EXHIBIT 13
SECOND AMENDED AND RESTATED
GRANT AND DISTRIBUTION AGREEMENT
BY AND BETWEEN
DOWNSTATE AT LICH HOLDING COMPANY, INC.
AND
THE STATE UNIVERSITY OF NEW YORK

This SECOND AMENDED AND RESTATED GRANT AND DISTRIBUTION AGREEMENT (this “Agreement”) effective as of the 30th day of June, 2014 (the “Effective Date”) by and between Downstate at LICH Holding Company, Inc., a New York not-for-profit corporation (“Holding”) and The State University of New York, an educational corporation organized and existing under the laws of the State of New York, acting on behalf of its Health Science Center at Brooklyn (“SUNY”). Holding and SUNY may each be referred to herein as a “Party”, and collectively as the “Parties.” Capitalized terms used herein but not otherwise defined shall have the meanings set forth in that certain First Amended and Restated Purchase and Sale Agreement, effective as of the date hereof, to which Holding, FPG Cobble Hill Acquisitions, LLC (“Purchaser”), NYU Hospitals Center (“NYUHC”) and for certain limited purposes Fortis Property Group, LLC (“Fortis”) are parties (the “Purchase Agreement”). The Parties previously entered into a Grant and Distribution Agreement dated June 30, 2014 (the “Original GDA”) and a First Amended and Restated Grant and Distribution Agreement effective as of June 30, 2014 (the “First Amended GDA”). This Agreement supersedes both the Original GDA and the First Amended GDA, in their entirety and the Original GDA and First Amended GDA are of no force and effect.

WHEREAS, Holding was organized by SUNY and has been operated exclusively for charitable, educational and scientific purposes such that it has been recognized by the Internal Revenue Service as an organization that is a tax-exempt, public charity within the meaning of Sections 501(c)(3) and 509(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, Holding, as a charitable organization, is further exempted from certain other taxes by the New York State Department of Taxation and Finance; and

WHEREAS, SUNY is the sole member of Holding and a public instrumentality of the State of New York, with the corporate power and authority to direct the activities of Holding; and

WHEREAS, Holding was organized by SUNY exclusively as an instrumentality of SUNY for the benefit, and in support, of the governmental, charitable, scientific and educational purposes of SUNY; and

WHEREAS, Holding’s organizational documents provide that all assets, income and net earnings of Holding shall inure solely to the benefit of SUNY and, in the event of a dissolution of Holding, after the payment of expenses all remaining net assets and property of Holding are to be distributed to SUNY; and

WHEREAS, pursuant to the terms of the Purchase Agreement, Holding has agreed to sell and Purchaser has agreed to purchase the Property for a purchase price totaling Two Hundred Forty Million Dollars ($240,000,000), subject to certain possible adjustments as set forth in Sections 3, 5.5, 6.2, 7.6 and 10.3(a)(ix) of the Purchase Agreement (the “Purchase Price”); and
WHEREAS, Purchaser has paid to Holding on the Effective Date, to hold pursuant to the Purchase Agreement, a down payment of Twenty Four Million Dollars ($24,000,000) (the “Initial Down Payment”); and

WHEREAS, in the event that Purchaser’s lender elects to perform (directly or through contractors) soil testing and or borings on the Premises as permitted under Section 10.3(d) of the Purchase Agreement, Purchaser shall pay Seller, as additional security for damages to the Premises and to ensure the Closings, an additional down payment of Two Million Dollars ($2,000,000) (the “Section 10.3(d) Down Payment,” and collectively with the Initial Down Payment, the “Down Payments”): and

WHEREAS, the sale and conveyance of the Property will occur in three separate Closings; and

WHEREAS, at the Initial Closing: (a) Holding will convey to Purchaser all of the Premises other than (i) portions of land on which the Fuller Pavilion and the Othmer Pavilion currently are located (the “New Medical Site”); and (ii) the Polak Pavilion premises and the Henry Street premises (the “Final Closing Premises”); and (b) Holding and SUNY will convey to Purchaser all of the Personal Property located on the Premises; and

