



NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

RP-412-a (1/95)

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)

Name Oneida County Industrial Development Agency
Street 584 Phoenix Drive
City Rome NY 13441
Telephone no. Day (315) 338-0393
Evening () _____
Contact Shawna Papale
Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)

(If more than one occupant attach separate listing)

Name Cold Point Corporation
Street 7500 Cold Point Drive
City Rome NY 13440
Telephone no. Day (315) 339-2331
Evening () _____
Contact Craig Wanner
Title President

3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year) portion of 242.000-1-7.2
- b. Street address 510 Henry Street
- c. City, Town or Village Rome
- d. School District Rome City School District
- e. County Oneida
- f. Current assessment _____
- g. Deed to IDA (date recorded; liber and page)
Deed rec 01/11/2015 Inst#2005-00683

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

- a. Brief description (include property use) Construction of a 48,750± sf footprint and a 1,250± sf second-floor training room, four loading docks, and installation of equipment
- b. Type of construction _____
- c. Square footage 50,000±
- d. Total cost See attached
- e. Date construction commenced _____
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)
June 30, 2042

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment Company will make PILOT Payments to the IDA as specified in the attached PILOT Agreement, to be allocated in accordance with an Agreement Approving Essential PILOT Term and Allocating PILOT Payments.
- b. Projected expiration date of agreement June 30, 2042

c. Municipal corporations to which payments will be made

	Yes	No
County _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
School District _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Person or entity responsible for payment

Name Cold Point Corporation
 Title Craig Wanner, President
 Address 7500 Cold Point Drive
Rome NY 13440

e. Is the IDA the owner of the property? Yes No (check one)
If "No" identify owner and explain IDA rights or interest in an attached statement.

Telephone 315-339-2331

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted:
exemption §GML 867 assessment roll year 2004

7. A copy of this application, including all attachments, has been mailed or delivered on March 20, 2020 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, David C. Grow, Chairman of Oneida County Industrial Development Agency hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

March 16, 2020
Date


Signature

FOR USE BY ASSESSOR

1. Date application filed _____
2. Applicable taxable status date _____
- 3a. Agreement (or extract) date _____
- 3b. Projected exemption expiration (year) _____
4. Assessed valuation of parcel in first year of exemption \$ _____
5. Special assessments and special as valorem levies for which the parcel is liable:

Date

Assessor's signature

Exhibit A

Application for Real Property Tax Exemption
(Form RP-412-a)
**Oneida County Industrial Development Agency
(Cold Point Corporation Facility)**

4(d). Total Cost of Facility:

New Construction	3,758,000
Sitework, Contingency, Soft Costs	710,350
Total:	\$4,468,350.00

COLD POINT CORPORATION

and

THE WHALEN COMPANY

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Oneida County Industrial Development Agency
2020 Real Estate Lease
(Cold Point Corporation Facility)

Oneida County, City of Rome, Rome City School District

Tax Account Nos.: Portion of 242.000-1-7.2

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of March 16, 2020, is by and among **COLD POINT CORPORATION**, a New York corporation with an address of 7500 Cold Point Drive, Rome, New York 13441 (the "Company"), **THE WHALEN COMPANY**, a Maryland corporation with an address of 8900 Glebe Park Drive, Easton, Maryland 21601 (the "Guarantor") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 584 Phoenix Drive, Rome, New York 13441 (the "Agency").

