

THE SLOAN FAMILY TRUST

and

S.R. SLOAN, INC.

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

FIRST AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Oneida County Industrial Development Agency
2016 Amended and Restated Real Estate Lease
(S.R. Sloan, Inc. Facility)

Oneida County, Town of Whitestown, Whitesboro Central School District

Tax Account No.: 304.000-1-62.3

FIRST AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS FIRST AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of August 1, 2016, is by and among **STEPHEN R. SLOAN AS TRUSTEE OF THE SLOAN FAMILY TRUST**, having an address of 11772 Bell Hill Road, Utica, New York 13502 (the "Company"), **S.R. SLOAN, INC.**, a New York corporation having an address of P.O. Box 560, New Hartford, New York 13413 (the "Sublessee") 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").

WITNESSETH:

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 Agency previously provided financial assistance to the Company with a project consisting of the construction of a 62,000± square foot manufacturing facility (the "Existing Improvements") situated on a 20.5± acre parcel of land situated at 8089 Halsey Road, Town of Whitestown, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Existing Improvements (the "Existing Equipment"), all for the manufacturing of roof and floor trusses, wall panels and custom stairs;

WHEREAS, the Company has requested the Agency assist with the construction of an 18,000± square foot addition (the "Addition") to the Existing Improvements and the acquisition and installation of equipment in the Addition (the "2016 Equipment" and together with the Existing Equipment, the "Equipment"), all to increase production capabilities;

WHEREAS, the Land, the Existing Improvements and the Existing Equipment are referred to collectively as the "Existing Facility," the Addition and the 2016 Equipment are referred to collectively as the "2016 Facility," the Existing Facility and the 2016 Facility are referred to collectively as the "Facility" and the construction and equipping of the Addition is referred to as the "Project";

WHEREAS, the Company conveyed fee title to the Existing Facility to the Agency by way of a Bargain and Sale Deed dated February 15, 2006 (the "Deed"), and the Agency leases the Facility to the Company pursuant to a Lease Agreement dated as of February 1, 2006 (the "2006 Lease Agreement") entered into by and between the Agency and the Company, a memorandum of which was recorded in the Oneida County Clerk's Office on February 16, 2006 at Instrument Number R2006-000213, as it has been amended, and may be further amended from time to time; and

WHEREAS, the Company conveyed to the Agency title to the Existing Equipment, together with all equipment to be installed in connection with the completion of the Facility, pursuant to a Bill of Sale dated February 15, 2006 (the "Bill of Sale") from the Company to the Agency; and

WHEREAS, in order to induce the Company to develop the 2016 Facility, the Agency is willing to maintain its fee interest in the Land, Improvements and Equipment constituting the Existing Facility and lease said Existing Facility to the Company together with the 2016 Facility pursuant to the terms and conditions contained in a First Amended and Restated Lease Agreement dated as of August 1, 2016 (the "First Amended and Restated Lease Agreement") between the Company and the Agency; and

WHEREAS, the Company subleases the Existing Facility to the Sublessee pursuant to a Sublease Agreement dated as of February 1, 2006, as the same may be amended from time to time (the "Sublease Agreement"); and

WHEREAS, the Company and the Sublessee are entering into a First Amendment to Sublease Agreement dated as of August 1, 2016 (the "First Amendment to Sublease Agreement") to add and include the 2016 Facility and make certain provisions with respect thereto; and

WHEREAS, NBT Bank, National Association, a national banking association with a principal office at 52 South Broad Street, Norwich, New York 13815 (the "Bank") financed a portion of the cost of the Existing Facility by making a loan to the Sublessee in the original principal sum of \$2,740,000 secured by a Mortgage, Security Agreement and Assignment of Rents and Leases dated February 15, 2006 (the "Mortgage") from the Agency, the Company and the Sublessee to the Bank, which document was recorded in the Oneida County Clerk's Office; and

WHEREAS, the Bank now wishes to finance a portion of the cost of the Project by making a construction loan to the Sublessee in the original principal sum of \$720,000.00 to be secured by (a) a Fee and Leasehold Construction Mortgage and Security Agreement dated on or

about August 25, 2016 (the "Construction Mortgage") from the Agency, the Company and the Sublessee to the Bank, which document will be recorded in the Oneida County Clerk's Office and (b) a Commercial Security Agreement dated on or about August 25, 2016 (the "Security Agreement") from the Agency, the Company and the Sublessee to the Bank; and