WHEREAS, following Purchaser’s demolition of the buildings on the New Medical Site and Purchaser’s remediation of all Environmental Conditions required under Law to be remediated in connection with such demolition, and the satisfaction or waiver of certain other conditions set forth in the Purchase Agreement, Holding and NYUHC shall conduct the NMS Closing, at which Closing Holding will convey to NYUHC the New Medical Site (depending on the timing of the demolition and related environmental remediation and other required pre-Closing actions, the Initial Closing and NMS Closing could occur simultaneously); and

WHEREAS, at the Final Closing, Holding will convey to Purchaser the Final Closing Premises; and

WHEREAS, at the Initial Closing, in consideration for the portion of the Property conveyed at the Initial Closing to Purchaser and in consideration for the New Medical Site (which Purchaser has agreed that it shall purchase on behalf of NYUHC and which Purchaser has agreed to pay for at the Initial Closing, even though the New Medical Site will not be conveyed to NYUHC until the NMS Closing), Purchaser shall pay to Holding One Hundred Twenty Million Dollars ($120,000,000), minus (i) fifty percent (50%) of the aggregate amount of the Initial Down Payment; minus (ii), if applicable, the Section 10.3(d) Down Payment; minus (iii) the Defeasance Payment, if any; minus (iv) any adjustments or credits given to Purchaser at or prior to the Initial Closing pursuant to Sections 3, 5.5, 6.2, 7.6 or 10.3(a)(ix) of the Purchase Agreement (the "Seller Balance") (provided, that if the Seller Balance is a negative number for any reason, such negative amount shall be applied as a credit to the Final Amount); and

WHEREAS, at the Final Closing, in consideration for the Property conveyed at the Final Closing to Purchaser, Purchaser shall pay to Holding One Hundred Twenty Million Dollars ($120,000,000), minus (i) fifty percent (50%) of the aggregate amount of the Initial Down Payment; minus (ii) any adjustments or credits given to Purchaser after the Initial Closing and at or prior to the Final Closing pursuant to Sections 3, 5.5, 6.2 or 7.6, minus (iii) if applicable, the credit given to Purchaser in the event that the Seller Balance is a negative number (the "Final Amount"); and
WHEREAS, the Purchase Agreement authorizes Holding to utilize, prior to the Initial Closing, up to One Million Dollars ($1,000,000) from the Down Payments to pay Holding’s pre-Initial Closing costs and expenses relating to the Premises ("Direct Costs"); and

WHEREAS, the Purchase Agreement authorizes Holding to utilize, after the Initial Closing and prior to the Final Closing, up to Twelve Million Dollars ($12,000,000) from the Down Payments to pay Holding’s pre-Final Closing Direct Costs; and

WHEREAS, the Initial Down Payment, or a portion thereof, shall be refundable to Purchaser if the Purchase Agreement terminates prior to the Initial Closing or the Final Closing only under very limited circumstances, in which event all or a portion of the Down Payments will be refundable to Purchaser without regard to the Direct Costs (i.e., the refund that Holding will be required to make to Purchaser under those limited circumstances will include monies that Holding may have permissibly used to pay its Direct Costs); and

WHEREAS, to facilitate the continuity of health care operations between the date hereof and the date NYUHC opens a new Emergency Department on the New Medical Site (which date is anticipated to be shortly before the Final Closing Date), Purchaser shall lease a portion of the Final Closing Premises (the “Leased Premises”) from Holding, and NYUHC shall sublease the Leased Premises from Purchaser for the purpose of operating an Emergency Department, in each case commencing on the ED Commencement Date; and

WHEREAS, at such point that the Leased Premises have been leased by Purchaser beyond nine (9) months from the ED Commencement Date, or all material contingencies that are outside the control of the parties to the Purchase Agreement have been satisfied, whichever is sooner, the Dormitory Authority of the State of New York ("DASNY") may require that Holding’s allocated share of any debt associated with the State Personal Income Tax Revenue Bonds (General Purpose), Series 2012D, issued by the State of New York (the “PIT Bond Debt”) be defeased; and

WHEREAS, Holding, Purchaser and NYUHC currently intend to conduct the Initial Closing on or prior to the date on which Holding’s allocated share of the PIT Bond Debt will need to be defeased, so that the amount necessary for Holding to defease Holding’s allocated share of the PIT Bond Debt can be paid to DASNY from the Seller Balance; and

