

COPY

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

POLLOCK HOLDINGS, LLC

FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT

Regarding the acquisition of leasehold interest in the land, and the construction and equipping of a 20,000+/- SF manufacturing facility to be utilized in the production, inspection, preventative maintenance, service, and parts for overhead indoor cranes and hoists (the "Facility") located at 365 Wheeler Street, City of Tonawanda, Erie County, New York.

Dated as of: **September 22, 2014**

Amended as of: **January 1, 2019**

Termination Date: **December 31, 2026**

SBL No.: **52.08-4-17.12**

Affected Tax Jurisdictions: **Erie County
City of Tonawanda
Tonawanda City School District**

Prepared by:
Harris Beach PLLC
726 Exchange Street, Suite 1000
Buffalo, New York 14210
(716) 200-5050

FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT

THIS FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT (the "First Amendment to PILOT"), dated as of the 1st day of January, 2019, by and between **ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 95 Perry Street, Suite 403, Buffalo, New York 14203 (the "Agency") and **POLLOCK HOLDINGS, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of Pennsylvania, with offices at 11 Vanguard Drive, Reading, Pennsylvania 19606 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 293 of the Laws of 1970 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Agency and the Company previously entered into that certain Payment In Lieu Of Tax Agreement (the "PILOT Agreement"), dated as of September 22, 2014, with respect the Company's property located at 365 Wheeler Street, City of Tonawanda, Erie County, New York (the "Facility"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this Agreement for the purpose of confirming that the Land component of the Facility, upon which the Improvements are located, will have a PILOT payment equal to the full taxes as such valuation may vary from year to year.

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Parts (1) and (2) of Section 3. Taxing Authorities and Amounts of the Original PILOT Agreement are hereby amended and restated in their entirety to read as follows:

Section 3. Taxing Authorities and Amounts.

(1) Until the commencement of the tax fiscal years set forth in subparagraph (2) below, the Company shall continue to pay all appropriate taxing authorities all taxes due as if the Agency did not have an interest in the Project. As set forth below, the total payments in lieu of taxes required under this PILOT Agreement are allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project not been tax exempt due to the status of the Agency. Thereafter, the Company shall make payments in lieu of taxes to all appropriate taxing authorities on the land and buildings constituting the Project, in accordance with this section. For each taxing authority, such payments in lieu of taxes shall have a land component and a variable component. The land component shall be based upon the then current tax rate for the

then current tax fiscal year applied against the then current assessed valuation of the non-depreciable portion of all tax parcels comprising the Project (assessed as land). The variable component shall be based upon the then current tax rate applied against a variable portion of the then current assessed valuation of the depreciable portion of all tax parcels comprising the Project (assessed as buildings or other improvements).

(2) For the periods of time indicated below, the Company shall make the indicated payments in lieu of taxes to the indicated taxing authorities:

(a) County PILOT Payments. Payments in lieu of general levy real estate taxes to the County for each of the tax fiscal years **2017 through 2026**, or until termination of the Lease Agreement, whichever date occurs first, shall be in an amount equal to the County Land PILOT Payment plus the County Variable PILOT Payment (as such terms are defined below) for each such tax fiscal year. The County Land PILOT Payment for each tax fiscal year shall be an amount equal to the County tax rate then in effect for such tax fiscal year, applied against the then current assessed valuation of the non-depreciable portion of all tax parcels constituting the Project (assessed as land). The County Variable PILOT Payment for each tax fiscal year shall be an amount equal to the County tax rate in effect for such tax fiscal year, applied to the product of (i) the then current assessed valuation of the depreciable portion of all tax parcels comprising the Project (assessed as buildings or other improvements), and (ii) the payment factor applicable to such tax fiscal year as shown on Schedule A attached hereto and made a part hereof. Each such payment shall be delivered to County of Erie, Room 100, 95 Franklin Street, Buffalo, NY 14202, or such other place as may be designated from time to time by the County. Payments for each tax fiscal year must be made by February 15 of that year, or such payment shall be considered delinquent.

