

## INDUCEMENT AGREEMENT AND PROJECT AGREEMENT

THIS INDUCEMENT AGREEMENT AND PROJECT AGREEMENT RELATING TO THE **COLD POINT CORPORATION FACILITY** (the "AGREEMENT") is by and among the **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 584 Phoenix Drive, Rome, New York 13441 (the "Agency"), **ROME COMMUNITY BROWNFIELD RESTORATION CORPORATION**, a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 584 Phoenix Drive, Rome, New York 13441 ("RCBRC") and **COLD POINT CORPORATION**, a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 7500 Cold Point Drive, Rome, New York 13440 (the "Company").

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this AGREEMENT are the following:

1.01. The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 372 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively, the "Act") to undertake "Projects" (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are (i) to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, civic, recreation and commercial enterprises to locate or remain in the State and (ii) to encourage and assist in the providing of industrial pollution control facilities and (iii) to promote the economic welfare and prosperity of the inhabitants of the State. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes.

1.03. (a) The Company has submitted to the Agency an Application for Financial Assistance dated May 14, 2018, which Application may be amended from time to time prior to closing of the sale-leaseback or lease-leaseback transaction described below (the "Application") requesting that the Agency assist in the construction of a 45,000± square foot building and four loading docks (the "Improvements"), situated on a 3.00± acre parcel of land located at the intersection of South Jay and Henry Streets, City of Rome, Oneida County, New York that is now known as Building Complex 3 of the former Rome Cable site (the "Land") and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of manufacturing water source heat pump units and components (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").

(b) The Agency owns the Land, together with other land, and leases the Land, together with other land, to RCBRC pursuant to a First Amended and Restated Lease Agreement dated as of December 1, 2015 (the "Prime Lease"). The

Agency and RCBRC will release the Land from the Prime Lease and enter into a Lease Agreement with RCBRC with respect to the Land (the "Lease Agreement"), and RCBRC will sublease the Facility to the Company pursuant to a Ground Sublease Agreement (the "Sublease Agreement").

1.04. The Company hereby represents to the Agency that the Project (a) will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State or an abandonment of one or more plants of the Company located in the State; (b) is reasonably necessary to discourage the Company from removing such other plant or facility to a location outside the State, or (c) is reasonably necessary to preserve the competitive position of the Company in its industry. The construction and equipping of the Facility has not/did not commence(d) as of May 18, 2018.

1.05. The Agency has determined that the acquisition, construction and equipping of the Facility, as described in the Company's Application will promote and further the purposes of the Act.

1.06. On May 18, 2018, the Agency adopted a resolution (the "Resolution" or the "Inducement Resolution") agreeing to undertake the Project in order to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such undertaking and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, to undertake a sale-leaseback or lease-leaseback transaction in connection with the Project.

1.07. In the Resolution, the Agency appointed the Company and its agents and other designees, as its agent for the purposes of acquiring, constructing, renovating and equipping the Facility, and such appointment includes the following activities as they relate to the acquisition, construction, renovation and equipping of the Facility, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquiring, constructing, renovating and equipping the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquiring, constructing, renovating and equipping the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Facility, including all repairs and replacements of such property. Such agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf.

1.08. (a) In the Resolution, the Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes, exemptions from sales and use taxes on materials and/or equipment used or incorporated in the Facility and abatement of real property taxes on the Facility for a period of twenty-one (21) years, which PILOT Payments will be in the amounts determined in the manner set forth in an Agreement Approving PILOT Terms and Allocating PILOT Payments by and among the Agency, the County of Oneida, Rome City School District, the City of Rome and Rome Industrial Development Corporation, which represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein (collectively, the "Financial Assistance").

(b) Based upon representations made by the Company in the Application, the value of the Financial Assistance currently authorized by the Agency is as follows:

(i) Sales and use tax exemption estimated at \$131,530 but not to exceed \$144,683;

(ii) Mortgage recording tax exemption estimated at \$24,536 but not to exceed \$26,989; and

(iii) Real property tax abatement estimated at \$1,692,686.

1.09. It is understood and agreed by the parties that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project facility to advance job opportunities, health, general prosperity and economic welfare of the people of Oneida County and to otherwise accomplish the public purpose of the Act.

1.10. Attached as Exhibit A to this Agreement are the essential terms of the PILOT Agreement that reflects the Financial Assistance currently contemplated by the Agency in the Resolution. The Company acknowledges that the Agency (a) reserves all rights to amend the PILOT Agreement to reflect the terms of the Financial Assistance for which the Agency grants final approval as it authorizes in the final authorizing resolution and (b) is under no obligation to enter into the PILOT Agreement unless all conditions described in Section 4.02 hereof are met to the satisfaction of the Agency.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company regarding the Facility and subject to the conditions set forth herein, the Agency hereby confirms and acknowledges:

2.01. Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, the Agency will (A) adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) a sale-leaseback or lease-leaseback transaction, (ii) the acquisition, construction, renovation and equipping of the Facility, and (iii) the leasing of the Facility to RCBRC pursuant to the Lease Agreement and (iv) the subleasing of the Facility to the Company pursuant to the Sublease Agreement, all as shall be authorized by law and be mutually satisfactory to the Agency, RCBRC and the Company and (B) shall enter into a sale-leaseback or lease-leaseback transaction pursuant to the terms of the Act, as then in force, for the purpose of financing certain costs of the Facility.

