

**INDUCEMENT AGREEMENT - EVERGREEN MOTORS, INC.,
DOING BUSINESS AS BMW OF ORLAND PARK**

THIS AGREEMENT is entered into this ____ day of _____, 2009, by and among the **VILLAGE OF ORLAND PARK**, Cook and Will Counties, Illinois, a home rule municipal corporation (hereinafter referred to as the "Village"), and **EVERGREEN MOTORS, INC.**, an Illinois corporation, doing business as **BMW OF ORLAND PARK** (hereinafter referred to as "Evergreen"), and **SAV II, LLC**, an Illinois limited liability company (hereinafter referred to as "SAV").

WITNESSETH:

In consideration of the Preliminary Statements, the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

1. Preliminary Statements

Among the matters of mutual inducement which have resulted in this Agreement are the following:

(a) The Village is a home rule municipality pursuant to Article VII, Section 6 (a) of the Constitution of the State of Illinois and is authorized thereby to exercise any power and perform any function pertaining to its government and affairs.

(b) SAV is the equitable owner, under an agreement of purchase, of certain undeveloped real property, legally described in **EXHIBIT "A"** attached hereto and made a part hereof, and comprised of approximately 8.58 acres at the northeast corner of Wolf Road and 159th Street, Orland Park, Illinois (hereinafter referred to as the "Subject Property"). SAV, after receipt of the promises and inducements contained herein, plans to construct a new BMW

automobile dealership on the Subject Property (hereinafter collectively referred to as the "Project"). As of the date of this Agreement, the cost of said Project is anticipated to be not less than TWENTY MILLION DOLLARS (\$20,000,000.00). It is understood and agreed that there has been a specific site plan submitted and approved by the Village in relation to the Subject Property. In addition, the architecture, building elevations, exterior building materials, building, zoning and sign requirements, and landscaping plans for the entire Subject Property, to the extent not previously submitted and approved, must be submitted to and approved by the Village. It is further understood and agreed that all plans in relation to the Subject Property are subject to the review and approval of the Village Board of Trustees. The Project to be constructed on the Subject Property shall be constructed substantially in accordance with the plans and specifications approved by the Village.

(c) Upon completion of construction of the BMW automobile dealership and related improvements, SAV II will lease the Project and the Subject Property to Evergreen, which will operate an automobile sales and service business, under a franchise from BMW of North America on the Subject Property.

(d) SAV and Evergreen are affiliated entities through common ownership.

(e) The Village is desirous of having the Subject Property improved with the new automobile sales and service dealership, in order to service the needs of the Village and its residents, and the Project will increase employment opportunities in the Village, arrest decline in economic conditions existing in the Village, stimulate commercial growth and stabilize the tax base of the Village, and, in furtherance thereof, the Village contemplates certain incentives and continuing economic incentives under the terms and conditions hereinafter set forth to assist in such.

(f) The parties hereto acknowledge, and SAV and Evergreen represent and warrant, that they require economic assistance from the Village in order to commence and complete the Project, and that, but for said economic assistance, the Project as contemplated would not be economically viable nor would the funds necessary for its commencement and completion be available.

(g) For purposes of this Agreement, the use of the terms “sales tax” and “sales tax revenue” shall be construed to refer to that net portion of taxes imposed by the State of Illinois for distribution to the Village pursuant to the Retailers’ Occupation Tax Act and the Service Occupation Tax Act (as said acts may be amended) and which are collected by the State and distributed to the Village, and all revenue derived from such taxes. If a governmental or legislative body enacts any law or statute which results or which may result in any material changes or amendments to the foregoing sales tax provisions, which changes or amendments prohibit the Village from complying with this Agreement or which adversely affect the Village's ability to comply herewith, then the Village, at its sole discretion, will re-evaluate the incentive to be provided and may elect to amend the incentives and inducements set forth herein.