W I T N E S S E T H:

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

WHEREAS, the Agency owns fee title to a 10.206± acre parcel of land (the "Complex 3 Land") and leases the Complex 3 Land to Rome Community Brownfield Restoration Corporation ("RCBRC") pursuant to a First Amended and Restated Lease Agreement, dated as of December 1, 2015 (the "2015 Lease"); and

WHEREAS, RCBRC subleases a 4.428± acre portion of the Complex 3 Land and the improvements situated thereon (the "Owl Wire Premises") to Owl Wire & Cable LLC ("Owl Wire") pursuant to a Sublease Agreement dated March 10, 2005 as amended on April 27, 2015 and on December 1, 2015, as the same may be further amended from time to time; and

WHEREAS, the Agency, RCBRC and Owl Wire entered into a Payment-In-Lieu-of-Tax Agreement dated as of December 1, 2015 (the "Owl Wire PILOT"), pursuant to which Owl Wire makes PILOT Payments relating to the Owl Wire Premises; and

WHEREAS, RCBRC wishes to lease to the Company, and the Company wishes to lease from RCBRC, a 4.384± acre portion of the Complex 3 Land (the "Land") pursuant to the terms of a Ground Sublease dated as of March 16, 2020 (the "Ground Sublease") between RCBRC and the Company; and

WHEREAS, the Agency and RCBRC are releasing the Land from the 2015 Lease pursuant to a Partial Release of Lease Agreement dated as of March 16, 2020 (the "Release") and will enter into a new Lease Agreement dated as of March 16, 2020 (the "RCBRC

Lease Agreement”) such that the RCBRC Lease Agreement shall pertain only to the Land that is the subject of the Ground Sublease; and

WHEREAS, the Company has requested the Agency’s assistance in connection with the construction on the Land of a 50,000± square foot building and four loading docks (the “Improvements”) 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”); and

WHEREAS, the Company leases the Facility to the Agency pursuant to a Lease Agreement dated as of March 16, 2020 (the “Lease Agreement”); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to maintain its fee interest in the Land, acquire a leasehold interest in the Facility from the Company pursuant to the Lease Agreement, and lease the Facility back to the Company pursuant to the terms and conditions contained in a Leaseback Agreement dated as of March 16, 2020 (the “Leaseback Agreement”) by and between the Agency and the Company; and

WHEREAS, the Agency, RCBRC, the Company, The Whalen Company (the “Guarantor”), the City of Rome and Rome Industrial Development Corporation (“RIDC”) entered into a Project Development Agreement dated October 31, 2019 (the “Project Development Agreement”) which describes the responsibilities of the parties in connection with the development of the Facility; and

WHEREAS, Shore United Bank (the “Bank”) intends to finance a portion of the costs of the Facility by extending a \$3,453,000.00 construction loan and a \$345,050.00 bridge loan to the Company to be secured by a Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated March 16, 2020 (the “Mortgage”) securing the aggregate sum of \$3,798,050.00, from the Agency and the Company to the Bank; and

WHEREAS, New York State Job Development Authority (“JDA”) intends to finance a portion of the costs of the Facility by extending a \$2,231,000.00 loan to the Company to be secured by a Mortgage from the Agency and the Company to the JDA (the “JDA Mortgage” and together with the Mortgage, the “Mortgages”), which JDA Mortgage is anticipated to be entered into following the Closing Date; and

WHEREAS, as developer of the Facility, RIDC intends to make certain funding available for certain Project Related Improvements (as said term is defined in the Project Development Agreement), which funding shall be secured only behind the Bank and JDA (the “RIDC Project Related Debt”); and

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

WHEREAS, the Land 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 Facility commencing July 25, 2005 (the "Exempt Taxes"), because the Agency has owned the Land, and the Land is being 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 sublessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the Lease Agreement from the Construction PILOT Payment Period Commencement Date (as that date is determined by the parties and described herein) through the term of the Leaseback Agreement; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the Agency, such PILOT Payments to be collected and allocated by the Agency in accordance with the Agreement Approving PILOT Terms and Allocating PILOT Payments dated as of August 27, 2018 (the "PILOT Allocation Agreement") by and among the City of Rome (the "City"), Oneida County, Rome City School District and appropriate special districts (hereinafter each a "Affected Tax Jurisdiction" and collectively the "Affected Tax Jurisdictions" more particularly set forth on Schedule A attached hereto and made a part hereof) and RIDC; and

WHEREAS, the Guarantor is entering into this Agreement to unconditionally guaranty all payments to be made by the Company hereunder.

