

HORSHT, LLC

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Oneida County Industrial Development Agency
2022 Real Estate Lease
(Horsht, LLC Facility)

Oneida County, Town of Whitestown, Oriskany Central School District

Tax Account Nos.: 290.000-2-7
290.000-2-8.3
290.000-2-9.1

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of December 1, 2022, is by and between **HORSHT, LLC**, a New York limited liability company with an address of 161 Clear Road, Oriskany, New York 13424 (the "Company") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 584 Phoenix Drive, Rome, New York 13441 (the "Agency").

W I T N E S S E T H:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 372 of the Laws of 1970 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Company has requested the Agency's assistance in connection with the construction of a 6,000± square foot addition and a 8,500± square foot addition to existing buildings together with all site preparation and infrastructure to support the same (collectively, the "FIS Improvements"); construction of a 9,600± square foot addition to an existing building together with all site preparation and infrastructure to support the same (collectively, the "TLC Improvements" and together with the FIS Improvements, the "Improvements") situated on parcels of land measuring 11.62 acres in the aggregate located at 161 Clear Road, 175 Clear Road and 132 Base Road, Town of Whitestown, Oneida County New York (the "Land") and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of supporting the expansion and growth of Fiber Instrument Sales, Inc. and its communication fiber optics and sheet metal bending operations and supporting the expansion and growth of The Light Connection, Inc. and its cable and tubing manufacturing operations (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as the "Project"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to acquire a leasehold interest in the Land, Improvements and Equipment constituting the Facility and lease said Land, Improvements and Equipment to the Company pursuant to the terms and conditions contained in a Leaseback Agreement dated as of December 1, 2022 (the "Leaseback Agreement"); and

WHEREAS, the Company operates a portion of the Facility under the closely-held entity Fiber Instrument Sales, Inc. ("FIS"), and another portion of the Facility under the closely-held entity The Light Connection, Inc. ("TLC"); and

WHEREAS, the Agency has agreed to acquire an interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Facility will be exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company (collectively, the "Exempt Taxes") commencing March 1, 2023, because the Agency will own a leasehold interest in the Facility and the Facility will be used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the Leaseback Agreement from the first date of the Exemption Term (as that date is determined by the parties and described herein) through the term of the Leaseback Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule B attached hereto (each year being referred to as an "Exemption Year"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the Town of Whitestown or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Oneida County, Oriskany Central School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities" more particularly set forth on Schedule A attached hereto and made a part hereof) in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority:
 - (a) all taxes that are due with respect to the Facility prior to the Exemption Term, no later than the last day during which such payments may be made without penalty; and

(b) all special assessments and ad valorem taxes coming due and payable during the term of the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.

2. (a) The Company shall pay to each Taxing Authority as set forth on Schedule A attached hereto and made a part hereof an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:

(i) one-third of such taxes from the first through and including the fifth Exemption Year; and

(ii) two-thirds of such taxes from the sixth through and including the tenth Exemption Year; and

(iii) one hundred percent of such taxes after the tenth Exemption Year.

(b) Notwithstanding anything herein to the contrary, the term "Exempt Taxes" is intended to mean only the increase in real property taxes attributable to construction of the Improvements on the Land. The Company shall continue to pay taxes, or make payments in lieu of taxes, on the Land and existing facilities thereon (other than the Improvements), as if the Agency had no leasehold or other interest therein.

(c) Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Leaseback Agreement shall terminate and the Agency shall terminate its interest in the Facility pursuant to the Leaseback Agreement. The benefits under this Agreement are subject to the terms and conditions of a certain Job Creation and Recapture Agreement between the Agency and the Company dated as of December 1, 2022.

(d) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, shall constitute an Event of Default under Section 7.1(a)(vi) of the Leaseback Agreement, and the Agency may take any one or all remedial steps afforded it in Section 7.2 of the Leaseback Agreement; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. The Company will make PILOT Payments to each Taxing Authority hereunder for each Exemption Year by making the required payment billed by such Taxing Authority no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Agency did not have a leasehold or other interest in the Facility. PILOT Payments that are delinquent under this Agreement shall be subject to a late penalty of five percent (5%) of the amount due which shall be paid by the Company to the affected Taxing Authority at the time the

PILOT Payment is paid. For each month, or part thereof, that the PILOT Payment is delinquent beyond the first month, interest shall accrue to and be paid to the affected Taxing Authority on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made.