(h) This Agreement, and the incentives and inducements set forth herein, shall apply to the planned new BMW automobile sales and service dealership to be located on the Subject Property, as well as any different automobile sales dealerships which may be located on the Subject Property during the term of this Agreement.

2. Conditions Precedent to the Undertakings on the Part of the Village

All undertakings on the part of the Village pursuant to this Agreement are subject to satisfaction of the following conditions by SAV and/or Evergreen on or before the date of the Initial Payment provided for in Paragraph 3 below, or as otherwise specifically hereinafter stated:

(a) SAV shall have obtained final approval relating to the Project, including, but not limited to, construction of any signs, so that operation of the businesses can commence within the time set forth in Paragraph 4(a) hereof, it being understood and agreed that the Village has the discretion established by law to approve all such work and the Village shall not be deemed to have caused a default hereunder or have any liability for its failure to approve such work.

(b) SAV shall have obtained any other final approvals necessary from any other governmental unit or agency which has jurisdiction or authority over any portion of the Project.

(c) SAV and Evergreen shall have certified to the Village that there exists no material default under this Agreement, beyond any applicable cure period set forth herein, or any agreement, guaranty, mortgage or any other document which either has executed in connection with the Project, beyond any applicable cure period set forth therein, that affects or that may affect either's ability to operate the aforementioned automobile dealership at or on the Subject Property, and that neither SAV nor Evergreen has received any notice of any violation of any Village ordinances, rules and regulations, or of any applicable laws of the State of Illinois or the United States of America, and/or any agency or subdivision thereof, as well as any ordinances and resolutions of the Village pertaining to the Project which by their respective terms are to have been complied with prior to the completion of the Project.

(d) SAV and Evergreen agree that in the event there is a change in the ownership (legal or beneficial) of the Subject Property, or any portion thereof, the Village shall no longer be required to pay all or any portion of the incentive payments provided for in Paragraph 3(b) hereof except as otherwise provided in Paragraph 9 hereof.

(e) If a land trust shall be the owner of the Subject Property, the sole beneficiaries of the Trust shall have delivered to the land trustee an irrevocable letter of direction indicating that

any notice received by the land trustee which adversely impacts the Owner's title to or interest in the Subject Property, including but not limited to any notice of failure to pay real estate taxes, notice of foreclosure or notice of mechanic's lien(s) on the Subject Property, will be sent to the Village within five (5) business days following receipt thereof. Such letter of direction shall be irrevocable for so long as the Village is required to make payments under Paragraph 3 of this Agreement. The Owner and SAV also agrees to send to the Village any such notice received by him/her within five (5) days of receipt.

3. Undertakings on the Part of the Village

Upon satisfaction by SAV and Evergreen of all the terms and conditions set forth in this Agreement, the Village hereby undertakes to make the payments set forth in (a) below:

(a) In addition to the conditions set forth in Paragraph 2 above, SAV shall have substantially completed the entire Project and Evergreen shall open a new BMW automobile dealership for business on the Subject Property as provided in 4(a) below.

(b) In the event that all terms and conditions set forth in this Agreement are satisfactorily met by SAV and Evergreen, the Village hereby agrees to pay the sums hereinafter provided for, by annual installment payments over a maximum of a ten (10) year period as follows, subject however to the following conditions and restrictions:

- (i) Each amount will be due and payable solely from the proceeds of sales tax revenue received by the Village from automobile sales at the Subject Property computed as follows:
 - (1) It is acknowledged and understood by and between the parties hereto that the Village receives sales tax revenue monthly, and that the taxes generated by automobile sales in any one month are distributed to the Village approximately three (3) months later (e.g. taxes generated by sales in July are generally received in mid to late October).
 - (2) The initial payment year (hereinafter referred to as the "Initial Payment Year") shall be that twelve (12) month period commencing on the first day of the full month that follows the month in which the final occupancy

permit is issued for the new BMW automobile dealership (each subsequent 12-month period is hereinafter referred to as "Subsequent Incentive Year").