NOW, THEREFORE, to provide for certain payments to the Agency, to be allocated in accordance with the PILOT Allocation Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

A. Definitions. Capitalized terms used in this Agreement not otherwise defined herein shall have the meaning set forth in Section 1 of the PILOT Allocation Agreement. For purposes of this Agreement, 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
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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 Agreement.

“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 the applicable taxable status date of the City following the date of the issuance of a building permit for the Facility.

“Construction PILOT Payment Period” means 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 January 1 of the first calendar year following the Construction Commencement Date for the Facility.

“Construction PILOT Payment Period PILOT Year” means 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.

“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 January 1, 2021.

“Permanent PILOT Payment Period” means 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 (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 C to this Agreement.

“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 the Facility determined in the manner described in this Agreement by multiplying the Applicable Square Footage of the 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 the Facility in the manner described in this Agreement. The PILOT Value Per Square Foot Rates for the Facility are as set forth in Schedule B to this Agreement. The PILOT Value Per Square Foot Rates shall be adjusted on the dates and in the manner described in Paragraph D of this Agreement.

"*PILOT Year*" means 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.

2. Duration of PILOT Payments Beginning on the Construction PILOT Payment Period Commencement Date and continuing thereafter for up to twenty one (21) years, the Company shall pay the Agency annual PILOT Payments with respect to the Facility, in the amounts determined as described in this Agreement. Upon the expiration or termination of the Permanent PILOT Payment Period, the Facility shall become subject to real property taxation or the Company 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 the Facility.

3. Payments During Construction PILOT Payment Period. PILOT Payments during the Construction PILOT Payment Period shall equal the payment amount calculated in the manner described in Paragraph C below, based on the expected nature and use of the Facility as described in the Plans and Specifications for the Facility, multiplied by the percentage of completion as of the taxable status date used by the City for its annual assessment rolls. The

Company shall certify the percentage of completion based on construction requisitions and other construction documents by written statement to the Agency (with a copy to the City Assessor) submitted no later than December 15 and June 15 until the Completion Date.

4. Exempt Uses. Notwithstanding anything herein to the contrary, in any year in which the 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 the Facility, or portion thereof. If, however, the 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 the Facility or portion thereof (a "Proprietary Sublease"), then PILOT Payments shall be required for the 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 the Facility for PILOT Purposes. During the Permanent PILOT Payment Period, the PILOT Payments for the 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 the Facility, and determine the appropriate measurement of the Applicable Square Footage of the Facility, based on Plans and Specifications and other information provided by the Company.

2. Formula for Calculating PILOT Payments. Subject to the specific terms described herein, during the Permanent PILOT Payment Period the annual PILOT Payment for the 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 B.

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. [Intentionally Omitted]

E. Special Assessments/Credit for SID Charges.

1. If for any reason the Facility shall be subject to any SID Charges, notwithstanding the provisions of Section 2(b) of the PILOT Allocation Agreement, then the amount of SID Charges assessed against the Facility each year shall be applied as a dollar for dollar credit (the "SID Credit") that shall reduce the PILOT Payments due from the Company with respect to the 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 Company.

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 Company 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 this PILOT Agreement 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 Company (the "PILOT Extension Term"). During the PILOT Extension Term, the Company shall make annual PILOT Payments to the Agency in amounts equal to the real property taxes that would be due if the Facility were owned by the Company 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 the 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 the Facility shall be subject to any SID Charges, notwithstanding the provisions of Section 2(B) of the PILOT Allocation Agreement, but excluding SID Charges or assessments requested by the Company and/or common area charges levied, assessed or imposed against or on the Company pursuant to a Declaration, the Company may pursue review of the 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 the Company, the challenge to the assessment may only be utilized to reduce the SID Charges payable by the Company and may not be used to modify or reduce PILOT Payments.

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

The Company 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 this 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 Company, and the Agency and the Affected Taxing Jurisdictions shall look only to the Company and to the Guarantor for the complete and sole satisfaction of any remedies for unpaid sums due under this Agreement.

