

GRAY MANUFACTURING INDUSTRIES, L.L.C., as Assignor

and

FCM MANAGEMENT, LTD., as Assignee

and

CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY

**ASSIGNMENT AND ASSUMPTION
OF PILOT AGREEMENT**

Dated as of January 6, 2023

Address:

6270 Ice House Road
City of Hornell, New York

Tax Map Number:

166.00-03-009.300

**ASSIGNMENT AND ASSUMPTION OF
PILOT AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF PILOT AGREEMENT (this "Assignment Agreement") dated as of January 6, 2023 (the "Effective Date"), by and among the **CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 40 Main Street, Hornell, New York 14843 (the "Agency"), **GRAY MANUFACTURING INDUSTRIES, L.L.C.**, a limited liability company organized under the laws of the State of New York with a mailing address of P.O. Box 126, Hornell, New York 14843 (the "Assignor") and **FCM MANAGEMENT, LTD.**, Pennsylvania a limited corporation having an address at P.O. Box 409, Irwin, Pennsylvania 15642-0409 (the "Assignee"; and, together with the Agency and the Assignor, the "Parties").

RECITALS:

WHEREAS, the Assignor presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of : (i) the acquisition or retention by the Agency of a leasehold interest in a parcel (or parcels) of land located at 6270 Ice House Road, Hornell, New York (the "Land") (being more fully identified as tax map number 166.00-03-009.300), the existing improvements located thereon, if any (the "Existing Improvements"; and, together with the Land, the "Facility"); and (ii) the lease of the Facility by the Agency to the Assignor to be used by the Assignor to supply goods and technical services to the transit industry and refurbish rail cars; and

WHEREAS, on October 29, 2015, the Agency adopted a resolution authorizing the Agency, among other things, to (i) execute and delivery a deed to the Assignor of the Agency's interest in the Facility, and (ii) negotiate a tax agreement with the Assignor and execute and deliver related documents with respect to the Facility; and

WHEREAS, in connection with the Project, the Agency and the Assignor entered into, among other documents, a certain (i) Lease Agreement, dated as of July 1, 2016, from the Assignor to the Agency (the "Lease Agreement"); (ii) Leaseback Agreement, dated as of July 1, 2016, from the Agency to the Assignor (the "Leaseback Agreement"); and (iii) Payment-in-Lieu-of-Tax Agreement, dated as of July 1, 2016, by and between the Agency and the Assignor attached hereto as **Exhibit A** (the "PILOT Agreement", collectively, the "Agency Documents"); and

WHEREAS, pursuant to a notification and consent request letter from the Assignor to the Agency sent on or about October 27, 2022 (the "Consent Request"), the Assignor has requested that the Agency consent to (a) the sale and transfer of the Assignor's 100% ownership of the Facility to FCM Management, Ltd., a Pennsylvania limited corporation qualified to do business in the State of New York or a company formed on its behalf (collectively, the "Assignee"), and (b) the assignment of the Lease Agreement, Leaseback Agreement and PILOT Agreement by the Assignor to the Assignee (collectively, the "Proposed Transaction"); and

WHEREAS, the Assignor desires to assign all of its right, title and interest in and to the PILOT Agreement to the Assignee and the Assignee desires to assume all of the obligations of the Assignor under the PILOT Agreement; and

WHEREAS, the Agency is willing to consent to the assignment of the Assignor's interest in the PILOT Agreement to the Assignee only if the Assignee agrees to be bound by and comply with each of the terms and conditions set forth in the PILOT Agreement;

AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignor, the Assignee and the Agency mutually covenant, warrant and agree as follows:

1. Assignment. The Assignor hereby assigns, conveys and transfers to the Assignee all of the Assignor's right, title and interest in, to and under the PILOT Agreement.

2. Assumption. The Assignee accepts the assignment of and hereby assumes and agrees to perform, fulfill and comply with all covenants and obligations to be performed, fulfilled or complied with by the Assignor under the PILOT Agreement arising from and after the Effective Date.

3. The Assignee's Indemnification of the Assignor and Agency. The Assignee shall and does hereby indemnify the Assignor and the Agency against, and agrees to defend (with counsel reasonably selected by the indemnified party) and hold the Assignor and the Agency harmless from, all liabilities, obligations, actions, suits, proceedings or claims and all costs and expenses (including without limitation, reasonable attorneys' fees), incurred by the Assignor or the Agency, as the case may be, in connection with the PILOT Agreement based upon or arising out of any breach or alleged breach of the PILOT Agreement by the Assignor occurring or alleged to have occurred on or after the Effective Date.

4. The Assignor's Indemnification of the Assignee and Agency. The Assignor shall and does hereby indemnify the Assignee and the Agency against and agrees to defend (with counsel reasonably selected by the indemnified party) and hold the Assignee and the Agency harmless from, all liabilities, obligations, actions, suits, proceedings or claims and all costs and expenses (including, without limitation, reasonable attorneys' fees), incurred by the Assignee or the Agency, as the case may be, in connection with the PILOT Agreement directly based upon or arising out of any breach or alleged breach of the PILOT Agreement by the Assignor occurring or alleged to have occurred before the Effective Date.