2.02. The Lease Agreement shall be for at minimum a twenty-one (21) year term and shall obligate RCBRC to make aggregate basic payments in the amount of \$500.00 as and when the same shall become due and payable. RCBRC or the Company, pursuant to the provisions of the Sublease Agreement, shall be entitled to acquire from the Agency title to (or terminate the Agency's leasehold interest in) the Facility for an aggregate amount of \$1.00, plus such additional amounts as shall be prescribed in the Lease Agreement. Specifically, the Lease Agreement shall contain a provision that will allow RCBRC to terminate the Lease Agreement at any time upon written notice to the Agency and upon payment by RCBRC and/or the Company of all applicable fees, penalties and recapture of benefits, if applicable. The Lease Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and RCBRC.

2.03. That all services, costs and expenses of whatever nature incurred in connection with the construction, renovation, equipping, installation, replacement, rebuilding, restoration, repair, maintenance and operation of the Facility have been and will continue to be undertaken by the Company as agent for the Agency, regardless of whether such services, costs and expenses were undertaken and/or paid in its own name or in the name of the Agency, and the Agency shall furnish to the Company an appropriate letter on Agency letterhead evidencing the authority of the Company to act as agent of the Agency.

2.04. That, in connection with any lease by the Agency to RCBRC that is, in turn, subleased or leased by RCBRC to the Company, it is the intent of all parties to the transactions that any sublease or lease is undertaken by the Company as agent for the Agency.

2.05. That, at the request of RCBRC, and subject to the agreement between the Agency and RCBRC, any future transfers of fee or leasehold interest of any portion of real property upon which the Facility is located and not owned by the Agency, are hereby authorized, such transfers to be from RCBRC to the Agency, and there shall be no need for any further official action on behalf of the Agency other than the execution of the appropriate documents evidencing such transfer.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

Article 3. Undertakings on the Part of RCBRC and the Company. Based upon the statements, representations and undertakings of the Agency herein and in the Resolution and subject to the conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01. The Company hereby accepts the appointment made by the Agency in the Resolution to be the true and lawful agent of the Agency to (i) construct, equip, repair and maintain the Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent of the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and the same validity as the Agency could do if acting on its own behalf, including the authority to delegate such Agency appointment, as described in the Resolution.

3.02. In the Application, the Company represented that it will create 15 full time equivalent positions at the Facility prior to the conclusion of the third year of the Lease Term, retain the existing 37 full time equivalent positions at the Facility and maintain all for the duration of the Lease Term as a result of undertaking the Facility (the "Employment Obligation"). The Company acknowledges that the Financial Assistance is conditioned upon the Company maintaining the Employment Obligation for the term of the Lease Agreement and failure to do so may result in the termination or recapture of Financial Assistance.

3.03. The Company will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the acquisition, renovation and equipping of the Facility (including any necessary contracts for the acquisition of real property necessary or useful in said Facility).

3.04. Contemporaneously with the closing of the sale-leaseback or lease-leaseback transaction (a) RCBRC will enter into the Lease Agreement with the Agency containing, among other things, the terms and conditions described in Section 2.02 hereof and (b) the Company will enter into the Sublease Agreement with RCBRC.

3.05. (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), any mechanics' or other liens against the Facility for labor or materials furnished in connection with the acquisition, renovation and equipping of the Facility. The Company shall forever defend, indemnify and hold the Agency, its members, officers, employees, and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against all costs, losses,

expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition, construction, renovation and equipping of the Facility or arising out of any contract or other arrangement therefor (and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this AGREEMENT or otherwise.

(b) RCBRC and the Company, jointly and severally, shall forever defend, indemnify and hold harmless the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses (including without limitation attorneys' fees) howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company or any sublessee) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Facility including the failure to comply with the provisions of Article 3.05 hereof, or arising, directly or indirectly, out of the ownership, renovation, equipping, acquisition, operation, maintenance, repair or financing of the Facility, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by law. Without limiting the generality of the foregoing, the foregoing indemnifications shall apply to and encompass any action (or alleged failure to act) of the Agency pursuant to the SEQR Act.

(d) The Company shall provide and carry workers' compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protective for the benefit of the Agency and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

3.06. With the exception of the authorizations required to be adopted by the Agency for the Agency to enter into the sale-leaseback or lease-leaseback transaction,

RCBRC and the Company agree that, as agent for the Agency or otherwise, it will comply with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or RCBRC and/or the Company with respect to the Facility, the acquisition, renovation and equipping thereof, the operation and maintenance of the Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this AGREEMENT shall be amended to specifically set forth any such provision or provisions. RCBRC certifies, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations. The Company certifies, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

3.07. Each of RCBRC and the Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.08. If it should be determined that any State or local sales or compensatory use taxes or similar taxes however denominated are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project, or are in any manner otherwise payable directly or indirectly in connection with the Project, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.09. The Company shall file with the New York State Department of Taxation and Finance an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility, in compliance with Section 874(8) of the New York State General Municipal Law. The Company shall provide the Agency with a copy of such annual statement at the time of filing with the State Department of Taxation and Finance. Based upon representations made by the Company in the Application, the value of the sales tax to be abated relating to the Project is estimated at \$131,530.00. The Company acknowledges that the financial assistance currently authorized by the Agency is limited to \$144,683.00, and the Agency is required by law to recapture the New York State portion of sales tax of any exemptions claimed by the Company that exceed this amount.

