

GROUND LEASE FOR PARKING LOT AND OPEN SPACE

This Agreement entered into in duplicate on the 1st day of August, 2011, by and between the Village of Essex Junction (hereinafter referred to as "LANDLORD") and Flex-A-Seal, Inc., a Vermont corporation with principal office in Essex Junction, Vermont (hereinafter referred to as "TENANT").;

WITNESSETH:

WHEREAS, TENANT desires to expand its business and increase its employment in the Village of Essex Junction; and

WHEREAS, in connection with this expansion, TENANT desires to lease two parcels of land, one to use as a parking lot and another to be used as open space in Essex Junction, Vermont, more particularly described in Public Works Property Lease Area Plan, Exhibit A attached hereto as Lots 1 and 2; and

WHEREAS, LANDLORD believes that TENANT's presence in the Village, its expansion and the use of the Demised Premises would be in the public interest and is willing to lease to TENANT the Demised Premises in consideration of the rental to be paid by TENANT to LANDLORD and the other terms and conditions described herein;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **LEASE TERM.** The lease shall be for a term commencing on August 1, 2011 and terminating on July 31, 2021. TENANT shall have the option to renew this lease for one (1) additional ten (10) year term, subject to LANDLORD's right to terminate the lease as described below in Paragraph 11. TENANT's ability to exercise this option to renew shall only be in effect if TENANT is not in violation of this Lease Agreement.

2. **GROUND RENTAL.** The rental amount for Lot 1 shall be \$200.00 a month and for Lot B shall be \$200.00, payable in monthly installments on the 1st of each month, commencing August 1, 2011. This rent, during the original lease term, shall be increased by two percent (2%) after twelve months for the duration of the initial term of the lease and shall increase two percent (2%) every twelve months thereafter. If TENANT exercises an option, it shall pay the then established rental amount plus a three percent (3%) annual increase after twelve months of their exercising the option.

3. **RENT TO BE NET TO LANDLORD.** It is the intention of the parties that the rent payable hereunder shall be net to LANDLORD, so that this lease shall yield to LANDLORD the net rental specified herein during the term of this lease, and that all costs, expenses and obligations of every kind and nature whatsoever relating to the Demised Premises, shall be paid by TENANT.

4. **USE OF PREMISES.** TENANT shall use Lot 1 for employee parking. TENANT shall use Lot 2 for open space only. TENANT shall not use the Demised Premises for any purpose in violation of federal, state or municipal statute or ordinance or any regulation, order, directive of a government agency such as statutes, ordinances, regulations, orders or directives that now exist or may in the future provide concerning the use and safety of the Demised Premises. TENANT shall indemnify LANDLORD from any and all fines, penalties or claims of damage of every kind and nature arising out of the failure to comply with any such laws.

5. **CONSTRUCTION OF FENCE.** TENANT shall construct a fence approved by LANDLORD to separate Lot 1 from the remainder of the LANDLORD's premises.

6. **STORM WATER MANAGEMENT.** TENANT shall design and implement a storm water management design for the Demised Premises approved by LANDLORD.

7. **REPAIRS, ADDITIONS, REPLACEMENTS.** TENANT shall, at all times during the term of this lease, and at its own cost and expense, keep and maintain in good and prudent repair all improvements at any time erected or placed on Lot 1, and shall use all reasonable precaution to prevent waste, damage or injury. TENANT shall also be responsible for all snow removal and grounds maintenance on Lot 1.

LANDLORD shall not be required to furnish any services or facilities or to make any improvements, repairs or alterations in or to the Demised Premises during the term of this lease.

On the last day or earlier termination of the term of this lease, TENANT shall quit and surrender the Demised Premises to the LANDLORD. The improvements thereon shall become the property of the LANDLORD, but TENANT shall have the right to remove all personal property and trade fixtures, provided that TENANT repairs any damage caused by the removal of said trade fixtures.

8. **REQUIREMENTS OF PUBLIC AUTHORITY.** During the term of this lease, TENANT shall, at its own expense and cost, promptly observe and comply with all present and future laws, ordinances, requirements, orders, rules and regulations of the federal, state and local governments, and of all governmental authorities affecting the Demised Premises or appurtenances thereto or any part thereof. TENANT shall also pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands, including reasonable counsel fees that may in any manner arise out of or be imposed because of the failure of TENANT to comply with the covenants of this section.

TENANT, after notice to LANDLORD may, by appropriate proceedings conducted promptly at its own expense, in its name, contest in good faith the validity or enforcement of any law, ordinance, governmental rule, regulation, requirement or order referred to herein, and may defer compliance therewith provided that (1) such non-compliance shall not constitute a crime on the part of the LANDLORD, (2) the TENANT shall diligently prosecute such contest to final determination by a Court, department or governmental authority or body having final jurisdiction, and (3) the TENANT shall furnish the LANDLORD with such security, by bond or otherwise, as the LANDLORD may reasonably request in connection with such contest. The LANDLORD agrees to cooperate reasonably with the TENANT, and to execute any documents or pleadings reasonably required, for the purpose of any such contest, provided that, the TENANT shall discharge any expense or liability of the LANDLORD in connection therewith.