WHEREAS, in the event that the Initial Closing has not taken place on or prior to the date on which Holding’s allocated share of the PIT Bond Debt will need to be defeased, Purchaser shall be required under the Purchase Agreement to make a payment to Holding in an amount, determined by DASNY, necessary to defease Holding’s allocated share of the PIT Bond Debt (the “Defeasance Payment”), which Defeasance Payment shall be credited against the Purchase Price (with credit shall be applied, if feasible, completely at the Initial Closing, but if such credit will cause the Seller Balance to be a negative number, then amount of such negative number shall be credited at the Final Closing against the Final Amount), or, if the Initial Closing does not occur for any reason, which Defeasance Payment shall be refunded to Purchaser, without interest, from the proceeds of the any subsequent sale of substantially all of the Property to another buyer; and

WHEREAS, in the event that Purchaser desires to extend the Initial Closing Date beyond ten (10) months after the execution date of the Purchase Agreement, Purchaser shall be entitled to up to one (1) one-month extension of the Initial Closing Date, provided that Purchaser must
make a payment to Holding of One Hundred Seventy Thousand Dollars ($170,000) (the “Extension Payment”) as a pre-condition to exercising such one-month extension, which Extension Payment shall not be refundable to Purchaser under any circumstances; and

WHEREAS, Purchaser also has agreed to pay Holding, at the Initial Closing, One Hundred Thousand Dollars (the “Medical Malpractice Amount”), which Purchaser and SUNY have estimated as sufficient to cover the likely liability exposure for professional negligence claims arising out of the operation by SUNY of an emergency department on a portion of the Property during the period commencing on May 23, 2014 and ending on August 31, 2014 (the “SUNY ED Continuation Period”); and

WHEREAS, Holding has agreed to maintain the Medical Malpractice Amount in a segregated account, and to utilize the Medical Malpractice Amount only to pay medical malpractice settlements and judgments relating to SUNY’s operation of the emergency department on the Property during the SUNY ED Continuation Period, until the end of the applicable limitations period for patients to file malpractice claims relating to SUNY’s operation of the emergency department on the Property during the SUNY ED Continuation Period or the resolution of all such timely filed claims, whichever is later (the “Malpractice Net Refund Date”); and

WHEREAS, Holding has agreed to refund to Purchaser, on the Malpractice Net Refund Date, any portion of the Medical Malpractice Amount then remaining (exclusive of any interest earned on the Medical Malpractice Amount), after deducting the amount of any malpractice settlements and judgments relating to SUNY’s operation of the emergency department on the Property during the SUNY ED Continuation Period; and

WHEREAS, Purchaser also has agreed to pay Holding for all costs and expenses incurred by SUNY or Holding in connection with SUNY’s operation of the emergency department on a portion of the Property during the SUNY ED Continuation Period (less a credit of Nine Million Nine Hundred Forty Thousand Dollars ($9,940,000) and not including any pension withdrawal liabilities and/or malpractice settlements and judgments, which malpractice settlements and judgments shall be paid from the Medical Malpractice Amount) (the “Full Net Cost Payments”), which Full Net Cost Payments shall be paid in two installments on (a) August 20, 2014; and (b) the later of December 1, 2014 or two days after Purchaser receives notice that the DOH Consent and the NPL Consents have been obtained, and which Full Net Cost Payments shall be refundable to Purchaser (in part or in full) if the Purchase Agreement terminates prior to Initial Closing only under limited circumstances; and

WHEREAS, certain expenses (including the debts and other obligations further described herein), were incurred by, on behalf of, or in relation to, Holding and/or by SUNY as a consequence of SUNY’s establishment of Holding in order to, among other things, acquire, develop, hold and maintain the Property that shall be conveyed to Purchaser and NYUHC pursuant to the Purchase Agreement; and

WHEREAS, following the consummation of the transactions contemplated by the Purchase Agreement, Holding will have limited operations and, following wind-up, will ultimately seek to be dissolved in accordance with applicable law; and