I. [Intentionally Omitted]

J. PILOT Bills and PILOT Payments

1. The Agency shall prepare all PILOT Invoices and shall submit the same to the Company by June 1 of each Exemption Year, which PILOT Invoice shall, upon the Company's written request to the Agency, include the latest assessment notice from the City Assessor's Office as evidence of the Facility's assessed value.

2. The Company shall make PILOT Payments to the Agency on or before July 1, for distribution by the Agency in accordance with the terms of the PILOT Allocation Agreement. PILOT Payments that are delinquent under this Agreement shall

be subject to a late penalty of five percent (5%) of the amount due which shall be paid by the Company to the Agency at the time the PILOT Payment is paid, and which the Agency shall pay to the Affected Tax Jurisdictions. 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 Agency on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made, which the Agency shall pay to the Affected Tax Jurisdictions.

3. The Guarantor unconditionally guarantees the obligation of the Company to make PILOT Payments required hereunder. Upon the failure of the Company in making any payment when due hereunder, the Agency shall provide written notice to the Company and the Guarantor providing thirty (30) days to cure such default and remit payment to the Agency.

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

5. Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Leaseback Agreement shall terminate and the Agency shall terminate its interest in the Facility pursuant to the Leaseback Agreement. The benefits under this Agreement are subject to the terms and conditions of a certain Job Creation and Recapture Agreement by and among the Agency, the Company and the Guarantor dated as of March 16, 2020.

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

L. 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 PILOT 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.

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

N. All amounts payable by the Company hereunder will be paid to the Agency 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.

O. 1. 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.

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

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

To the Agency: Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441
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: Cold Point Corporation
7500 Cold Point Drive
Rome, New York 13440
Attn.: Craig Wanner, President

With a Copy To: Kowalczyk & Deery, LLP
185 Genesee Street, Suite 1201
Utica, New York 13501
Attn: Andrew S. Kowalczyk, III, Esq.

To RCBRC: Rome Community Brownfield Restoration Corporation
584 Phoenix Drive
Rome, New York 13441
Attn: Christian Mercurio

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 Bank: Shore United Bank
18 E. Dover Street
Easton, Maryland 21601
Attn.: Commercial Lending Department

With a Copy To: Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, New York 13202
Attn.: Kevin Pole, Esq.

To JDA:

With a Copy to:

To RIDC: Rome Industrial Development Corporation
584 Phoenix Drive
Rome, New York 13441
Attn: _____

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

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

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

[signature page follows]

SECOND SIGNATURE PAGE TO PILOT AGREEMENT
(ONEIDA COUNTY IDA/COLD POINT CORPORATION)


THE WHALEN COMPANY

By: 

Craig Wanner
President

STATE OF MARYLAND)
 : ss.:
COUNTY OF Talbot)

On the 9th day of March 2020 before me, the undersigned a notary public in and for said state, personally appeared **Craig Wanner**, 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



THIRD SIGNATURE PAGE TO PILOT AGREEMENT
(ONEIDA COUNTY IDA/COLD POINT CORPORATION)

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:



David C. Grow
Chairman

STATE OF NEW YORK


)

: ss.:

COUNTY OF ONEIDA

)

On the 11 day of March 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

LORI L. PATRICK
Notary Public, State of New York
No. 01PA6034055
Qualified in Oneida County
My Commission Expires Dec. 6, 2021

SCHEDULE A

COUNTY OF ONEIDA

Receiver of Taxes
800 Park Avenue
Utica, New York 13501

CITY OF ROME

Receiver of Taxes
Rome City Hall
198 North Washington Street
Rome, New York 13440
Attn.: City Treasurer

ROME CITY SCHOOL DISTRICT

409 Bell Street
Rome, New York 13440
Attn.: David Dreidel, District Treasurer

SCHEDULE B

**PILOT Value
Per Square Foot Rates**

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

* 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 C

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%