4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Leaseback Agreement if the Agency did not own a leasehold interest in the Facility.

5. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.

6. This Agreement shall be binding upon the successors and assigns of the parties.

7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not own a leasehold interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not own a leasehold interest in the Facility with respect to any proposed assessment or change in assessment concerning the Facility, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's ownership of the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company. In any event, the Company agrees to notify the Agency in writing if the Company initiates any action with respect to any proposed assessment or change in assessment concerning the Facility, and shall provide the Agency with copies of all documents relating to a change in assessment concerning the Facility to allow the

Agency to determine whether such change in assessment impacts the original intention of the parties under this Agreement. Notwithstanding anything herein to the contrary, for so long as this Agreement is in effect, the Company hereby unconditionally and irrevocably waives its right, if any, to apply for and/or receive the benefit of any other real property tax exemption with respect to the Facility, including, without limitation, any real property tax exemption that may be available under Section 485-b and Section 485-e of the Real Property Tax Law.

8. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

9. (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.

(b) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

(c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight courier that guarantees next day delivery and provides a receipt, to the Agency or the Company, as the case may be, addressed as follows:

To the Agency: Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441-4105
Attn.: Chairman

With a Copy To: Bond, Schoeneck & King, PLLC
501 Main Street
Utica, New York 13501
Attn.: Linda E. Romano, Esq.

To the Company: Horsht, LLC
161 Clear Road
Oriskany, New York 13424
Attn.: Frank Giotto, Chief Executive Officer

With a Copy To: Horsht, LLC
 161 Clear Road
 Oriskany, New York 13424
 Attn.: Alison Stanulevich, VP of Corporate Compliance

provided, that the Agency and the Company may, by notice given hereunder to the others, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[signature pages follow]

IN WITNESS WHEREOF, the parties have executed this **PILOT AGREEMENT** as of the date first above written.

HORSHT, LLC

By: *Frank Giotto*
Frank Giotto
Chief Executive Officer, Sole Proprietor

STATE OF NEW YORK)
 : ss.:
COUNTY OF ONEIDA)

On the 7th day of December 2022 before me, the undersigned a notary public in and for said state, personally appeared **Frank Giotto**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Laura S. Ruberto
Notary Public



SECOND SIGNATURE PAGE TO PILOT AGREEMENT
HORSHT, LLC FACILITY

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:



David C. Grow
Chairman

STATE OF NEW YORK

)

: ss.:

COUNTY OF ONEIDA

)

On the 7th day of December 2022 before me, the undersigned a notary public in and for said state, personally appeared **David C. Grow**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public



SCHEDULE A

COUNTY OF ONEIDA

Receiver of Taxes
800 Park Avenue
Utica, New York 13501

TOWN OF WHITESTOWN

Receiver of Taxes
8539 Clark Mills Road
Whitesboro, New York 13492

ORISKANY CENTRAL SCHOOL DISTRICT

Receiver of Taxes
8539 Clark Mills Road
Whitesboro, New York 13492

SCHEDULE B

EXEMPTION YEARS

Exemption Year	Assessment Roll Year	County/Town Taxes	School Taxes
Year One	03/01/2023	01/01/2024 – 12/31/2024	07/01/2023 – 06/30/2024
Year Two	03/01/2024	01/01/2025 – 12/31/2025	07/01/2024 – 06/30/2025
Year Three	03/01/2025	01/01/2026 – 12/31/2026	07/01/2025 – 06/30/2026
Year Four	03/01/2026	01/01/2027 – 12/31/2027	07/01/2026 – 06/30/2027
Year Five	03/01/2027	01/01/2028 – 12/31/2028	07/01/2027 – 06/30/2028
Year Six	03/01/2028	01/01/2029 – 12/31/2029	07/01/2028 – 06/30/2029
Year Seven	03/01/2029	01/01/2030 – 12/31/2030	07/01/2019 – 06/30/2030
Year Eight	03/01/2030	01/01/2031 – 12/31/2031	07/01/2030 – 06/30/2031
Year Nine	03/01/2031	01/01/2032 – 12/31/2032	07/01/2031 – 06/30/2032
Year Ten	03/01/2032	01/01/2033 – 12/31/2033	07/01/2032 – 06/30/2033