WHEREAS, the Existing Facility has been 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 Existing Facility or the interest therein of the Company and/or the Sublessee or the occupancy thereof by the Company and/or the Sublessee commencing March 1, 2006 (the "Exempt Taxes"), because the Agency owns a fee interest in the Existing Facility and the Existing Facility has been 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 and the Agency entered into a Payment-In-Lieu-of-Tax Agreement, dated as of February 1, 2006, amended on December 1, 2007 and further amended on November 1, 2012 (collectively, the "PILOT Agreement"), pursuant to which the parties made provisions for payments-in-lieu-of-taxes with respect to the Existing Facility; and

WHEREAS, the Company and/or the Sublessee understand that it, as lessees of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the First Amended and Restated Lease 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 First Amended and Restated Agreement (the "Exemption Term"); and

WHEREAS, 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 First Amended and Restated PILOT 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, Whitesboro Central School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") 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 First Amended and Restated Lease 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 (or the Sublessee on behalf of the Company) shall pay to each Taxing Authority:

(a) all taxes or PILOT Payments 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 First Amended and Restated Lease 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 (or the Sublessee on behalf of 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 with respect to the Existing Facility as follows:

(i) 100% of such taxes for the first Exemption Year;

(ii) one-third of such taxes from the second through and including the sixth Exemption Year; and

(iii) two-thirds of such taxes from the seventh through and including the eleventh Exemption Year; and

(iv) one hundred percent (100%) of such taxes after the eleventh Exemption Year.

(b) The Company (or the Sublessee on behalf of the Company) shall pay to each Taxing Authority PILOT Payments during each Exemption Year with respect to the 2016 Facility as follows:

(i) one-third of such taxes on the incremental assessment resulting from the Project from the twelfth through and including the sixteenth Exemption Year; and

(ii) two-thirds of such taxes on the incremental assessment resulting from the Project from the seventeenth through and including the twenty-first Exemption Year; and

(iii) one hundred percent (100%) of such taxes after the twenty-first Exemption Year.

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the First Amended and Restated Lease Agreement shall terminate and the Agency shall terminate its interest in the Facility pursuant to the First Amended and Restated Lease Agreement. The financial assistance under this Agreement is subject to the terms and conditions of a certain Job Creation and Recapture Agreement dated as of August 1, 2016.

(c) Anything herein to the contrary, notwithstanding, upon the failure of the Company or the Sublessee 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, the Company and/or the Sublessee shall henceforth pay as PILOT Payments one hundred (100%) percent of the Exempt Taxes together with interest at the rate of nine (9%) percent per annum on any delinquent PILOT Payments together with expenses of collection, including but not limited to, payment of attorneys' fees; 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.

(d) The PILOT Payments to be made under this First Amended and Restated PILOT Agreement are secured by a PILOT Mortgage dated August 25, 2016 (the "PILOT Mortgage") from the Agency, the Company and the Sublessee to the Agency for the benefit of the Taxing Authorities, to be recorded in the Office of the Clerk of Oneida County.

3. The Company (or the Sublessee on behalf of the Company) will make PILOT Payments to each Taxing Authority hereunder for each Exemption Year by making the required payment to 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 own the Facility.

4. The PILOT Payments to be made by the Company and/or the Sublessee 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 First Amended and Restated Lease Agreement if the Agency did not own 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 and/or the Sublessee is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company and/or the Sublessee 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 and/or the Sublessee 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 and the Sublessee 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 and/or the Sublessee is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not own the Facility. It is the further intent of the parties that the Company and the Sublessee 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 the Facility with respect to any proposed assessment or change in assessment concerning the property, 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 and/or the Sublessee 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 and/or the Sublessee 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 and/or the Sublessee in all respects in any such proceeding at the sole cost and expense of the Company and/or the Sublessee. Notwithstanding anything herein to the contrary, for so long as this Agreement is in effect, the Company and the Sublessee hereby unconditionally and irrevocably waives their respective rights, 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 and the Sublessee 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, to the Agency, the Company or the Sublessee, 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: The Sloan Family Trust
11772 Bell Hill Road
Utica, New York 13502
Attn.: Stephen R. Sloan, Trustee

With a Copy To: Saunders Kahler, L.L.P.
185 Genesee Street, Suite 1400
Utica, New York 13501
Attn.: Camille T. Kahler, Esq.

To the Sublessee: S.R. Sloan, Inc.
P.O. Box 560
New Hartford, New York 13413
Attn.: Stephen R. Sloan, President

With a Copy To: Saunders Kahler, LLP
185 Genesee Street, Suite 1400
Utica, New York 13501
Attn.: Camille T. Kahler, Esq.

To the Bank: NBT Bank, National Association
52 S. Broad Street
Norwich, New York 13815
Attn.: Senior Vice President of Commercial Lending

With a copy to: Kowalczyk, Deery and Broadbent, LLP
185 Genesee Street, 12th Floor
Utica, New York 13501
Attn.: Andrew S. Kowalczyk III, Esq.

provided, that the Agency, the Bank, the Company or the Sublessee 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.