3.10. If the Facility is leased to another party by the Agency and subleased to the Company, then in such event, the Company guarantees all of the covenants, undertakings and indemnities of such other party as set forth in this Article 3.

3.11. The Company shall provide annually, to the Agency, a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category,

including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit B contains the form of annual certification as well as additional Project assessment information that the Agency requires, on an annual basis, to be submitted to the Agency by the Company. If the Company does not provide said annual certified statement to the Agency by the stated due date, a \$500.00 late fee will be charged to the Company for each thirty (30) day period the report is late beyond the due date, up until the time the report is submitted.

3.12. In accordance with Section 875(3) of the General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that it may be subject to recapture of any and all Financial Assistance if it is determined by the Agency that:

(a) the Company or its subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(b) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its subagents, if any; or

(c) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(d) the Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(e) the Company fails to meet and maintain the Employment Obligation; or

(f) the Company failed to submit to the Agency its annual report so that the Agency can confirm that the Project is achieving the Employment Obligation and other objectives of the Project.

If the Agency determines to recapture any Financial Assistance, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s), unless agreed to otherwise by any tax jurisdiction(s). The Company further understands and agrees that in the event



that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the New York State and local sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

#### Article 4. General Provisions.

4.01. This AGREEMENT sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; no Financial Assistance shall be provided to the Company prior to the effective date of this Agreement. This AGREEMENT shall remain in effect until the Lease Agreement becomes effective. It is the intent of the Agency, RCBRC and the Company that this AGREEMENT be superseded in its entirety by the Lease Agreement, except for the indemnities and guarantee of indemnities contained herein, which shall survive.

4.02. It is understood and agreed by the Agency, RCBRC and the Company that entering into the lease-leaseback transaction and the execution of the Lease Agreement and related documents are subject to (i) obtaining all necessary governmental approvals, (ii) approval of the directors of RCBRC and the Company, (iii) approval of the members of the Agency, (iv) satisfactory completion of the environmental review of the Facility by the Agency in compliance with the State Environmental Quality Review Act, (v) agreement by the Agency, RCBRC and the Company upon mutually acceptable terms and conditions for the Lease Agreement and other documentation usual and customary to transactions of this nature, (vi) the condition that there are no changes in New York State Law which prohibit or limit the Agency from fulfilling its obligation and commitment as herein set forth to enter into the sale-leaseback or lease-leaseback transaction and (vii) payment by the Company of the Agency's transaction fee and the fees and disbursements of bond counsel or transaction counsel. The Agency's transaction fee is calculated based upon the size of the project; based upon the projections in the Company's Application, the transaction fee for this project is estimated at \$22,341.75, which will be payable in full at closing.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses that the Agency may incur as a consequence of executing this AGREEMENT or performing its obligations hereunder. Examples of such expenses include, but are not limited to, photocopies, phone and fax charges, postage and other shipping charges incurred in connection with closing the lease-leaseback transaction or complying with any requests after closing relating to the lease-leaseback transaction, including but not limited to requests under the Freedom of Information Act, requests relating to the Project.

4.04. This AGREEMENT and the Financial Assistance contemplated by the Agency hereunder shall be valid for a period of twelve (12) months from the Inducement Date. If for any reason the lease-leaseback transaction does not close on or before twelve (12) months from the Inducement Date, the Company shall submit a

written request to the Agency describing the reasons for the delay and requesting this AGREEMENT be extended for a period of twelve (12) months under the same terms and conditions contained herein. If the Company has made exempt purchases during the initial term of the AGREEMENT, the Company shall pay (a) to the Agency the first year's annual rent payment of \$750.00 at the time this AGREEMENT is extended and (b) the out-of-pocket expenses and legal fees of counsel for the Agency and Transaction Counsel incurred in connection with the Project as of the extension date.

4.05. If for any reason the lease-leaseback transaction does not close on or before twelve (12) months from the Inducement Date and is not extended by written agreement of the parties, the provisions of this AGREEMENT (other than the provisions of Articles 3.05, 3.06, 3.07 and 3.08 above, which shall survive) shall terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses which were authorized by the Company and incurred by the Agency in connection with the acquisition, renovation and equipping of the Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and Transaction Counsel incurred in connection with the Project and will pay the reasonable fees of counsel for the Agency and Transaction Counsel for legal services relating to the Project or the proposed financing thereof.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have entered into this AGREEMENT to be effective as of May 18, 2018.