9. **COVENANT AGAINST LIENS.** If, because of any act or omission of TENANT, any lien, charge or order for the payment of money shall be filed against LANDLORD or any portion of the Demised Premises, TENANT shall, at its own cost and expense, cause the same to be discharged of record or bonded within ninety (90) days after written notice from LANDLORD to TENANT of the filing thereof; and TENANT shall indemnify and save harmless LANDLORD against and from all costs, liability, suits, penalties, claims and demands, including reasonable counsel fees resulting therefrom.

10. **ASSIGNMENT AND SUBLETTING.** This Lease may be assigned, sublet, mortgaged or otherwise encumbered by TENANT with thirty days notice to LANDLORD.

11. **TERMINATION.** Tenant shall have the right to terminate this lease agreement for any reason upon one hundred twenty days (120) advanced written notice to the Landlord. Landlord shall have the right to terminate this lease agreement if Tenant is no longer operating a business at their manufacturing facility with a level of activity that reasonably requires the continued use of the leased premises for the necessary and proper operation of the manufacturing facility. Such termination shall take effect only after any permits or other requirements of any public authority have been appropriately revised and issued which allow the then existing manufacturing facility to continue to operate. In such event Landlord and Tenant shall cooperate in the revision of said permits to complete the termination.

12. **INDEMNITY.** *Tenant's Indemnity.* TENANT indemnifies, defends, and holds LANDLORD harmless from claims which are:

- (a) for personal injury, death, or property damage; and
- (b) for incidents occurring in or about the Demised Premises; and
- (c) caused by the negligence or willful misconduct of TENANT, or those parties for which conduct the TENANT is legally responsible.

When the claim is caused by the joint negligence or willful misconduct of TENANT and LANDLORD or TENANT and a third party unrelated to TENANT, except TENANT's agents, employees, or invitees, TENANT's duty to defend, indemnify, and hold LANDLORD harmless shall be in proportion to TENANT's allocable share of the joint negligence or willful misconduct.

Landlord's Indemnity. LANDLORD indemnifies, defends, and holds TENANT harmless from claims which are:

- (a) for personal injury, death, or property damages; and
- (b) for incidents occurring in or about the Demised Premises; and
- (c) caused by the negligence or willful misconduct of LANDLORD, or those parties for whose conduct the LANDLORD is legally responsible.

When the claim is caused by the joint negligence or willful misconduct of LANDLORD and TENANT or LANDLORD and a third party unrelated to LANDLORD, except LANDLORD's agents, employees, or invitees, LANDLORD's duty to defend, indemnify, and hold TENANT harmless shall be in proportion to LANDLORD's allocable share of the joint negligence or willful misconduct.

13. **INSURANCE.** TENANT shall provide, at its expense, and keep in force during the term of this lease, general liability insurance in a good and solvent insurance company or companies licensed to do business in the State of Vermont in an amount of at least ONE MILLION DOLLARS (\$1,000,000.00) with respect to injury or death to any one person and TWO MILLION DOLLARS (\$2,000,000.00) with respect to injury or death of more than one person in any one accident or other occurrence and FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) with respect to damages to property. Such policy or policies shall include LANDLORD as an additional insured as its interest may appear. TENANT agrees to deliver certificates of such insurance to LANDLORD, at the request of LANDLORD. Such insurance policy shall be in the form commonly known as "Comprehensive General Liability" or "Owner-Landlord and Tenant."

TENANT further shall, at its expense, take out and maintain at all times all necessary workmen's compensation insurance covering all persons employed by TENANT in and about the Demised Premises.

During the term of this lease, TENANT shall keep all improvements erected by TENANT on the Demised Premises at any time insured for the benefit of LANDLORD and TENANT and the holder of any mortgage, as their respective interests may appear, against loss or damage by fire and customary extended coverage in a minimum amount necessary to avoid the effect of co-insurance provisions of the applicable policies. In no event shall the insurance coverage be less than the cost of replacement.

Not less than thirty (30) days before the expiration of any such policy, TENANT shall deliver to LANDLORD evidence of the policy's renewal, or a new certificate, together with evidence that premiums were paid for the renewal period or new policy, as the case may be. All such insurance shall contain the policy or policies, or to change the coverage, without giving thirty (30) days prior written notice to LANDLORD.

LANDLORD shall, as fee owner of the , provide, at its expense, and keep in force during the term of this lease, general liability insurance in the same amounts required of TENANT, and such policy shall include TENANT as an additional insured, as its interest may appear.