WHEREAS, the Parties desire to enter into this Agreement (a) to provide for Holding to make a grant and/or other distributions or transfers to SUNY of a substantial portion of the
Purchase Price, the Extension Payment (if any) and the Full Net Cost Payments, consistent with Holding’s status as a tax-exempt charity, Holding’s organizational documents, and the corporate purposes of Holding to support SUNY and its activities; (b) to provide for Holding to transfer to SUNY the Medical Malpractice Amount for disposition in accordance with the Purchase Agreement; (c) to provide for the waiver by SUNY at each Closing of SUNY’s existing option to acquire the Property being conveyed at such Closing; and (d) to provide for the assignment by Holding to SUNY, at Closing, of Holding’s rights under Section 15 of the Purchase Agreement (e.g., rights relating to NYUHC’s obligations to operate, directly or through contractors, and subject to certain deadlines for commencing operation and permitted interruptions as set forth in the Purchase Agreement, the Emergency Department on the Interim Medical Premises, the New Medical Operations, the Cancer Center Services and the Community Services).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

1. **Defeasance Payment.** If the Defeasance Payment is made by Purchaser prior to the Initial Closing, then upon receipt Holding shall remit the amount of such Defeasance Payment to DASNY or to a third party as directed by DASNY, in order to retire or defease Holding’s allocated share of the PIT Bond Debt (or, alternatively, at DASNY’s request, Holding shall instruct Purchaser to make the Defeasance Payment directly to DASNY or to a third party as directed by DASNY).

2. **Payment of Outstanding Debt.**
   (a) On the Initial Closing Date and upon receipt of the Seller Balance, Holding will:
      (i) if Purchaser has not paid the Defeasance Payment prior to the Initial Closing, retire or defease Holding’s allocated share of the PIT Bond Debt (or, alternatively, at DASNY’s request, Holding shall instruct Purchaser to, at the Initial Closing, pay directly to DASNY, or to a third party as directed by DASNY, that portion of the Seller Balance needed to retire or defease Holding’s allocated share of the PIT Bond Debt);
      (ii) pay that certain mortgage in the original principal amount of $1,600,000 granted by Long Island College Hospital to AIP Associates and currently held by The Health Sciences Center at Brooklyn Foundation, Inc., pursuant to Assignment of Mortgage from U.S. Bank National Association; and
      (iii) if sufficient funds exist after the payment of (i) and (ii), above, set aside a reasonable reserve (the “Reserve”), not to exceed $2,000,000, for payment of payables, debts and liabilities of Holding that are not known or have not yet accrued as of the Initial Closing Date.
   (b) On the Final Closing Date and upon receipt of the Final Amount, Holding will:
      (i) pay all then-known outstanding debts and liabilities of Holding, including any debts and liabilities that are Holding’s obligation then to pay under the Purchase Agreement; and
set aside such funds as are necessary to fully fund the Reserve at a level of $2,000,000, for payment of payables, debts and liabilities of Holding that are not known or have not yet accrued as of the Final Closing Date, and to fund Holding’s costs of wind-down and eventual dissolution.

The amounts described in sub-section (a) of this Section 2 are collectively the “Initial Closing Committed Funds” and the amounts described in sub-section (b) of this Section 2 are collectively the “Final Closing Committed Funds”.

3. **Grant and Distribution of Certain Assets to SUNY.** On the Initial Closing Date, and consistent with its tax-exempt purposes and its purpose as an organization existing to support SUNY as its sole member, Holding shall grant and/or otherwise distribute or transfer to SUNY an amount (if a positive number) equal to: the Seller Balance, plus fifty percent (50%) of the Initial Down Payment, plus the Section 10.3(d) Down Payment, if any, plus the Extension payment, if any, plus the Full Net Cost Payments, less an amount equal to the Initial Closing Committed Funds and the Medical Malpractice Amount (unless the Malpractice Amount is also transferred to SUNY pursuant to Section 7 hereof) (the “Initial Net Asset Grant”).

4. **Grant and Distribution of Net Assets to SUNY.** On the Final Closing Date, and consistent with its tax-exempt purposes and its purpose as an organization existing to support SUNY as its sole member, Holding shall grant and/or distribute or transfer to SUNY its remaining net assets, including without limitation the Final Amount, plus fifty percent (50%) of the Initial Down Payment, less an amount equal to the Final Closing Committed Funds (the “Final Net Asset Grant”).