- (3) The Incentive Base for the Initial Payment Year and each Subsequent Incentive Year shall be \$272,573.00. For the Initial Payment Year and for each of the following nine (9) Subsequent Incentive Years, the Village shall be entitled to all sales tax revenue received from automobile sales at the Subject Property, attributable to the Initial Payment Year or the individual Subsequent Incentive Years, up to the Incentive Base. For the Initial Payment Year or the individual Subsequent Incentive Years, respectively, Evergreen shall thereafter be entitled to a portion of the remainder of the sales tax revenue, if any, received from automobile sales at the Subject Property that exceeds the Incentive Base amount for the Initial Payment Year or the individual Subsequent Incentive Year determined as follows: For the Initial Payment Year and all Subsequent Incentive Years of the ten year period, Evergreen shall be entitled to fifty percent (50%) of the sale tax revenue received in excess of the Incentive Base with the Village retaining the remaining fifty percent (50%) of the excess.
 - (4) The Initial Payment shall be made not later than the first day of the seventh month after the end of the Initial Payment Year (or on such later date once the Village has received the appropriate reports from the State to determine the amount of sales tax revenue generated in the Initial Payment Year). Payments, if any, shall then be made annually for the following nine (9) Subsequent Incentive Years not later than the seventh month after the end of the respective Subsequent Incentive Year, or such later date as noted previously.
- (ii) That SAV and Evergreen shall have delivered to the Village no less than thirty (30) days prior to the Initial Payment, and no less than thirty (30) days prior to each Subsequent Payment, a certificate dated within fifteen (15) days of receipt by the Village that all representations and warranties contained in Paragraph 5 herein are true and correct. Provided, however, that once the Project has been completed and any aspects of the Project requiring Village approval have received such approval from the Village as finally completed, the certificate required hereunder need not contain a representation and warranty regarding matters covered in subparagraphs (a) and (i) of said Paragraph 5.
 - (iii) That the Village has received no notice from SAV or Evergreen from any other source that there exists any material default beyond the applicable cure period under any of the terms, conditions or provisions under any of the loan documents under which SAV's financing, if any, for the Project was obtained, that affects or that may affect Evergreen's ability to operate the aforementioned automobile dealership at or on the Subject Property. SAV shall provide the Village with any notices received throughout the term of this Agreement relating to the Subject

Property which may have an adverse impact on this Project, specifically including any notices regarding any tax or loan delinquencies. Provided, however, that if the Village receives evidence satisfactory to it that any such default has been cured, except as otherwise provided herein, the payments to Evergreen required hereunder shall resume if all other requirements have been met.

(c) In the event that all terms and conditions set forth in this Agreement are satisfactorily met by SAV and Evergreen, the Village hereby agrees to reimburse Evergreen fifty percent (50%) of the annual general real estate taxes paid by Evergreen which are levied by the Village during the term of this Agreement, exclusive of taxes levied for Village debt service or public library.

The Village shall provide for payments required under this Paragraph by appropriating therefor in its annual budget ordinance for the fiscal year in which such payment may be due.

Subject to Paragraph 24, in the event that the Project is not open to the public as required hereunder on or before September 30, 2011, or on such other later date as may be agreed upon by and between the Village and SAV and Evergreen, then SAV and Evergreen shall be in default hereunder and all obligations on the part of the Village to make any payments to Evergreen pursuant to this Paragraph shall terminate after expiration of the cure period set forth in Paragraph 21 hereof, and neither the Village nor SAV nor Evergreen shall have any further obligations with regard to the Project.