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: David C. Grow  
David C. Grow  
Chairman

ROME COMMUNITY BROWNFIELD RESTORATION CORPORATION

By: Roberto Angelico  
Name: Roberto Angelico  
Title: President

COLD POINT CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

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

\_\_\_\_\_, being first duly sworn, deposes and says:

1. That I am the \_\_\_\_\_ (Corporate Office) of COLD POINT CORPORATION and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

\_\_\_\_\_  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this \_\_\_ day of August 2018.

\_\_\_\_\_  
(Notary Public)

COLD POINT CORPORATION

By: Craig Wanner  
Name: Craig Wanner  
Title: President

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

Craig Wanner, being first duly sworn, deposes and says:

1. That I am the President (Corporate Office) of COLD POINT CORPORATION and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

[Signature]  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this 21 day of August 2018.

[Signature]  
(Notary Public)



EXHIBIT A  
ESSENTIAL TERMS OF PILOT AGREEMENT

**EXHIBIT A**

ESSENTIAL PILOT AGREEMENT TERMS

All PILOT Agreements entered into by the Agency with respect to an Agency Project Facility shall contain such terms as the Agency deems necessary or appropriate, provided such PILOT Agreements shall comply with the terms described in this Exhibit B.

A. **Definitions.** Capitalized terms used in this Exhibit B not otherwise defined in this Exhibit B shall have the meaning set forth in Section 1 of the Agreement Approving PILOT Terms and Allocating PILOT Payments to which this Exhibit B is attached (the "PILOT Allocation Agreement"). For purposes of this Exhibit B, the following terms shall have the meaning set forth opposite them:

*"Adjusted Current Combined Tax Rate"* means, with respect to any given PILOT Year of the Permanent PILOT Payment Period in question, the Initial Current Combined Tax Rate times the Tax Rate Adjustment Factor in each successive PILOT Year up to and including the PILOT Year in question. By way of illustration, if the Initial Current Combined Tax Rate were \$60.26906250 and the PILOT Year in question were PILOT Year 5, the Adjusted Current Combined Tax Rate for such PILOT Year 5 would be \$65.23717150, calculated as follows:

PILOT Year	Application of Tax Rate Adjustment Factor	Adjusted Current Combined Tax Rate
2	\$60.26906250 x 1.02=	\$61.47444375
3	\$61.47444375 x 1.02=	\$62.70393263
4	\$62.70393263 x 1.02=	\$63.95801128
5	\$63.95801128 x 1.02=	\$65.23717151

*"Adjusted PILOT Value"* means the PILOT Value times the PILOT Value Adjustment Factor.

*"Aggregate Annual PILOT Payment Allocation"* means, with respect to the PILOT Year in question, the aggregate amount of all PILOT Payments allocated to an Affected Tax Jurisdiction under all of the PILOT Agreements. The Aggregate Annual PILOT Payment Allocation of such an Affected Tax Jurisdiction for the PILOT Year in question shall be aggregate amount of all PILOT Payments allocated to such Affected Tax Jurisdiction out of the Affected Tax Jurisdictions' Funds established under all of the PILOT Agreements.

*"Applicable Square Footage"* means the gross square footage of a building or space within a building, as the case may be, to be taken into account for purposes of calculating the PILOT Payments for that building. The Agency shall determine the Applicable Square Footage for each different type of New Facility in the manner described in this Exhibit B.

*"Completion Date"* means, with respect to each New Facility, the earlier of (a) the taxable status date that such New Facility is reflected on the annual assessment roll or

property record card as having a Certificate of Occupancy, or (b) the date that is one (1) year after the Construction Commencement Date for such New Facility.

*“Construction Commencement Date”* means, with respect to each New Facility, the applicable taxable status date of the City following the date of the issuance of a building permit for such New Facility.

*“Construction PILOT Payment Period”* means, with respect to each New Facility, the period of time (not to exceed one (1) year) beginning on the Construction PILOT Payment Period Commencement Date and continuing through and including the date immediately preceding the Permanent PILOT Payment Period Commencement Date.

*“Construction PILOT Payment Period Commencement Date”* means, with respect to each New Facility, January 1 of the first calendar year following the Construction Commencement Date for such New Facility.

*“Construction PILOT Payment Period PILOT Year”* means, with respect to each New Facility, the calendar year occurring during said Construction PILOT Payment Period.

*“Current Combined Tax Rate”* means with respect to any given PILOT Year, the Affected Tax Jurisdictions’ then current combined tax rate per \$1,000 of assessed valuation.

*“Excess SID Credit”* shall have the meaning ascribed to such term in Paragraph E.2. hereof.

*“Initial Current Combined Tax Rate”* means the Current Combined Tax Rate in PILOT Year 1 of the Permanent PILOT Payment Period in question.

*“Manufacturing Building”* means a building which consists primarily of Manufacturing Space.

*“Manufacturing Space”* means space within a building to be used primarily for manufacturing, fabricating, assembling, packaging, processing, treating, warehousing and/or distributing products. Manufacturing Space also shall include administrative office space and/or support space located within a Manufacturing Building.

*“New Facility”* means each building or group of buildings and related improvements constructed on the Land for which the Construction Commencement Date is after the date of this Agreement. Each New Facility shall include that portion of the Land upon which such building or group of buildings and related improvements have been constructed.