14. **DESTRUCTION.** In the event that at any time during the term of this lease the improvements on the Demised Premises shall be destroyed or damaged, in whole or in part, by fire or any other cause, then, TENANT, at its own expense and cost, shall, cause the same to be repaired, replaced or rebuilt within a reasonable time from the date of casualty loss. If TENANT fails to commence repair or rebuild as necessary within one hundred eighty (180) days from the date of casualty, and complete such repair in a timely fashion, unless TENANT is prevented from carrying out such repair because of government action, weather or similar impediment outside of the control of TENANT; then TENANT shall forthwith remove all damage and debris, and return the site to a level graded condition, so that the does not create a nuisance or eyesore in the neighborhood. Notwithstanding any damage or destruction to the improvements of TENANT, this lease shall continue in full force and effect until otherwise terminated herein, including TENANT's liability to pay the ground rental and all other charges described herein.

15. **QUIET ENJOYMENT.** TENANT, upon paying the rent and additional rent and all other sums and charges to be paid by it as herein provided, and observing and keeping all covenants, warranties, agreements and conditions of this lease on its part to be kept, shall quietly have and enjoy the Demised Premises during the term of this lease, without hindrance or molestation by LANDLORD. LANDLORD represents and warrants to TENANT that it has fee simple title to the Demised Premises, that the Demised Premises are free and clear of all mortgages, liens or other encumbrances, and LANDLORD has the power and authority to execute and deliver this lease and to carry out and perform all covenants to be performed by it hereunder.

16. **GOVERNMENTAL PERMITS.** It is understood and agreed by the parties that it shall be TENANT's sole responsibility to obtain any and all permits or licenses required from any governmental authority (including state and local subdivision approvals) for the lease itself, and improvements on said premises.

17. **DEFAULT.** In the event of TENANT'S failure to pay the rental due hereunder, any taxes or other municipal assessments when due, or any other charges or expenses referred to in this lease when the same shall be due and payable, or TENANT'S failure to perform any of the other material covenants, conditions and agreements herein contained on TENANT's part to be kept or performed, and the continuance of such failure without curing the same or taking reasonable steps to cure the same, for a period of thirty (30) days after receipt by TENANT of notice in writing by Certificate of Mailing from LANDLORD specifying in detail the nature of such failure, then LANDLORD may, at LANDLORD's option, give to TENANT a notice of election to end the term of this lease upon a date specified in such

notice, which date shall not be less than thirty (30) business days after the date of receipt by TENANT of such notice from LANDLORD, and upon the date specified in said notice, the term and estate hereby vested in TENANT shall cease and any and all other right, title and interest of TENANT hereunder shall likewise cease without further notice or lapse of time, as fully and with like effect as if the entire term of this lease had elapsed, but TENANT shall continue to be liable to LANDLORD for all rental due for the entire term of the lease, together with all costs, charges and attorneys' fees which LANDLORD may incur in connection with any action by LANDLORD against TENANT hereunder or in connection with reletting said property.

In connection with any alleged defaults by TENANT, with the exception of TENANT's failure to pay rent or other charges or expenses, the parties understand and agree that if TENANT is making a good faith attempt to correct the condition of default under this lease, LANDLORD may not elect to terminate this lease.

If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorney's fees to be paid by the losing party as fixed by the Court.

18. **WAIVERS.** Failure of LANDLORD to complain of any act or omission on the part of the TENANT shall not be deemed to be a waiver by LANDLORD of any of its rights hereunder.

19. **INTERPRETATION.** This lease and the performance thereof shall be governed, interpreted and regulated by the laws of the State of Vermont.

20. **RECORDING OF LEASE.** This lease shall not be recorded by either party. Either of the LANDLORD or the TENANT may request that both parties agree to and sign and record a notice of lease stating the names of the parties, the description of the Demised Premises, the term of this lease, and such other additional information as may be reasonably necessary to accurately reflect the terms of this lease, and to protect the legitimate interests of the LANDLORD and the TENANT against third parties.

21. **LATE CHARGE.** If any assessment payable by TENANT hereunder other than rent is not paid within thirty (30) days from due date, thereby causing a lien on the Demised Premises, or requiring payment by LANDLORD, then there shall be an automatic late payment fee equal to 5% of the then current assessment, plus interest at the then current money market rate for a thirty (30) day certificate of deposit, which shall be due and payable without notice. If any installment of rent payable by TENANT is not paid within fourteen (14) days from due date, there shall be an automatic late payment fee equal to five percent (5%) of the then current monthly rent payment; in addition, interest at the rate of twelve percent (12%) per annum shall accrue on said monthly rental payment from the due date to actual payment, which shall be due and payable without notice.

