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LAURA S. RUBERTO, PARALEGAL Iruberto@bsk.com P: 315.738.1223

February 27, 2020

HAND-DELIVERED

Ms. Nina Wallace, Assessor Town of Kirkland Town of Kirkland Municipal Building 699 Route 12B Clinton, New York 13323

Re: Oneida County Industrial Development Agency - 2020 Real Estate Lease (The Indium Corporation of America Facility)

Dear Ms. Wallace:

Enclosed you will please find Form RP-412-a (Application for Real Property Tax Exemption) in connection with the above-referenced facility. Attached to the Application is a copy of the Payment-in-Lieu-of-Tax Agreement which sets forth the terms of the tax abatement that the Agency will grant to the Company effective March 1, 2020.

We call your attention to the fact that the IDA's leasehold interest in the Facility is scheduled to expire on <u>December 31, 2030</u>. Please make note of this date in your system, as this is the only notice you will receive of when to return the property to the taxable roll.

As your offices are operating on limited hours, we are delivering the PILOT Agreement to you without the recording information for the Memorandum of Lease to ensure timely filing. We will provide you with recording information when it is available.

Should you have any questions on the enclosed, please do not hesitate to contact our offices.

Very truly yours,

um

Laura S. Ruberto Paralegal

Enclosures

cc: Attached Distribution List (w/enclosures)

Distribution List

County:

Anthony J. Picente, Jr. Oneida County Executive 800 Park Avenue Utica, New York 13501

Anthony R. Carvelli Commissioner of Finance Oneida County Finance Department 800 Park Avenue Utica, New York 13501

Kathy Pilbeam, Director Real Property Tax Services Oneida County 800 Park Avenue Utica, New York 13501

County of Oneida Receiver of Taxes 800 Park Avenue Utica, New York 13501

<u>Town:</u>

Robert J. Meelan, Supervisor Town of Kirkland P.O. Box 235 Clinton, New York 13323

Sarah McCullough, Receiver of Taxes Town of Kirkland P.O. Box 235 Clinton, New York 13323

School District:

Mary Lou Lauchert, President Board of Education Clinton Central School District 75 Chenango Avenue Clinton, New York 13323

Dr. Stephen L. Grimm, Superintendent Clinton Central School District 75 Chenango Avenue Clinton, New York 13323

Joseph Barretta, Assistant Superintendent for Business Clinton Central School District 75 Chenango Avenue Clinton, New York 13323



INDUSTRIAL DEVELOPMENT AGENCIES APPLICATION FOR REAL PROPERTY TAX EXEMPTION (Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

2. OCCUPANT (IF OTHER THAN IDA)

(If more than one occupant attach separate listing)

Name Oneida County Industrial Development Agency	Name The Indium Corporation of America			
Street 584 Phoenix Drive	Street 34 Robinson Road			
City Rome NY 13441	City Clinton NY 13323			
Telephone no. Day (315) <u>338-0393</u>	Telephone no. Day (3)5 853-4900			
Evening ()	Evening ()			
Contact Shawna Papale	Contact Gregory P. Evans			
Title Executive Director	Title Chief Executive Officer			
 3. <u>DESCRIPTION OF PARCEL</u> a. Assessment roll description (tax map no.,/roll year) 337.000-2-3 b. Street address 34 Robinson Road 	d. School District_Clinton Central School Diste. County Oneida			
	f. Current assessment \$32,100/\$967,900			
c. City, Town or Village Town of Kirkland	g. Deed to IDA (date recorded; liber and page)			
	Memo of Lease Inst#			
4. <u>GENERAL DESCRIPTION OF PROPERTY</u> a. Brief description (include property use) See Exhib				
b. Type of construction				
c. Square footage See Exhibit A attached	f. Projected expiration of exemption (i.e. date when property is no longer			
d. Total cost See Exhibit A attached	possessed, controlled, supervised or under the jurisdiction of IDA)			
e. Date construction commenced	December 31, 2030			
5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY <u>REGARDLESS</u> OF STATUTORY EXEMPTION (Attach copy of the agreement or extract of the terms relating to the project).				