In the event that either SAV and Evergreen fail to deliver to the Village any or all of the foregoing certifications within the time periods set forth above, or otherwise violate any term or provision of this Agreement, then in such event, the Village shall have no obligation to make any payment to Evergreen until such time as any such failure or violation is corrected to the reasonable satisfaction of the Village (except where this Agreement provides for forfeiture of any such payments), and all rights of Evergreen to demand any current or future payment from the Village shall be deemed waived until such failure or violation is so corrected, and all other

obligations on the part of the Village arising pursuant to this Agreement shall be deemed suspended and without any further force and effect unless and until such failure or violation is so corrected within the applicable cure period. Where this Agreement provides for forfeiture of any such payments, the Village may in that event cancel this Agreement immediately and permanently.

Notwithstanding any of the foregoing, or any other provision contained herein, if Evergreen fails in any year to timely pay any or all of the real estate taxes on the Subject Property when they become due, or within the applicable ten (10) day cure period provided in Paragraph 21, the Village may, at its sole discretion, terminate this Agreement, and Evergreen shall forfeit (and such forfeiture shall not be subject to any other cure period) all future incentive payments due hereunder. Evergreen shall provide evidence to the Village that such taxes were paid when due within thirty (30) days after the date when due. Notwithstanding the foregoing, Evergreen shall have the right to contest in good faith the assessed valuation of the Subject Property and the improvements thereon from time to time without affecting this Agreement.

4. Undertakings on the Part of the Company

(a) Subject to Paragraph 24, neither SAV nor Evergreen shall cause or permit the existence of any violation of Village ordinances, including but not limited to the Village's Building Code, Land Development Code, Fire Code, sign regulations, and any and all rules and regulations thereunder, on the Subject Property. SAV and Evergreen shall have substantially completed the entire Project and the new dealership be open to the public on or before September 30, 2011, or by such later time as may be agreed by and between the Village and SAV and Evergreen. SAV and Evergreen agree that they will jointly expend at a minimum \$20,000,000 on the acquisition of the Subject Property and the new automobile dealership building and

related improvements to the Subject Property. SAV agrees to construct the Project in full compliance with plans (including but not limited to site plans, landscaping, building elevations and exterior building materials) approved by the Village.

(b) SAV and Evergreen, as applicable, shall comply with all of the requirements set forth in Paragraphs 2 and 3 of this Agreement.

(c) SAV shall require the title holder of record (if at any time different from SAV) of the Subject Property to give the Village notice regarding any forfeiture on the financing documents by SAV for the financing of the Project or its subsequent purchase if an assignment is approved hereunder, and any tax and/or "scavenger" sales of the Subject Property, or any portion thereof.

(d) Evergreen shall each execute and provide the Village with a power of attorney letter, in form and content reasonably acceptable to the Village and Evergreen, which letter shall be addressed to the Illinois Department of Revenue and shall authorize the Illinois Department of Revenue to release any and all gross revenue and sales tax information on a monthly basis with respect to the operation of the new automobile dealership on the Subject Property to the Village while this Agreement is in effect. In addition to said letter, Evergreen shall prepare and submit such other or additional form(s) as may be required from time to time by the Illinois Department of Revenue in order to release such information to the Village. Finally, in the event that the sales tax revenue information is not released by the State due to the failure of Evergreen to execute the necessary authorization and/or release, the Village shall not be required to make any of the incentive payments provided for in Paragraph 3(b) hereof, subject to the cure provisions set forth in Paragraph 21 hereof.

(e) SAV and Evergreen hereby covenant and agree to promptly pay or cause to be paid as the same become due, any and all taxes and governmental charges of any kind that may at any time be lawfully finally assessed with respect to the Project and/or the Subject Property.

5. Representations and Warranties of SAV and Evergreen

(a) SAV and Evergreen hereby represent and warrant that the Project requires economic assistance from the Village in order to commence and complete the Project and, but for the economic assistance to be given by the Village as heretofore stated, the Project as contemplated would not be economically viable nor would the funds necessary for its completion be made available.