(b) City PILOT Payments. Payments in lieu of general levy real estate taxes for the City for each of the tax fiscal years **2017 through 2026**, or until termination of the Lease Agreement, whichever date occurs first, shall be in an amount equal to the City Land PILOT Payment plus the City Variable PILOT Payment (as such terms are defined below) for each such tax fiscal year. The City Land PILOT Payment for each tax fiscal year shall be an amount equal to the City tax rate then in effect for such tax fiscal year, applied against the then current assessed valuation of the non-depreciable portion of all tax parcels constituting the Project (assessed as land). The City Variable PILOT Payment for each tax fiscal year shall be an amount equal to the City tax rate in effect for such tax fiscal year applied to the product of (i) the then current assessed valuation of the depreciable portion of all tax parcels comprising the Project (assessed as buildings or other improvements), and (ii) the payment factor applicable to such tax fiscal year as shown on Schedule A attached hereto and made a part hereof. Each such payment shall be delivered to the City of Tonawanda, Attn: City Assessor, or such other place as may be designated from time to time by the City. Payments for each City tax fiscal year must be made by February 15 of that year or such payment shall be considered delinquent.

(c) School District PILOT Payments. Payments in lieu of general levy real estate taxes for the School District for each of the tax fiscal years **2016-2017 through 2025-2026**, or until termination of the Lease Agreement, whichever date occurs first, shall be in an amount equal to the School District Land PILOT Payment plus the School District Variable PILOT Payment (as such terms are defined below) for each such tax fiscal year. The School

District Land PILOT Payment for each tax fiscal year shall be an amount equal to the School District tax rate then in effect for such tax fiscal year, applied against the then current assessed valuation of the non-depreciable portion of all tax parcels constituting the Project (assessed as land). The School District Variable PILOT Payment for each tax fiscal year shall be an amount equal to the School District tax rate in effect for such tax fiscal year applied to the product of (i) the then current assessed valuation of the depreciable portion of all tax parcels comprising the Project (assessed as buildings or other improvements), and (ii) the payment factor applicable to such tax fiscal year as shown on Schedule A attached hereto and made a part hereof. Each such payment shall be delivered to the School District, or such other place as may be designated from time to time by the School District. Payments for each tax fiscal year must be made one half by July 31 of that year and one half by December 31 (unless otherwise required by the School District), or such payments shall be considered delinquent.

(d) In addition to the following, the Company shall pay in full all special district charges, special assessments and special ad valorem levies (specifically including but not limited to any fire district charges or “curb charges”), and pure water charges and sewer charges that are levied against the Project in accordance with normal billing practices as if the Agency did not have an interest in the Project.

2. Unless otherwise amended and modified by this First Amendment to PILOT, the terms of the PILOT Agreement shall remain unchanged and in full force and effect. This First Amendment to PILOT shall in no way be construed as a waiver of any of the rights or remedies of the Agency or a release or waiver by the Agency of any Event of Default under the PILOT Agreement. The Agency hereby reserves all such rights and remedies.

[Remainder of this page left intentionally blank]

[Signature Page to First Amendment to PILOT]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to PILOT as of the day and year first written above.

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: Karen M. Fiala
Name: Karen M. Fiala
Title: Assistant Treasurer

POLLOCK HOLDINGS, LLC

By: Randy L. Stull
Name: Randy L. Stull
Title: Manager

STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

On the 2nd day of ~~May~~ July, 2019, before me, the undersigned, personally appeared **KAREN M. FIALA**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Dawn M. Boudreau
Notary Public

DAWN M. BOUDREAU
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires May 27, 2023

~~STATE OF NEW YORK~~)
COLUMBIANA) SS.:

On the 26th day of ~~May~~ June, 2019, before me, the undersigned, personally appeared Randy L. Stull, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Cynthia J. Pacella
Notary Public



Cynthia J. Pacella, Notary Public
STATE OF OHIO
My Commission Expires 2-26-21