a. Formula for payment Company will make fixed PILOT Payments during years 1 through 10 and 100% of taxes after year 10. See PILOT Agreement attached.

b. Projected expiration date of agreement December 31, 2030



RP-412-a	(1/95)
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r.

be made	ayments will	d. Person or entity responsible for payment
	Yes No	Name The Indium Corporation of Americ
County		Title Gregory P. Evans, CEO
Town/City	\mathbf{N}	
Village School District		Address 34 Robinson Road
School District		Clinton NY 13323
(check one)	n IDA rights or interest. s a leasehold interest. property ever receives I No reference and assess assessm	Telephone <u>315-853-4900</u> red any other exemption from real property taxation sment roll year on which granted: hent roll year
A copy of this application, including the chief executive official of each r	ng all attachments, ha municipality within	as been mailed or delivered on (date) which the project is located as indicated in Item 3.
	CERTIFI	CATION
David C. Grow	,(Chairman of
Name		Title
Organization	ient Agency	hereby certify that the information
February 27, 2020	papers constitutes a	true statement of facts. Adaud Jam Signature
	FOR USE E	BY ASSESSOR
1. Date application filed		
2. Applicable taxable status date		
32 Agreement (or extract) data		э.
	<pre>/ ```</pre>	
3b. Projected exemption expiratio		
	n first year of exemp	tion \$

Exhibit A

Application for Real Property Tax Exemption (Form RP-412-a) Oneida County Industrial Development Agency (The Indium Corporation of America Facility)

4(a). Description of Facility:

(i) construct a 12-inch water main to run 2,500± linear feet along Robinson Road (the "Water Main"), (ii) construct a 250± lineal foot lateral water line (the "Lateral Line") to connect the Water Main to the Company's existing 74,000± square foot manufacturing facility that is used for manufacturing electronic grade solders and associated products (collectively, the "Existing Improvements" and together with the Water Main and the Lateral Line, the "Improvements") situated on a 5± acre parcel of land located at 34-36 Robinson Road, Town of Kirkland, New York (the "Land"), (iii) perform renovations, improvements and other site development work on or to the Existing Improvements and (iv) acquire and install furniture, fixtures and equipment in the Existing Improvements, including but not limited to computers and software (the "Kirkland Equipment"), all to bring municipal water to the Existing Improvements to allow for future expansion of the Facility and the Company's workforce, to provide a safer work environment at the Existing Improvements, to provide municipal water to other properties on Robinson Road allowing for expansion of business, and to convert the Existing Improvements from offices to manufacturing space (the Land, the Water Main, the Lateral Line, the Existing Improvements and the Kirkland Equipment are referred to collectively as the "Kirkland Facility" and the construction of the Water Main and Lateral Line, the renovations to the Existing Improvements and the equipping of the Kirkland Facility is referred to as the "Kirkland Project")

Total:	\$ 3,887,000
Legal Fees	20,000
Fees and permits	3,000
Architectural and engineering	14,000
Furniture and Fixtures	750,000
Water Line construction	450,000
Renovation Costs	\$ 2,650,000

4(d). Total Cost of Facility:

Transcript Document No. 3(a)

THE INDIUM CORPORATION OF AMERICA

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Oneida County Industrial Development Agency 2020 Real Estate Lease (The Indium Corporation of America Facility)

Oneida County, Town of Kirkland, Clinton Central School District

Tax Account No.: 337.000-2-3

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of February 1, 2020, is by and between **THE INDIUM CORPORATION OF AMERICA**, a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with an address of 34 Robinson Road, Clinton, New York 13323 (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").