5. **Grant and Distribution of Retained Amounts to SUNY.** If the Purchase Agreement is terminated prior to the Final Closing, and pursuant to the Purchase Agreement Holding is entitled to retain any portion of the Downpayments and/or any portion of the Full Net Cost Payments (collectively, the “Retained Amounts”), Holding shall, consistent with its tax-exempt purposes and its purpose as an organization existing to support SUNY as its sole member, promptly grant and/or otherwise distribute or transfer to SUNY the Retained Amounts less any amounts needed to pay Holding’s then-current debts and liabilities (not including the PIT Bond Debt) and less a Reserve. For purposes of determining the Retained Amount, the Parties acknowledge and agree that the portion of the Initial Down Payment still held by Holding after the Initial Net Asset Grant and prior to the Final Closing will be Twelve Million Dollars ($12,000,000).

6. **SUNY Use of Funds.** The Parties acknowledge and agree that SUNY shall hold any and all funds granted, distributed and/or transferred to SUNY by Holding pursuant to Sections 3, 4 and/or 5 hereof in accounts maintained by SUNY and may not use, distribute or transfer any such funds except for the following purposes: (a) paying costs associated with pension withdrawal liability incurred by StaffCo of Brooklyn, LLC in connection with the layoff of the Long Island College Hospital campus workforce of the University Hospital of Brooklyn; and (b) such other purposes with the prior written approval of SUNY and DOB.

7. **Medical Malpractice Amount.** At any time on or after the Initial Closing Date, Holding may transfer the Medical Malpractice Amount to SUNY, and upon and after such transfer, SUNY shall comply with Holding’s obligations under the Purchase Agreement relating to such Medical Malpractice Amount, including maintaining the Medical Malpractice Amount in
a segregated account, utilizing the Medical Malpractice Amount only to pay medical malpractice settlements and judgments relating to SUNY’s operation of the emergency department on the Property during the SUNY ED Continuation Period, and refunding to Purchaser, on the Medical Malpractice Net Refund Date, any portion of the Medical Malpractice Amount then remaining (exclusive of any interest earned on the Medical Malpractice Amount), after deducting the amount of any malpractice settlements and judgments relating to SUNY’s operation of the emergency department on the Property during the SUNY ED Continuation Period, including reserves for pending or identified claims, if any.

8. **Bill of Sale.** The Parties agree that SUNY shall deliver to Purchaser, at the Initial Closing, a Bill of Sale in the form of Exhibit B attached hereto, pursuant to which SUNY shall convey to Purchaser all right, title and interest of SUNY, if any, in and to any furniture, fixtures, equipment, machinery, materials and other Personal Property located on the Premises, excluding any Excluded Property.

9. **Waiver of Option Under Lease.** In partial consideration for its rights and benefits hereunder, SUNY shall: (a) on or immediately prior to the Initial Closing, irrevocably waive all of its rights under Section 13.1 of that certain Lease Agreement dated May 29, 2011 by and between SUNY and Holding (the “SUNY/Holding Lease”) with respect to all of the Premises other than the New Medical Site and the Final Closing Premises; and (b) on or immediately prior to the NMS Closing, irrevocably waive all of its rights under Section 13.1 of the SUNY/Holding Lease Agreement with respect to the NMS Closing Premises; and (c) on or immediately prior to the Final Closing, irrevocably waive all of its rights under Section 13.1 of the SUNY/Holding Lease Agreement with respect to the Final Closing Premises.

10. **Assignment of Certain Rights.** In partial consideration for its rights and benefits hereunder, Holding shall, upon the earlier of (a) the construction of the New Medical Building substantially in accordance with the Purchase Agreement; and (b) the occurrence of an event that would entitle Holding to exercise its reverter rights under the Purchase Agreement, but prior to the exercise by Holding of such reverter rights, assign to SUNY, or to another assignee permitted under the Purchase Agreement and designated by SUNY, all of Holding’s rights under Section 15 of the Purchase Agreement.

11. **Acknowledgement by SUNY.** SUNY hereby acknowledges that: (a) it has read the Purchase Agreement; (b) it understands that it has certain rights under the Purchase Agreement; and (c) it understands that other rights under the Purchase Agreement may be delegated or assigned to it by Holding. SUNY hereby agrees to comply with those provisions in the Purchase Agreement that apply to SUNY, as well as those provisions that include rights that may be assigned or delegated to SUNY at or after the Closing.

