after levy by any Sheriff, Marshal or Constable, then in that event, the Lessor shall have the right to forfeit and terminate this Lease. The said forfeiture to be effected by giving notice in writing to the Lessee herein or to the person then in charge of the demised premises.

12. Acceptance of Notice of Quit; Dispossession Waiver of Remedies of Lessee; Waiver of Demand. And the said Lessee hereby accepts notice to quit, remove from and surrender up possession of the said demised premises to the Lessor, to said Lessor's administrators, successors, and/or assigns, at the expiration of the term hereof, whenever it may be determined in accordance with the terms of this Lease. On the failure to pay rent due for twenty (20) days, or upon breach of any other condition of this Lease, the Lessee shall be non-tenant, subject to dispossession by the said Lessor.

13. Remedies Cumulative. All remedies of Lessor herein shall be cumulative and concurrent.

14. Possession Defined. That possession of the premises herein, includes the exclusive use of the same, together with the use, in common with any other occupants of the building, of the hallways, stairs, parking areas, sidewalks, entranceways, elevator(s) (if any), toilet rooms, heat, air conditioning, electric, light and water.

15. Quiet Enjoyment. The Lessee, upon paying the said rent and performing the covenants of this Lease, on its part to be performed, shall and may peaceably and quietly have, hold and enjoy the demised premises for the term aforesaid and any herein duly authorized additional

term.

16. Lease Contains All Agreements. It is expressly understood by the parties that the whole agreement is embodied in this Agreement and that no part or items are omitted unless the same be hereinafter modified by written agreement(s).

17. Gender and Number. The neuter, gender, where used herein, shall be deemed to be plural, whenever, the sense of the instrument so requires; further, the masculine or feminine gender, where used herein, shall be deemed to be neuter, and the plural number, where used herein, shall be deemed to be singular whenever the sense of the instrument so requires.

18. Heirs, etc. This Lease Agreement shall be binding upon the heirs, executors, administrators, successors and/or assigns of the parties hereto.

19. Headings, No Part of Lease. Any headings, preceding the text of the several paragraphs and subparagraphs hereof are inserted solely for convenience or reference and shall not constitute a part of this Lease nor shall they affect its meaning, construction or effect.

20. Similar Provision. If the subject matter of a provision of the Rules and Regulations is discussed in a provision in the body of the Lease, both provisions shall be effective as far as the same remain consistent. However, if the provisions are contradictory, then the provision in the body of the Lease shall control.

21. Insurance. Lessee shall not do or permit to be done any act or thing in or upon the Demised Premises which will invalidate or be in conflict with the Certificate of Occupancy or terms of the New York State standard form of fire, boiler, sprinkler, water damage, or other insurance policies covering the Building and/or the fixtures, equipment, and property therein. Lessee shall, at its expense, comply with all rules, orders, regulations, or requirements of the New York Board of Fire Underwriters or any other similar body having jurisdiction, that relate to its use or occupancy of the Demised Premises, and shall not knowingly do or permit anything to be done in or upon the Demised Premises, and shall not knowingly do or permit anything to be done in or upon the Demised Premises or bring or keep anything therein or use them in a manner which increases the rate of insurance upon the Building or any property or equipment located therein over the rate in effect at the commencement of the term of this Lease.

Lessee, at its expense, shall maintain insurance protecting and indemnifying Lessor against all claims for injury or damage to persons or property or for the loss of life or of property occurring upon, in or about the Demised Premises, the public portions of the Building used by Lessee, its employees, agents, contractors, customers, and invitees. The insurance shall afford minimum protection during the term of this Lease, of not less than \$1,000,000 for bodily injury or death to any one person and not less than \$3,000,000 for any one occurrence or accident, and not less than \$100,000 for property damage. The certificate of insurance shall contain a provision under which the insurer agrees not to cancel the insurance without 20-days' prior written notice to Lessor.

On or before the Commencement Date, Lessee shall furnish Lessor with a certificate

evidencing the aforesaid insurance coverage. Renewal certificates shall be furnished to Lessor at least 30 days prior to the expiration date of each policy for which a certificate was furnished.

Lessor shall not be responsible for any damage to Lessee or Lessee's property located upon the Demised Premises.

22. Attorney's Fees. If the Lessee shall at any time be in default hereunder, and if the Lessor shall institute an action or summary proceeding against Lessee based upon such default, then the Lessee will reimburse the Lessor for the expense of attorneys' fees and disbursements thereby incurred by the Lessor, so far as the same are reasonable in amount. The amount of such expenses shall be deemed to be "additional rent" as defined above.

23. Indemnity of Landlord. Lessee agrees that Lessee will defend, indemnify and save harmless the Lessor from any and all suits, actions or causes of action of every name and description brought against Lessor for or on account of any injuries or damages received, sustained or claimed to have been received or sustained by any person arising out of the leased premises itself.


24. Right to Cancel. After Lessee provides a waiver of lien from all contractors constructing the improvements to the Leased Premises and after Lessee receives a certificate of occupancy or a certificate of compliance, ^{upon 60 days written notice to Lessor,} Lessee has the one-time right to cancel this Lease in the event that Lessee believes that the Nevele project will not obtain a casino license.

IN WITNESS WHEREOF, the parties below have caused this instrument to be signed, thereunto duly authorized, on the day and year first written above.

VILLAGE OF ELLENVILLE

By 
Jeffrey Kaplan, Mayor

NEVELE INVESTORS, LLC

By 
Michael Treanor, CEO