*“Other Facility”* means a building located on the Land other than a Manufacturing Building. The plural of Other Facility is “Other Facilities”. Other Facilities shall not include standalone Support Facilities.

*“Permanent PILOT Payment Period Commencement Date”* means, with respect to each New Facility, the January 1 date immediately following the Completion Date.

“*Permanent PILOT Payment Period*” means, with respect to each New Facility, that period of time of up to twenty (20) years beginning on the Permanent PILOT Payment Period Commencement Date.

“*Permanent PILOT Payment Period PILOT Year*” means, with respect to each New Facility, (a) each calendar year occurring during said Permanent PILOT Payment Period up to, but not including, the last calendar year (or portion thereof) occurring during said Permanent PILOT Payment Period and (b) the last calendar year (or portion thereof) occurring during said Permanent PILOT Payment Period.

“*PILOT Value Adjustment Factor*” means, with respect to each Permanent PILOT Payment Period PILOT Year, the corresponding percentage figure set forth in Schedule 2 to this Exhibit B.

“*PILOT Extension Term*” shall have the meaning ascribed to such term in Paragraph E.3. hereof.

“*PILOT Rate Adjustment Date*” shall have the meaning ascribed to such term in Paragraph D.1. hereof.

“*PILOT Value*” means the value of a New Facility determined in the manner described in this Exhibit B by multiplying the Applicable Square Footage of such New Facility times the PILOT Value Per Square Foot Rate.

“*PILOT Value Per Square Foot Rate*” means the value per square foot that shall be used to calculate the PILOT Value for each New Facility in the manner described in this Exhibit B. The PILOT Value Per Square Foot Rates for each such New Facility are as set forth in Schedule 1 to this Exhibit B. The PILOT Value Per Square Foot Rates shall be adjusted on the dates and in the manner described in Paragraph D of this Exhibit B.

“*PILOT Year*” means, with respect to each New Facility, the Construction PILOT Payment Period PILOT Year and each Permanent PILOT Payment Period PILOT Year.

“*Proprietary Sublease*” shall have the meaning ascribed to such term in Paragraph B.4. hereof.

“*SID Charges*” means any special ad valorem levies, special assessments or other special district or improvement district or area charges.

“*SID Credit*” shall have the meaning ascribed to such term in Paragraph E.1. hereof.

“*SID Credit Amount*” shall have the meaning ascribed to such term in Paragraph E.1. hereof.



“*SID Taxing Entity*” shall have the meaning ascribed to such term in Paragraph E.1. hereof.

“*Support Facilities*” means standalone utility buildings, gas yards, electrical service buildings, electrical sub-stations, generators and co-gen facilities, guard or security stations, water and wastewater treatment facilities, parking structures, construction management buildings, and similar facilities that support the construction and operation of Manufacturing Buildings. The singular of Support Facilities is “Support Facility”.

“*Tax Rate Adjustment Factor*” means 1.02.

B. Obligation to Make PILOT Payments - General

1. Prior to Construction PILOT Payment Period Commencement Date. No PILOT Payments shall be required prior to the Construction PILOT Payment Period Commencement Date for each New Facility.

2. Duration of PILOT Payments Beginning on the Construction PILOT Payment Period Commencement Date for each New Facility and continuing thereafter for up to twenty one (21) years, the End User shall pay the Agency annual PILOT Payments with respect to such New Facility, in the amounts determined as described in this Exhibit B. With respect to each such New Facility situate on the Land, such New Facility shall, upon the expiration or termination of the Permanent PILOT Payment Period, become subject to real property taxation or the End User of that New Facility shall be required to make PILOT Payments in an amount equal to 100% of real property taxes that would be due if the Agency had no interest in that New Facility.

3. Payments During Construction PILOT Payment Period. PILOT Payments during the Construction PILOT Payment Period for each New Facility shall equal the payment amount calculated in the manner described in Paragraph C below, based on the expected nature and use of such New Facility as described in the plans and specifications for such New Facility, multiplied by the percentage of completion as of the taxable status date used by the City for its annual assessment rolls. The End User shall certify the percentage of completion based on construction requisitions and other construction documents.

4. Exempt Uses. Notwithstanding anything herein to the contrary, in any year in which a New Facility, or portion thereof, is leased or occupied by education or other tax-exempt organizations described in New York Real Property Tax Law Section 420-a, and is not used for non-exempt uses, no PILOT Payment shall be required for such New Facility, or portion thereof. If, however, a New Facility is leased or occupied by education or other tax-exempt organization described in New York Real Property Tax Law Section 420-a and is being subleased to a proprietary or taxable entity having exclusive use and/or possession of such New Facility or portion thereof (a “Proprietary Sublease”), then PILOT Payments shall be required for such New Facility, or portion thereof that is the subject of a Proprietary Sublease.

C. Calculation of Annual PILOT Payment due during Permanent PILOT Payment Period.

1. Classification and Measurement of New Facilities for PILOT Purposes. During the Permanent PILOT Payment Period, the PILOT Payments for each New Facility shall be based on the classification of the building as a Manufacturing Building, a Support Facility or as an Other Facility. The Agency shall classify each New Facility, and determine the appropriate measurement of the Applicable Square Footage of each New Facility, based on plans and specifications and other information provided by the End User.