12. **Entire Agreement; Amendments, Changes and Modifications.** This Agreement, the Exhibits hereto and the agreements incorporated by reference herein together form the entire agreement between the Parties relating to the subject matter herein, and supersede all prior agreements and understandings, oral or written, relating to such subject matter, including but not limited to the Original GDA and the First Amended GDA, which are of no force and effect. Except as otherwise provided herein, this Agreement may not be effectively amended, changed, modified or altered other than by the execution of the Parties hereto of a subsequent document in the same manner and with same approvals as this Agreement is executed, subject to receipt of applicable government approvals.
13. **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of New York, without regards to its conflicts of law principles.

14. **Enforceability.** The provisions of this Agreement shall, where possible, be construed in a manner necessary to sustain their legality and enforceability, and for that purpose, the provisions of this Agreement shall be read as if they cover only the specific situation to which they are being applied. The unenforceability of any provision of this Agreement in a specific situation shall not affect the enforceability of that provision in other situations or of other provisions of this Agreement in any situations.

15. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which when executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same instrument. Delivery by a party of executed copies of this Amendment or the signature pages thereto by facsimile or by e-mail in pdf or other digital format, or by other electronic means, shall be as fully valid, binding, and effective as the delivery of originals, but upon request by a party, the other party shall furnish to the requesting party original signatures within five (5) business days of its receipt of the request.

16. **Manner of Giving Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be deemed given when mailed by certified or registered mail, postage prepaid, addressed as follows: if to SUNY, to State University Plaza, Albany, New York 12246, Attention: General Counsel, and if to Holding, to State University Plaza, Albany, New York 12246, Attention: President. The entities listed above may, by written notice, designate any further or different addresses to which subsequent notices, certificate or other communications shall be sent.

17. **Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

18. **Standard SUNY Provisions; Priority of Application.** The provisions set forth in Exhibit A (referred to therein as Standard Clauses for State University of New York Contracts) are expressly incorporated by reference herein as if set forth herein. In the event of any conflict between the terms and conditions set forth in this Lease, the following order of precedence shall apply: (1) Exhibit A, then (2) this Agreement.

19. **Approval of New York Oversight Agencies.** The Parties hereby acknowledge and agree that this Agreement is subject to the approval of the New York State Office of Attorney General (“AG”) and the New York State Office of State Comptroller (“OSC”), and this Agreement shall not be valid and enforceable until such approvals are given. The Parties further acknowledge and agree that this Agreement shall not be effective until it has been fully executed and approved by all applicable regulatory agencies, including AG and OSC.

20. **Third-Party Beneficiaries.** The terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective permitted successors or assigns, and it is not the intention of the parties to confer, and this Agreement shall not confer, third-party beneficiary rights upon any other person.

21. **Representations, Covenants, and Warranties.** Subject to the provisions of Section 19 of this Agreement and the required approvals contained therein, each Party hereby represents, warrants and covenants to the other Party as follows: The Party (a) has full power and authority
to enter into and to perform this Agreement; and (c) agrees that this Agreement constitutes a legal, valid and binding obligation of the Party, enforceable in accordance with its terms.

22. **Limitation on Benefits.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective administrators, legal representatives, successors and permitted assigns. It is the explicit intention of the Parties that no person or entity other than the Parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any party, and that the covenants, undertakings and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the Parties hereto (or their respective successors and assigns as permitted hereunder).

23. **Severability.** If any part of any provision of this Agreement or any other agreement, document, schedule or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement, and the Parties hereby agree to negotiate with respect to any such invalid or unenforceable part to the extent necessary to render such part valid and enforceable and as consistent as reasonably possible with the Parties’ original intentions.

24. **Exercise of Rights.** No failure or delay on the part of a Party in exercising any right, power or privilege hereunder and no course of dealing between the parties shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any other rights or remedies which a party would otherwise have at law or in equity or otherwise.

25. **Further Assurances.** The Parties covenant and agree that they will take whatever action or actions as are necessary from time to time to effectuate the provisions and intent of this Agreement, and, to that end, the Parties agree that they will duly execute and deliver any further documents or instruments, including all such deeds, bills of sale, endorsements, assignments, drafts, and checks, which may be necessary or helpful more fully to give full force and effect to this Agreement or to any of its provisions.

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IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

STATE UNIVERSITY OF NEW YORK

By: 

Its: Vice Chancellor

Dated: October 23, 2014

DOWNSTATE AT LICH HOLDING COMPANY, INC.