(b) SAV and Evergreen hereby represent and warrant that at all times each, as applicable, shall comply with all applicable local zoning and sign ordinances and regulations, all building and fire code regulations and all other applicable Village codes, ordinances, resolutions and/or regulations, with respect to the new dealership on the Subject Property. SAV agrees that the Project, including the site plan, landscaping plan, building elevations and exterior building materials, shall be constructed in full compliance with plans approved by the Village.

(c) SAV and Evergreen each hereby represents and warrants that it shall comply with all applicable laws, rules and regulations of the State of Illinois, the County of Cook and the United States of America, and any and all agencies or subdivisions thereof.

(d) SAV and Evergreen each represents and warrants that it shall comply in all material respects with all terms, provisions and conditions, and that it shall not default or permit a continuing default under any document or agreement relating to the Project or the financing and development of the Project, including but not limited to this Agreement, and all agreements and documentation executed and delivered in connection with any financing or loans for the

Project, a default under which would have a material adverse effect on the sales tax revenue generated thereby to the Village.

(e) SAV and Evergreen each hereby represents and warrants that it shall comply with all applicable Village codes and ordinances concerning unlawful employment practices and consumer protection.

(f) Evergreen hereby represents and warrants that it is an Illinois corporation in good standing under the laws of the State of Illinois.

(g) SAV hereby represents and warrants that it is an Illinois limited liability company in good standing under the laws of the State of Illinois.

(h) SAV represents and warrants that no other entity has interest in the development as herein proposed, except as may be consented to by the Village or otherwise allowed under the provisions of this Agreement.

(i) SAV hereby represents and warrants that it has provided the legal description of the Subject Property set forth in this Agreement and that said legal description is accurate and correct to the best of its knowledge.

(j) Evergreen hereby represents and warrants that, as of the date of this Agreement, the cost of the Project is anticipated to be not less than TWENTY MILLION DOLLARS (\$20,000,000.00).

6. Defaults

The occurrence of any one or more of the following shall constitute a default by SAV and Evergreen under this Agreement, subject to the cure provisions set forth in Paragraph 21 hereof, unless otherwise provided herein:

(a) A default of any term, condition or provision contained in any material agreement or document relating to the Project (other than this Agreement), including but not limited to loan documents, and the failure to cure such default within the time and manner as provided in any such agreement or document, that affects or that may affect Evergreen's ability to operate the aforementioned automobile dealership at or on the Subject Property.

(b) Failure to comply with any term, provision or condition of this Agreement; and the failure to cure such default within the time and manner provided herein; provided, however, the failure to timely pay real estate taxes on the Subject Property when they become due and payable, shall result in immediate termination of this Agreement and the Village's obligations hereunder, including but not limited to the obligation to make payments under Paragraph 3 hereof.

(c) Failure by Evergreen to timely pay when due (or within the applicable cure periods) all real estate property taxes and sales taxes on the Subject Property and the automobile dealership.

(d) A representation or warranty made by SAV or Evergreen and contained herein that is false, inaccurate or otherwise incorrect, and that is not corrected within thirty (30) days following written notice thereof to the other respective party(ies) from the Village.

(e) SAV or Evergreen: (i) becomes insolvent; or (ii) is unable, or admits in writing its inability to pay, its debts as they mature; or (iii) makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its or their property; or (iv) is adjudicated a bankrupt; or (v) files a petition in bankruptcy or to effect a plan or other arrangement with creditors; or (vi) files an answer to a creditor's petition (admitting the material allegations thereof) for an adjudication of bankruptcy or to effect a plan or other arrangement

with creditors; or (vii) applies to a court for the appointment of a receiver for any asset; or (viii) has a receiver or similar official appointed for any of its assets, or, if such receiver or similar official is appointed without the consent of Evergreen and such appointment shall not be discharged within sixty (60) days after his appointment or Evergreen has not bonded against such receivership or appointment; or (ix) a petition described in (v) is filed against Evergreen and remains pending for a period of sixty (60) consecutive days, unless the same has been bonded, and as a result thereof, Evergreen ceases to operate; or (x) files any lawsuit, claim and/or legal, equitable or administrative action affecting the Village's ability to collect any such sales tax revenue hereunder.