2. Formula for Calculating PILOT Payments. In general, subject to the specific terms described herein, during the Permanent PILOT Payment Period the annual PILOT Payment for each New Facility shall be calculated as follows:

Applicable Square Footage x PILOT Value Per Square Foot Rate = PILOT Value

PILOT Value x the PILOT Adjustment Factor = Adjusted PILOT Value

Adjusted PILOT Value ÷ 1,000 x the lesser of (a) the Current Combined Tax Rate or (b) the Adjusted Current Combined Tax Rate = PILOT Payment

3. PILOT Value of Manufacturing Building. The Applicable Square Footage of a Manufacturing Building shall be comprised of the entire gross square footage in that building (measured floor by floor). The PILOT Value of a Manufacturing Building shall equal the gross square footage of such Manufacturing Building multiplied by the PILOT Value Per Square Foot Rate for a Manufacturing Space set forth in Column A of Schedule 1.

4. PILOT Value of Other Facilities. If one or more Other Facilities are constructed on the Land, the PILOT Value of such facility or facilities shall be determined by the Agency in its reasonable discretion based on comparable data from sources deemed to be reflective of the industry.

5. Support Facilities. Notwithstanding anything herein to the contrary, no separate PILOT Value shall be assigned to Support Facilities, which Support Facilities shall be assigned a separate tax parcel identification number by the City on the annual assessment rolls. The value of Support Facilities is included in the PILOT Value of the other buildings and improvements located on the Land.

D. Adjustment of PILOT Value Per Square Foot Rates for Improvements Commenced On or After January 1, 2023.

1. For improvements having a Construction Commencement Date on or after January 1, 2023, PILOT Payments shall be calculated in the manner described herein except the PILOT Value Per Square Foot Rates may be adjusted by the Agency effective January 1, 2023, and on January 1 every five (5) years thereafter (each, a "PILOT Rate Adjustment Date"), pursuant to the guidelines described in Paragraph D.2. The new PILOT Value Per Square Foot Rates shall apply to all improvements having a Construction Commencement Date on or after the PILOT Rate Adjustment Date in question and prior to the next PILOT Rate Adjustment Date.

2. As of each PILOT Rate Adjustment Date, the Agency, acting in its reasonable discretion but after first consulting with RIDC, may adjust (increase or decrease) the PILOT Value Per Square Foot Rates for Manufacturing Space. In making any decision to adjust the PILOT Value Per Square Foot Rates for Manufacturing Space, the Agency may take into consideration such information and/or data as it deems relevant including, without limitation, RS Means data regarding per square foot construction costs, appraisals and tax assessment information.

E. Special Assessments/Credit for SID Charges.

1. If for any reason a New Facility shall be subject to any SID Charges, notwithstanding the City and County's agreement set forth in Section 2(b) of the PILOT Allocation Agreement, then the amount of SID Charges assessed against the New Facility each year shall be applied as a dollar for dollar credit (the "SID Credit") that shall reduce the PILOT Payments due from the End User with respect to such New Facility for the PILOT Year in which the SID Charges are due and payable. An amount equal to the SID Credit (the "SID Credit Amount") shall be subtracted from the Aggregate Annual PILOT Payment Allocation the Affected Tax Jurisdiction that levied the SID Charges (the "SID Taxing Entity"). Once the SID Credit Amount has been subtracted from the Aggregate Annual PILOT Payment Allocation of the SID Taxing Entity in question, the Agency shall then re-allocate said subtracted amount in the manner necessary to place the Affected Tax Jurisdictions (other than the SID Taxing Entity in question) and the Funds (other than the Affected Tax Jurisdictions' Fund) in the same position that they would have been in had there been no SID Credit (or as nearly so as is possible). The provisions of this paragraph will not apply for any SID Charges or assessments requested by the End User.

2. If the SID Credit Amount for any year exceeds the Aggregate Annual PILOT Payment Allocation of the SID Taxing Entity in question, the excess amount (the "Excess SID Credit") shall be carried forward to subsequent years and applied each year to reduce the annual PILOT Payment due from the End User in question, and shall be subtracted from the Aggregate Annual PILOT Payment Allocation of the SID Taxing Entity in question, until the entire amount of the Excess SID Credit has been fully used.

3. If necessary, the term of the applicable PILOT Agreement(s) shall be extended for such period of time necessary for the entire Excess SID Credit to be applied to reduce PILOT Payments due from the End User in question (the "PILOT Extension Term"). During the PILOT Extension Term, such End User shall make annual PILOT Payments to the Agency in amounts equal to the real property taxes that would be due if the New Facility in question were owned by such End User and the Agency had no interest therein. The PILOT Payments during the PILOT Extension Term shall be allocated pro rata among the Affected Tax Jurisdictions in proportion to the amount of real property taxes that each Affected Tax Jurisdiction would receive if such New Facility was subject to normal taxation and will not be subject to the fixed allocation set forth in Section 3 of the PILOT Allocation Agreement. The Excess SID Credit shall be applied to reduce the SID Taxing Entity's share of PILOT Payments during the PILOT Extension Term until the entire remaining Excess SID Credit has been fully used.