By: 

Its: Vice President and Secretary

Dated: October 24, 2014
Approval as to Form
Eric T. Schneiderman
Attorney General

By: ____________________________
Name: __________________________
Date: __________________________

Approved:
Thomas P. DiNapoli
State Comptroller

By: ____________________________
Name: __________________________
Date: __________________________

APPROVED
DEPT. OF AUDIT & CONTROL
OCT 28 2014
Charlotte E. Burgner
FOR THE STATE COMPTROLLER
STATE OF NEW YORK
COUNTY OF ALBANY )SS.:

On this 24th day of October, 2014, before me personally came Stephanie Fargnoli, to me known, who being sworn, did depose and say that she resides in Saratoga County; that she is the Vice President and Secretary of Downstate at LICH Holding Company, Inc., the corporation described in and which executed the foregoing instrument; that she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that she signed her name thereto by like order.

WILLIAM K. BARCZAK
Notary Public
State of New York
No. 4999971
Qualified in Schenectady County
Commission Expires Aug. 3, 2018

(ACKNOWLEDGEMENT BY THE STATE UNIVERSITY OF NEW YORK)

STATE OF NEW YORK
COUNTY OF ALBANY )SS.:

On this 24th day of October, 2014, before me personally came Robert Haelen, to me known, who being sworn, did depose and say that he resides in Greene County; that he is the Vice Chancellor of the State University of New York, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by the order of the Board of Trustees of said corporation, and that he signed his name thereto by like order.

DONA S. BULLUCK
Notary Public
State of New York
No. 02BU0093177
Qualified in Albany County
Commission Expires June 2, 2015
1. EXECUTION CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. PROHIBITION AGAINST ASSIGNMENT. Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein and under this contract pursuant to any Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of the State University of New York and for any amounts to contracts not listed for this contract.

3. COMPTROLLER’S APPROVAL. (a) In accordance with Section 112 of the State Finance Law, Section 355 of New York State Education Law, and 8 NYCRR 316, Comptroller’s approval is not required for the following: (i) due to the materiality or the amount of the contract value exceeds $250,000; (ii) equipment and supplies, including computer equipment; (iii) motor vehicles; (iv) construction; (v) construction-related services; (vi) printing; and (vii) goods and services purchased for capital purposes, as defined in 24 NYCRR 316, Comptroller’s approval is not required for the following: (i) contracts for services not listed in Paragraph (3)(a) above; (ii) motor vehicles; (iii) construction; (iv) printing; and (v) goods and services purchased for capital purposes, as defined in 24 NYCRR 316.

(b) Comptroller’s approval is required for the following contracts: (i) contracts for services not listed in Paragraph (3)(a) above made by a State University campus or health care facility certified by the Vice Chancellor or Chief Financial Officer, if the contract value exceeds $500,000; (ii) contracts for services not listed in Paragraph (3)(a) above made by a State University campus not certified by the Vice Chancellor or Chief Financial Officer, if the contract value exceeds $50,000; (iii) contracts for services not listed in Paragraph (3)(a) above made by health care facilities not certified by the Vice Chancellor or Chief Financial Officer, if the contract value exceeds $75,000; (iv) contracts whereby the State University agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds $10,000; (v) contracts for real property transactions, where the contract value exceeds $50,000; (vi) all other contracts not listed in Paragraph (3)(a) above, if the contract value exceeds $50,000, e.g. SUNY acquisition of a business and New York State Finance Act Article 6B contracts are required on a procurement for any amount to contracts not listed in Paragraph (3)(a) above, when so amended, the contract exceeds the threshold amounts stated in Paragraph (b) herein. However, such pre-approval shall not be required for any contracts established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding upon the State University until it has been approved by the Comptroller and filed in the Comptroller’s office.

4. WORKERS’ COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers’ Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-c of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, sex or disability: (a) discriminate in hiring any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to the penalty of per person per day for any violation of Section 220-c or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor’s employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Department of Labor. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law must be a condition precedent to payment by SUNY of any SUNY-approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract is subject to the provisions of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered it to SUNY a non-collusive bidding certification on Contractor’s behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-d of the State Finance Law, Contractor or any of its agents, contractors, subcontractors, suppliers or employees is prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of the State University of New York and for any amounts to contracts not listed for this contract.