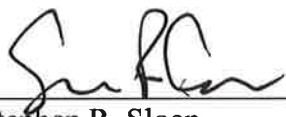
IN WITNESS WHEREOF, the parties have executed this **FIRST AMENDED AND RESTATED PILOT AGREEMENT** as of the date first above written.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 

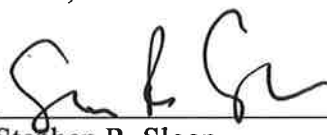
David C. Grow
Its Chairman

THE SLOAN FAMILY TRUST

By: 

Stephen R. Sloan
Its Trustee

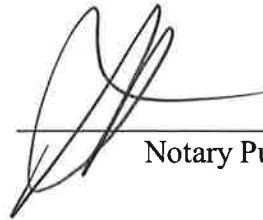
S.R. SLOAN, INC.

By: 

Stephen R. Sloan
Its President

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

On the 25 day of August 2016 before me, the undersigned a notary public in and for said state, personally appeared **Stephen R. Sloan**, 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.

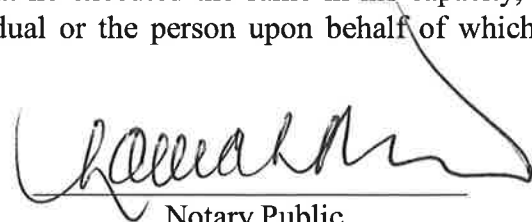


Notary Public

ANDREW S. KOWALCZYK, III
Notary Public, State of New York
Reg. #02KO4782128
Appointed in Oneida County
) My Commission Expires 05/31/ 19
: ss.:
)

STATE OF NEW YORK
COUNTY OF ONEIDA

On the 11th day of August 2016 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

LAURA S. RUBERTO
Notary Public, State of New York
Appointed in Oneida County
Reg. No. 01RU5031396
Commission Expires August 1, 2018

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

WHITESBORO 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 (03/01/2006) | 01/01/2007 – 12/31/2007 | 07/01/2006 – 06/30/2007 |
| Year Two (03/01/2007) | 01/01/2008 – 12/31/2008 | 07/01/2007 – 06/30/2008 |
| Year Three (03/01/2008) | 01/01/2009 – 12/31/2009 | 07/01/2008 – 06/30/2009 |
| Year Four (03/01/2009) | 01/01/2010 – 12/31/2010 | 07/01/2009 – 06/30/2010 |
| Year Five (03/01/2010) | 01/01/2011 – 12/31/2011 | 07/01/2010 – 06/30/2011 |
| Year Six (03/01/2011) | 01/01/2012 – 12/31/2012 | 07/01/2011 – 06/30/2012 |
| Year Seven (03/01/2012) | 01/01/2013 – 12/31/2013 | 07/01/2012 – 06/30/2013 |
| Year Eight (03/01/2013) | 01/01/2014 – 12/31/2014 | 07/01/2013 – 06/30/2014 |
| Year Nine (03/01/2014) | 01/01/2015 – 12/31/2015 | 07/01/2014 – 06/30/2015 |
| Year Ten (03/01/2015) | 01/01/2016 – 12/31/2016 | 07/01/2015 – 06/30/2016 |
| Year Eleven (03/01/2016) | 01/01/2017 – 12/31/2017 | 07/01/2016 – 06/30/2017 |
| Year Twelve (03/01/2017) | 01/01/2018 – 12/31/2018 | 07/01/2017 – 06/30/2018 |
| Year Thirteen (03/01/2018) | 01/01/2019 – 12/31/2019 | 07/01/2018 – 06/30/2019 |
| Year Fourteen (03/01/2019) | 01/01/2020 – 12/31/2020 | 07/01/2019 – 06/30/2020 |
| Year Fifteen (03/01/2020) | 01/01/2021 – 12/31/2021 | 07/01/2020 – 06/30/2021 |
| Year Sixteen (03/01/2021) | 01/01/2022 – 12/31/2022 | 07/01/2021 – 06/30/2022 |
| Year Seventeen (03/01/2022) | 01/01/2023 – 12/31/2023 | 07/01/2022 – 06/30/2023 |
| Year Eighteen (03/01/2023) | 01/01/2024 – 12/31/2024 | 07/01/2023 – 06/30/2024 |
| Year Nineteen (03/01/2024) | 01/01/2025 – 12/31/2025 | 07/01/2024 – 06/30/2025 |
| Year Twenty (03/01/2025) | 01/01/2026 – 12/31/2026 | 07/01/2025 – 06/30/2026 |
| Year Twenty-One (03/01/2026) | 01/01/2027 – 12/31/2027 | 07/01/2026 – 06/30/2027 |