F. Challenges to Assessed Value.

If for any reason a New Facility shall be subject to any SID Charges, notwithstanding the City and County's agreement set forth in Section 2(B) of the PILOT Allocation Agreement, but excluding SID Charges or assessments requested by the End User and/or common area charges levied, assessed or imposed against or on the End User(s) pursuant to a Declaration, the End User may pursue review of the New Facility's assessed value under Article 7 of the New York State Real Property Tax Law or any other law or ordinance then in effect relating to disputes over assessed valuation of real property in the State of New York, and may take any and all other action available to it at law or in equity. If an Article 7 challenge is brought by an End User, the challenge to the assessment may only be utilized to reduce the SID Charges payable by the End User and may not be used to modify or reduce PILOT Payments.

G. Waiver of Right to Other Real Property Tax Exemptions.

The End User will unconditionally and irrevocably waive its right, if any, to apply for and/or receive the benefit of, any other real property tax exemption including, without limitation, any real property tax exemptions that may be available under Section 485-b and Section 485-e of the Real Property Tax Law for so long as the PILOT Agreement is in effect.

H. Nonrecourse to RCBRC and RIDC.

Neither the Agency nor the Affected Tax Jurisdictions shall have any remedies against or seek recourse against RCBRC or RIDC and the sole recourse of the Agency and the Affected Taxing Jurisdictions shall be against the End Users, and the Agency and the Affected Taxing Jurisdictions shall look only to the End Users for the complete and sole satisfaction of any remedies for unpaid sums due under the PILOT Agreement.

I. PILOT Mortgage.

At the Agency's election, each End User's obligations under the PILOT Agreement shall be secured by a mortgage on the End User's interest in the New Facility, which mortgage shall contain such terms as the Agency deems necessary or appropriate.

J. Agency's Right to Modify Terms.

The PILOT Agreement terms described in this Exhibit B may be modified by the Agency, in its discretion, provided such modifications do not materially reduce the total amount of PILOT Payments payable over the term of each PILOT Agreement.

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SCHEDULE 1 TO EXHIBIT B

**PILOT Value  
Per Square Foot Rates**

	A	B
<b>PILOT Year of Construction PILOT Payment Period</b>	<b>Manufacturing (GSF Space)</b>	<b>Other Facilities</b>
<b>1</b>	<b>\$50</b>	
<b>PILOT Year of Permanent PILOT Payment Period</b>		
<b>1</b>	<b>\$50</b>	<b>*</b>
<b>2</b>	<b>\$50</b>	<b>*</b>
<b>3</b>	<b>\$50</b>	<b>*</b>
<b>4</b>	<b>\$50</b>	<b>*</b>
<b>5</b>	<b>\$50</b>	<b>*</b>
<b>6</b>	<b>\$50</b>	<b>*</b>
<b>7</b>	<b>\$50</b>	<b>*</b>
<b>8</b>	<b>\$50</b>	<b>*</b>
<b>9</b>	<b>\$50</b>	<b>*</b>
<b>10</b>	<b>\$50</b>	<b>*</b>
<b>11</b>	<b>\$50</b>	<b>*</b>
<b>12</b>	<b>\$50</b>	<b>*</b>
<b>13</b>	<b>\$50</b>	<b>*</b>
<b>14</b>	<b>\$50</b>	<b>*</b>
<b>15</b>	<b>\$50</b>	<b>*</b>
<b>16</b>	<b>\$50</b>	<b>*</b>
<b>17</b>	<b>\$50</b>	<b>*</b>
<b>18</b>	<b>\$50</b>	<b>*</b>
<b>19</b>	<b>\$50</b>	<b>*</b>
<b>20</b>	<b>\$50</b>	<b>*</b>

Note: For improvements commenced on or after January 1, 2023, the PILOT Value Per Square Foot Rates shall be adjusted in the manner described in Paragraph D of Exhibit B.

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\* The PILOT Value Per Square Foot Rate of Other Facilities shall be determined based on comparable data from sources deemed reflective of the industry.

SCHEDULE 2 TO EXHIBIT B

PILOT Value Adjustment Factor

PILOT Year of Permanent PILOT Payment Period	PILOT Value Adjustment Factor
1	50%
2	50%
3	50%
4	50%
5	50%
6	51%
7	52%
8	53%
9	54%
10	55%
11	55%
12	55%
13	55%
14	55%
15	55%
16	60%
17	60%
18	60%
19	60%
20	60%

EXHIBIT B  
FORM OF ANNUAL REPORT TO AGENCY



Project Code: \* Project Code Fund Type: \* Project Type Project Name: \* Project Name

**2017 Schedule of Supplemental Information (Bonds/Notes or Straight Lease)**

Project Owner and Address:

First Name Last Name

\* Project Name (\* Address Line 1, \* City, State \* Postal Code)

\* Address Line 1

\* City, State \* Postal Code

DATE

Total Project/Lease Amount: \$\* Total Project Amount

Straight Lease End Date: LEASE/PILOT EXPIRATION

Benefited Project Amount: \$\* Benefited Project Amount

Bond/Note Amount: \$ Total

Bonds/Notes Outstanding Beginning of Fiscal Year

Non-profit? Is the applicant a Not for Profit corporation?  
if no exemptions granted:

New tax revenues

Please check box if applicable:  
 Not all data is reported. Letter of explanation attached.