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State’s right to withhold for the purposes of set-off any monies due to the Contractor or any of its agents, contractors, subcontractors, suppliers or employees for breach of any term of this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with such State practices, and if a set-off is made, the State shall promptly advise the Contractor of the amount set-off pursuant to an audit, the finalization of such audit by the State, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, receipts, and other evidence, if this directly pertains to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as SUNY and its representatives and entities involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State. The Contractor shall maintain appropriate agencies of inspection, auditing and copying. SUNY shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the “Statute”) provided that: (i) the Contractor will promptly perform an appropriate SUNY official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, SUNY’s or the State’s right to discovery in any pending or future litigation.
11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). 
Every invoice or New York State Claim for Payment submitted to the State University of New York by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. When such payee discovers an error in such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above referenced information is acquired from a source of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State University of New York is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have paid other taxes liabilities and/or generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State University of New York contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIIES. 
(a) In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for the purpose of construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (ii) a written agreement in excess of $10,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $5,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iv) a written agreement in excess of $500.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for the purpose of construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(1) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status and will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(2) At SUNY's request, Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(3) Contractor shall state, in all solicitations or advertisements for employees in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(b) Contractor will include the provisions of "1", "2" and "3" above in every sub-contract over $50,000.00, for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a Contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effects the purpose of this section.

SUNY shall determine whether the imposition of the requirements of the provisions hereof duplicative or conflicting with any federal law and if such duplication or conflict exists, SUNY shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereto) and the terms of this Exhibit A, the terms of this Exhibit A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Such service of process shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient.

Contractor will have thirty (30) calendar days after service hereunder in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. If application for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certification, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MacBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest or individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development Division for Small Business
30 South Pearl St., 7th Floor
Albany, NY 12245
Tel: 518-292-5100
Fax: 518-292-5884
email: opq@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbcertification@esd.ny.gov
https://ny.newyorkcontracts.com/EndVendorSearchPublic.asp

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is at least $1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to SUNY;

(b) The Contractor has complied with the Federal Equal Employment Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Search Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that SUNY may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with SUNY in enforcing.
21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4-g) of the State Finance Law, the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

24. PURCHASES OF APPAREL AND SPORTS EQUIPMENT. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder’s failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

25. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the Contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if SUNY determines that such action is in the best interests of the State.

27. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf.

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

28. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

29. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of $10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.
SUNY Bill of Sale

KNOW ALL PEOPLE BY THESE PRESENTS,

That THE STATE UNIVERSITY OF NEW YORK, a corporation created and existing under Section 352 of the New York Education Law ("SUNY"), for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration paid to SUNY by FPG COBBLE HILL ACQUISITIONS, LLC, a Delaware limited liability company, having an office c/o Fortis Property Group, LLC, 45 Main Street, Suite 800, Brooklyn, New York 11201 ("Purchaser"), the receipt and sufficiency of which are hereby acknowledged, does hereby sell, grant, convey and transfer to Purchaser, pursuant to that certain Purchase and Sale Agreement, effective as of June 30, 2014, entered into between DOWNSTATE AT LIC HOLDING COMPANY, INC., Purchaser, NYU HOSPITALS CENTER, and for certain limited purposes FORTIS PROPERTY GROUP, LLC (the "Agreement") with respect to those certain premises set forth on Schedule "1" annexed hereto and made a part hereof (the "Premises"), all of SUNY’s right, title and interest, if any, in and to all Personal Property (as defined in the Agreement) owned by SUNY and located on or attached to, and used in connection with the maintenance or operation of, the Premises.

This Bill of Sale is made without any covenant, warranty, or representation by, or recourse against, SUNY, Seller or any of Seller’s Affiliates (as such terms are defined in the Agreement) of any kind whatsoever.

This Bill of Sale shall be governed by, and construed in accordance with, the internal laws of the State of New York, without giving effect to principles of conflicts of law.

TO HAVE AND TO HOLD the same unto Purchaser, its successors and assigns, forever, from and after the date hereof.

IN WITNESS WHEREOF, SUNY has executed this Bill of Sale as of the ___ day of _______, 2014.

THE STATE UNIVERSITY OF NEW YORK

By: ________________________________
Name: ______________________________
Title: ______________________________

01395
Schedule "1"

Premises