(f) Evergreen's relocation of the aforementioned automobile dealership to any place outside the corporate limits of the Village.

(g) The discontinuation of the BMW dealership on the Subject Property without its replacement by another automobile line prior to the commencement of the eleventh (11th) year following the opening for business of the aforementioned automobile dealership. If SAV and/or Evergreen violate the provisions of this Subparagraph (g), this Agreement shall be automatically terminated (except for the obligation of SAV and Evergreen to reimburse the Village as hereinafter required) and the Village will have no further obligations hereunder, including but not limited to the obligation to make any payments pursuant to Paragraph 3 above.

Additionally, SAV and Evergreen, as agreed liquidated damages and not as a penalty, will be required to promptly reimburse the Village all of the sales tax revenue and real estate tax revenue incentive payments they previously received from the Village.

(h) The filing of any lawsuit by a third party that would affect the generation of sales taxes anticipated by the Village hereunder (both on an annual basis and also over the expected life of the Project).

Upon the occurrence of a default as hereinabove set forth, the Village shall be relieved of any and all of its obligations arising hereunder and such obligations on the part of the Village shall be immediately canceled, become null and void and be without any force or effect, subject to the notice and cure provisions set forth in Paragraph 21 hereof, unless otherwise provided herein. The sole remedy of the Village for SAV and/or Evergreen’s default hereunder shall be to terminate this Agreement, effective as of the expiration of the notice and cure period following the date of such default, and to recover from Evergreen any unaccrued or other payment(s) which may have been made to Evergreen hereunder between the date of such default and the date of termination of this Agreement and any sum for which the Village may be entitled to as reimbursement from Evergreen under the terms hereof.

Notwithstanding the foregoing, if the event which gives rise to a default hereunder, independently of this Agreement constitutes a violation of any code, ordinance, regulation or rule of the Village, the Village shall have such remedies as may be provided for in such ordinance, regulation or rule, or as permitted at law or in equity.

7. **Notices**

All notices and requests required pursuant to this Agreement shall be sent via certified mail, return receipt requested, and addressed as follows:

To the Village:

- 1. Village President
Village of Orland Park
14700 S. Ravinia
Orland Park, Illinois 60462

To Evergreen and SAV:

- 1. Evergreen Motors, Inc.
SAV II, LLC
6691 Carlisle Pike
Mechanicsburg, PA 17050

With a Copy to:

2. Village Clerk
Village of Orland Park
14700 S. Ravinia
Orland Park, IL 60462

2. Jack F. Hurley, Jr., Esquire
Rhoads & Sinon LLP
One S. Market Square
P. O. Box 1146
Harrisburg, PA 17108

With a Copy to:

3. E. Kenneth Friker
Klein, Thorpe and Jenkins, Ltd.
15010 S. Ravinia - Suite 10
Orland Park, Illinois 60462

or to such other persons or such other addresses as the parties may indicate in writing, by providing at least thirty (30) days written notice to the other, either by personal delivery, by overnight delivery or by certified or registered mail, return receipt requested, with proof of delivery thereof. The parties may hereafter mutually agree to accept service via facsimile, and any such facsimile service shall be deemed had upon receipt and proof of a written facsimile transmission confirmation page. Notice shall be deemed received upon acceptance or rejection, as evidenced by a written delivery receipt in relation thereto.

8. Law Governing

This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

9. Assignments

Evergreen and/or SAV shall not assign this Agreement to any person or entity without the express written approval and consent by the Village.

It is understood that the Village will have the absolute right and discretion to refuse to consent to an assignment where the prospective assignee has ever been denied any motor vehicle

franchise, or have ever had an automobile franchise terminated or suspended, or have ever had a license to sell motor vehicles revoked, or have ever been convicted of a felony.