**Was your project completed In 2017?** YES  NO

**If YES, what was the final project cost?** \_\_\_\_\_

**2017 Tax Exemptions – Amounts that would have been payable, AS FULL TAXES, without IDA exemptions.**

Sales Tax (ST)	Real Property Tax (RPT)	Mortgage Recording Tax (MR)	Total Tax Exemptions (Sum of ST, RPT and MRT)
State: \$	County: \$	\$	\$
Local: \$	Local (sum of city/town/village): \$		
	School: \$		

**2017 Payments in Lieu of Taxes (PILOTS) PAID. DO NOT INCLUDE SPECIAL DISTRICT ASSESSMENT PAYMENTS (ie: sewer, water, lighting, etc. districts)**

County	Local (sum of city/town/village)	School District	Total PILOTS Paid	Code
\$	\$	\$	\$	* Project Code

Straight Lease: Identify method of financial assistance utilized by project, other than tax exemptions claimed by project. Identify by amount and type:

\_\_\_\_\_

**FORM CONTINUED ON NEXT PAGE**

Project Code: \* Project Code Fund Type: \* Project Type Project Name: \* Project Name

**Schedule of Supplemental Information Continues (Bonds/Notes or Straight Lease)**

**Full-Time Equivalent (FTE) Jobs Created and Retained – As of December 31, 2017**

# FTE Employees at Project Location Prior to IDA Status	Original Estimate of Jobs to be Created	Original Estimate of Jobs to be Retained	# Current FTE Employees	# FTE Jobs Created During Fiscal Year	# FTE Jobs Retained During Fiscal Year	# FTE Construction Jobs Created during Fiscal Year
* # of FTEs before IDA status	* Original estimate of jobs to be created	* Original estimate of jobs to be retained				

**FOR PROJECTS CLOSED AFTER JULY 2016 ONLY.** If the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created, that was provided in the original project application is still accurate, please check this box:  if the information is no longer accurate, complete chart below.

**Salary and Fringe Benefits for Jobs to be Retained and Created:**

Category of Jobs to be Retained and Created	# CURRENT FTE Per Category	Average Annual Salary or Range of Salary	Average Annual Fringe Benefits or Range of Fringe Benefits
Management			
Administrative			
Production			
Independent Contractor			
Other			

\*Contact Name (if different from page 1): \_\_\_\_\_  
 \*Contact Address (if different from page 1): \_\_\_\_\_

\*Contact Telephone: \_\_\_\_\_  
 \*Contact Fax: \_\_\_\_\_  
 \*Contact Email: \_\_\_\_\_  
 \*Person Completing Form: \_\_\_\_\_ \* Required

I certify that to the best of my knowledge and belief all of the information on this form is correct. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to voidance of the agreement and potential claw back of benefits.

Signed: \_\_\_\_\_ (authorized company representative)  
 Date: \_\_\_\_\_

PROJECT CODE: \* Project Code

**Bonds and Notes Related to Project\***

(\*If you do not have a Bond, please skip this section)

Type of Debt:	Bond(s) <input checked="" type="checkbox"/> Note(s) <input type="checkbox"/>	Bond(s) <input checked="" type="checkbox"/> Note(s) <input type="checkbox"/>	Bond(s) <input checked="" type="checkbox"/> Note(s) <input type="checkbox"/>	Bond(s) <input checked="" type="checkbox"/> Note(s) <input type="checkbox"/>	Total
Date of Issue:					
Interest Rate:					
• At issuance					
• If variable, applicable range					
Outstanding Beginning of Fiscal Year:	Total Bonds/Notes Outstanding End of Fiscal Year				
Issued During Fiscal Year:					
Paid During Fiscal Year:					
Outstanding End of Fiscal Year:					
Final Maturity Date:	LEASE/PILOT EXPIRATION DATE				Final maturity date of last outstanding bond:

**Project Code: \* Project Code Fund Type: \* Project Type Project Name: \* Project Name**

**Questions for Housing Projects ONLY**

(1) Describe the housing project constructed or renovated in detail (type of housing, number of units, etc.):

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If construction or renovation is incomplete, when is the issuance of a Certificate of Occupancy anticipated? \_\_\_\_\_  
If available, please attach copy of Certificate of Occupancy.

(2) Describe how you changed the pre-Project use of the facility or property being utilized, for the Project.

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(3) Did the project have any impact on the existing infrastructure or upgrades to the current infrastructure (water, sewer, electrical, gas, etc.)? If yes please provide detail and who you are working with at the applicable organization(s).

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(4) If your project is a multi-use facility please provide details of the project, project square footage breakdown of non-housing to housing usage: detail the job creation and retention associated with the non-housing component.

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(5) Does the project provide a community benefit? If yes, provide detail substantiating (reference the IDA policy).

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