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 Company desires to (A) (i) construct a 12-inch water main to run 2,500± linear feet along Robinson Road (the "Water Main"), (ii) construct a 250± lineal foot lateral water line (the "Lateral Line") to connect the Water Main to the Company's existing 74,000± square foot manufacturing facility that is used for manufacturing electronic grade solders and associated products (collectively, the "Existing Improvements" and together with the Water Main and the Lateral Line, the "Improvements") situated on a 5± acre parcel of land located at 34-36 Robinson Road, Town of Kirkland, New York (the "Land"), (iii) perform renovations, improvements and other site development work on or to the Existing Improvements and (iv) acquire and install furniture, fixtures and equipment in the Existing Improvements, including but not limited to computers and software (the "Kirkland Equipment"), all to bring municipal water to the Existing Improvements to allow for future expansion of the Facility and the Company's workforce, to provide a safer work environment at the Existing Improvements, to provide municipal water to other properties on Robinson Road allowing for expansion of business, and to convert the Existing Improvements from offices to manufacturing space (the Land, the Water Main, the Lateral Line, the Existing Improvements and the Kirkland Equipment are referred to collectively as the "Kirkland

Facility" and the construction of the Water Main and Lateral Line, the renovations to the Existing Improvements and the equipping of the Kirkland Facility is referred to as the "Kirkland Project"); and (B) acquire and install furniture, fixtures and equipment, including, but not limited to computers and software (the "New Hartford Equipment") in the Company's new leased 40,000± square foot office facility located at 301 Woods Park Drive, Town of New Hartford, Oneida County, New York (the "New Hartford Facility"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to accept (i) a leasehold interest in the Land, Improvements and Kirkland Equipment constituting the Kirkland Facility and (ii) a leasehold interest in the New Hartford Equipment, pursuant to a Lease Agreement dated of even date herewith and lease such Land, Improvements, Kirkland Equipment and New Hartford Equipment back to the Company pursuant to the terms and conditions contained in a Leaseback Agreement dated of even date herewith; and

WHEREAS, the Agency has agreed to accept a leasehold interest in the Kirkland Facility and New Hartford Equipment 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 Agency requested and received confirmation from the Town of Kirkland and the Clinton Central School District that each supports the Company taking on the Kirkland Project and the proposed Financial Assistance by the Agency to the Company relating thereto; and

WHEREAS, the Kirkland Facility is 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 Kirkland Facility or the interest therein of the Company or the occupancy thereof by the Company commencing March 1, 2020, the taxable status date, (the "Exempt Taxes"), because the Agency has a leasehold interest in the Kirkland Facility and the Kirkland Facility is 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 Kirkland Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of this Agreement in the form of PILOT Payments (defined below) 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 applicable to the Kirkland Facility (the "Exemption Term"); and WHEREAS, each year of the Exemption Term is more particularly set forth on <u>Schedule B</u> 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 an agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the Town of Kirkland, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Kirkland Facility is or may be, wholly or partially located, Oneida County, the Clinton Central School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Kirkland 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 and payments-in-lieu-of-taxes that are due with respect to the Kirkland 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 Lease Agreement and the Leaseback Agreement for which the Kirkland 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 a fixed amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:

Exemption Year 1	\$ 30,965.09	
Exemption Year 2	\$ 32,184.39	
Exemption Year 3	\$ 33,428.08	,
Exemption Year 4	\$ 34,696.64	

Exemption Year 5	\$ 35,990.57
Exemption Year 6	\$ 37,310.38
Exemption Year 7	\$ 38,656.59
Exemption Year 8	\$ 40,029.72
Exemption Year 9	\$ 41,430.31
Exemption Year 10	\$ 42,858.92
Exemption Year 11	100% of Exempt Taxes
and thereafter	

(b) The fixed PILOT Payments shall be billed by the Taxing Authorities in the same proportion as taxes would have been apportioned but for the Agency's involvement, unless the Taxing Authorities have consented in writing to a specific apportionment (for the purposes of apportioning the PILOT Payments, each Taxing Authority shall use the tax rate for the prior Exemption Year).