Upon any such assignment and/or assumption of responsibility, approved and consented to by the Village, Evergreen and SAV shall be released from all of its agreements, covenants and obligations and the performance thereof pursuant to this Agreement as of the date of the assignment and/or assumption of liability.

10. Time

Time is of the essence under this Agreement and all time limits set forth herein are mandatory and cannot be waived except by a lawfully authorized and executed written waiver by the party excusing such timely performance.

11. Binding Effect

This Agreement shall inure to the benefit of, and shall be binding upon the Village and Evergreen and SAV and their respective successors and assigns, subject, however, to the provisions of Paragraphs 9 and 12 hereof.

12. Limitation of Liability

No recourse under or upon any obligation, covenant or condition of this Agreement, or for any claim based thereon or otherwise related thereto, shall be had against the Village, or its officers, officials, agents and/or employees, in any amount or in excess of any specific sum agreed by the Village to be paid to Evergreen hereunder, subject to the terms and conditions set forth herein, and no liability, right or claim at law or in equity shall attach to, or shall be incurred by, the Village, or its officers, officials, agents and/or employees, in excess of such amounts and any and all such rights or claims of Evergreen and/or SAV against the Village, or its officers,

officials, agents and/or employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

13. Reimbursement of Village for Legal and Other Fees and Expenses

Except as provided in the paragraph immediately following this paragraph, upon demand by the Village made by and through its President, Evergreen from time to time shall promptly reimburse the Village for all reasonable out-of-pocket costs and expenses incurred by the Village in the administration of this Agreement if caused by, or attributable, to the actions of Evergreen or SAV or any of its officers, employees, officials and/or agents.

Such costs and expenses incurred by the Village in the administration of this Agreement shall be evidenced to Evergreen, upon request, by a sworn statement of the Village, and such costs and expenses may be further confirmed by Evergreen at its option from additional documents designated by the Village from time to time as relevant to determining such costs and expenses.

In the event that any third party or parties institutes any legal proceedings against Evergreen and/or SAV and/or the Village, which relate to the terms of this Agreement, then, in that event, Evergreen and SAV shall indemnify and hold harmless the Village from any and all such proceedings. Further, Evergreen or SAV, upon receiving notice from the Village of such legal proceedings, shall assume, fully and vigorously, the entire defense of such lawsuit or proceedings and any and all costs and expenses of whatever nature relating thereto; provided, however, that Evergreen or SAV may not at any time settle or compromise such proceedings without the Village's consent and even then only so long as such settlement or compromise does not involve an admission of wrongdoing on the part of the Village, nor any liability on the part of the Village, monetary or otherwise.

If the Village, in its sole discretion, determines that there is, or may probably be, a conflict of interest between the Village and Evergreen or SAV on an issue of material importance to the Village, or which may reasonably have a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event that the Village exercises such option, then Evergreen shall reimburse the Village from time to time on written demand from the Village President and notice of the amount due for any and all reasonable out-of-pocket costs and expenses, including but not limited to court costs, reasonable attorneys' fees, witnesses' fees and/or other litigation expenses incurred by the Village in connection therewith.

In the event that the Village institutes legal proceedings against Evergreen and/or SAV for a breach of this Agreement, or any term or condition hereof, and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in any judgment against Evergreen and/or SAV all costs and expenses of such legal proceedings incurred by the Village, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, incurred in connection therewith. Either party may, in its sole discretion, appeal any judgment rendered in relation thereto.

14. Continuity of Obligations

Except as otherwise specifically provided for in this Agreement, the parties shall at all times during the term of this Agreement remain liable to the other for the faithful performance of all obligations imposed under this Agreement until: (a) the natural expiration of this Agreement's ten (10) year period; provided, however, that notwithstanding the expiration of said ten (10) year period, and in the absence of any default or other termination of this Agreement, the Village shall be obligated to make the incentive payment required under this