22. **INSPECTION BY LANDLORD.** Agents and other representatives of LANDLORD shall have the right to enter into and upon the Demised Premises, or any part thereof, at all reasonable hours for the purpose of examining the same for the safety or preservation or the repair of any part or portion of the Demised Premises in the event of a breach of the terms hereof by TENANT relating to repairs and hereinbefore provided, but LANDLORD assumes no obligation so to do or to inspect.

23. **HAZARDOUS MATERIALS.** TENANT represents, warrants and covenants that TENANT will not use hazardous materials on, from, or affecting the demised premises in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of hazardous materials. Notwithstanding anything to the contrary, TENANT shall defend, indemnify, and hold harmless

LANDLORD, its employees, agents, officers and directors from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expense of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (i) the presence, disposal, release, or threatened release of any hazardous materials which are on, from or affecting the demised premises or the soil, water, vegetation, buildings, personal property, persons or animals located thereon; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous materials; (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such hazardous materials, and/or (iv) any violation of laws, orders, regulations, requirements, or demands of governmental authorities, which are based upon or in any way related to the presence or placement of hazardous materials on or in the demised premises subsequent to the date hereof including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses.

If any notice or communication, shall be received from any governmental or regulatory entity, identifying the Demised Premises, or the land citing the release, threatened release, storage, generation, transportation, reclamation, recycling or disposal of any hazardous waste, toxic substance or any other regulated substance, not caused by TENANT and not related to TENANT'S conduct of its business on the Demised Premises, which is a health hazard to TENANT'S employees, then, TENANT shall have the option to terminate this lease immediately upon written notice to LANDLORD.

24. **ESTOPPEL CERTIFICATE.** Each party shall, without charge, at any time and from time to time, within 10 business days after the request by the other party, deliver a written instrument to such party or to any other person, firm, or corporation specified by such party, duly executed and acknowledged, certifying that this lease is unmodified and in full force and effect or, if there has been any modification, that the said case is in full force and effect as modified, and stating any and all such modifications; and specifying the dates to which the rental and other charges provided for herein have been paid.

25. **PARTIES.** The terms and conditions of this Agreement shall inure to and be binding upon the parties hereto, and their heirs, administrators, successors and assigns.

26. **SEVERABILITY.** The invalidity of any provision of this lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

27. **CAPTIONS.** Article and paragraph captions are not a part hereof.

28. **INCORPORATION OF PRIOR AGREEMENTS; AMENDMENTS.** This lease contains all agreements of the parties with respect to any matters by the parties heretofore mentioned. No prior agreement or understanding pertaining to any such matter shall be effective. This lease may be modified in writing only, signed by the parties in interest at the time of the modification.

29. **HOLDING OVER.** If TENANT remains in possession of the Demised Premises or any part thereof after the expiration of the term hereof without the express written consent of LANDLORD, such occupancy shall be a tenancy from month to month at a monthly rental in the amount equal to one hundred and twenty five percent (125%) the gross rental of the most recent lease. Upon termination of this lease, the TENANT, within thirty (30) days from the effective date of such termination, shall remove all of its trade fixtures and personal property from the Demised Premises and surrender possession thereof to LANDLORD.

30. **CUMULATIVE REMEDIES.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

31. **CONSENTS.** Wherever in this lease the consent of one party is required to an act of the other party such consent shall not be unreasonably withheld or delayed.

32. **NOTICES.** Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by certified mail, return receipt requested, and if given personally or by mail, shall be deemed made and sufficiently given if addressed to TENANT or to LANDLORD at the address noted herein below. Either party may, by notice to the other, specify a different address for notice purposes. A copy of all notices required or permitted to be given to LANDLORD hereunder shall be concurrently transmitted to such party or parties at such address as LANDLORD may from time to time hereafter designate by notice to TENANT.

LANDLORD: VILLAGE OF ESSEX JUNCTION
David A. Crawford, Village Manager
2 Lincoln Street
Essex Junction, VT 05452

with a copy to: Law Offices of David A. Barra PLC
Attention: David A. Barra, Esq.
26 Railroad Avenue, P.O. Box 123
Essex Junction, VT 05453-0123

TENANT: Flex-A-Seal, Inc.
1 Jackson Street
Essex Junction, VT 05452

with a copy to: Vincent A Paradis, Esq.
Bergeron, Paradis & Fitzpatrick, LLP
34 Pearl St., PO Box 174
Essex Jct., VT 05453-0174

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the ____ day of August, 2011.

IN PRESENCE OF:

THE VILLAGE OF ESSEX JUNCTION

Witness _____

By: _____
David A. Crawford, Village Manager
Duly Authorized Agent

FLEX-A-SEAL, INC.

Witness _____

By: _____
(Print Name) _____
Duly Authorized Agent