(c) Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Leaseback Agreement shall terminate with respect to the Kirkland Facility and the Agency shall terminate its leasehold interest in the Kirkland Facility pursuant to the Lease Agreement. The benefits under this Agreement are subject to the terms and conditions of a certain Job Retention and Recapture Agreement dated as of February 1, 2020 between the Agency and the Company.

(c) 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, such failure 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 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 have a leasehold or other interest in the Kirkland 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

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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 Kirkland Facility leased to the Company by the Leaseback Agreement if the Agency did not have a leasehold or other interest in the Kirkland 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 Kirkland 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 have a leasehold or other interest in the Kirkland 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 have a leasehold or other interest in the Kirkland 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

interest in the Kirkland 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. 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 Kirkland 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(a) when delivered in person, (b) upon confirmation of receipt when transmitted by facsimile transmission or by electronic mail (but, in the case of electronic mail, only if followed by transmittal by national overnight courier or hand for delivery on the next Business Day), (c) upon receipt after dispatch by registered or certified mail, postage prepaid or (d) on the next Business Day if transmitted by national overnight courier (with confirmation of delivery), 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 Rome, New York 13501

Attn.: Linda E. Romano, Esq.

- To the Company: The Indium Corporation of America 34 Robinson Road Clinton, New York 13323 Attn.: Gregory P. Evans, Chief Executive Officer
- With a Copy To: The Matt Law Firm, PLLC 1701 Genesee Street Utica, New York 13501 Attn.: F.X. Matt III, Esq.

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

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

[Signature page follows]

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

THE INDIUM CORPORATION OF AMERICA

By:

Gregory P. Evans Chief Executive Officer

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

On the A day of February 2020 before me, the undersigned a notary public in and for said state, personally appeared **Gregory P. Evans**, 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

ANNE M. HAUF Notary Public, State of New York Reg. # 01HA4852888 Appointed in Oneida County My Commission Expires Feb. 18, 2022

2955741.4 2/21/2020

SECOND SIGNATURE PAGE TO PILOT AGREEMENT (THE INDIUM CORPORATION OF AMERICA AND ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY)

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By:

David C. Grow Chairman

STATE OF NEW YORK

COUNTY OF ONEIDA

)

)

SS.:

On the $27^{\prime\prime}$ day of February 2020 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



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SCHEDULE A

COUNTY OF ONEIDA

Receiver of Taxes 800 Park Avenue Rome, New York 13501

TOWN OF KIRKLAND

North End of the Village Green Ralph S. Lumbard Memorial Town Hall P.O. Box 467 Clinton, NY 13323 Attn.: Receiver of Taxes

CLINTON CENTRAL SCHOOL DISTRICT

75 Chenango Road Clinton, NY 13323 Attn.: Receiver of Taxes

SCHEDULE B

EXEMPTION YEARS

Exemption Year (Assessment Roll Year)	County/Town Taxes	School Taxes
Year One (03/01/2020)	01/01/2021 – 12/31/2021	07/01/2020 - 06/30/2021
Year Two (03/01/2021)	01/01/2022 – 12/31/2022	07/01/2021 - 06/30/2022
Year Three (03/01/2022)	01/01/2023 – 12/31/2023	07/01/2022 - 06/30/2023
Year Four (03/01/2023)	01/01/2024 – 12/31/2024	07/01/2023 – 06/30/2024
Year Five (03/01/2024)	01/01/2025 – 12/31/2025	07/01/2024 – 06/30/2025
Year Six (03/01/2025)	01/01/2026 12/31/2026	07/01/2025 – 06/30/2026
Year Seven (03/01/2026)	01/01/2027 – 12/31/2027	07/01/2026 – 06/30/2027
Year Eight (03/01/2027)	01/01/2028 – 12/31/2028	07/01/2027 – 06/30/2028
Year Nine (03/01/2028)	01/01/2029 – 12/31/2029	07/01/2028 – 06/30/2029
Year Ten (03/01/2029)	01/01/2030 – 12/31/2030	07/01/2029 - 06/30/2030

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