5. Consent to Assignment. The Agency hereby consents to the foregoing assignment and assumption of the PILOT Agreement and acknowledges that all requirements of the PILOT Agreement with respect to the assignment thereof have been complied with or compliance has been waived by the Agency. The parties agree that any provision of the PILOT Agreement prohibiting or restricting the transfer and assumption contemplated hereby shall be deemed

complied with for this transaction only, but shall continue to apply to any future assignment, assumption or transfer by the Assignee.

6. Representations, Covenants and Warranties. All terms, conditions, covenants, representations and warranties of the Assignor contained in the PILOT Agreement, except as expressly modified hereby, are hereby adopted, ratified and confirmed by the Assignee as of the date hereof, remain in full force and effect as of the date hereof, and are subject to the terms of this Assignment Agreement.

7. Governing Law. This Assignment Agreement, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the laws of the State of New York, as in effect from time to time, without regard to principles of conflicts of laws.

8. Successors and Assigns. The Assignor, the Assignee and the Agency, as such terms are used herein, shall include the legal representatives, successors and assigns of those parties. This Assignment Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

9. Counterparts. This Assignment Agreement may be executed in any number of counterparts and by the Assignor, the Assignee and the Agency on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Assignment Agreement.

10. Severability. Any provision of this Assignment Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Assignment Agreement and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

11. Conflicting Provisions. In the event of any conflict in the terms and provisions of this Assignment Agreement and the terms and provisions of the PILOT Agreement, the terms and provisions of this Assignment Agreement shall govern.

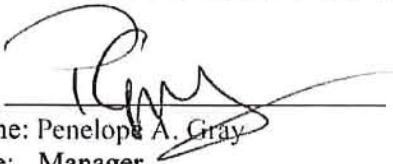
12. Entire Agreement. This Assignment Agreement constitutes the entire agreement and understanding between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior negotiations, understandings, and agreements between such parties with respect to such transaction.

(Remainder of Page Intentionally Left Blank – Signature Pages Follow)

IN WITNESS WHEREOF, this Assignment Agreement has been duly executed by the parties hereto as of the day and year first above written.

ASSIGNOR:

GRAY MANUFACTURING INDUSTRIES, L.L.C.

By: 
Name: Penelope A. Gray
Title: Manager

ASSIGNEE:

FCM MANAGEMENT, LTD.,

By: **FCM MANAGEMENT, INC.,**
its general partner

By: _____
Name: William Baker
Title: President

AGENCY:

**CITY OF HORSELL INDUSTRIAL DEVELOPMENT
AGENCY**

By: _____
Name: Michael Nisbet
Title: Executive Director

(Signature Page to Assignment Agreement - PILOT)

IN WITNESS WHEREOF, this Assignment Agreement has been duly executed by the parties hereto as of the day and year first above written.

ASSIGNOR:

GRAY MANUFACTURING INDUSTRIES, L.L.C.

By: _____
Name: Penelope A. Gray
Title: Manager

ASSIGNEE:

FCM MANAGEMENT, LTD.,

By: **FCM MANAGEMENT, INC.,**
its general partner

By: _____
Name: William Baker
Title: President

AGENCY:

**CITY OF HORNELL INDUSTRIAL DEVELOPMENT
AGENCY**

By: _____
Name: Michael Nisbet
Title: Executive Director

(Signature Page to Assignment Agreement - PILOT)

IN WITNESS WHEREOF, this Assignment Agreement has been duly executed by the parties hereto as of the day and year first above written.

ASSIGNOR:

GRAY MANUFACTURING INDUSTRIES, L.L.C.

By: _____

Name: Penny Gray

Title: Member

ASSIGNEE:

FCM MANAGEMENT, LTD.,

By: **FCM MANAGEMENT, INC.,**
its general partner

By: _____

Name: William Baker

Title: President

AGENCY:

**CITY OF HORNELL INDUSTRIAL DEVELOPMENT
AGENCY**

By:  _____

Name: Michael Nisbet

Title: Executive Director

(Signature Page to Assignment Agreement - PILOT)

(Acknowledgment Page to Assignment Agreement - PILOT)

STATE OF NEW YORK)
COUNTY OF) ss.:

On the 5ⁿ day of January 2023 before me, the undersigned, personally appeared **PENELOPE A. GRAY**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and (s)he acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the person, or entity upon behalf of which the person acted, executed the instrument.

ERICA S. ELLIS
Notary Public, State of New York
Registration No. 01EL6382731
Qualified in Steuben County
Commission Expires October 29, 2024



Notary Public

STATE OF)
COUNTY OF) ss.:

On the ___ day of _____ 20 ___, before me, the undersigned, personally appeared **WILLIAM BAKER**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and (s)he acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the person, or entity upon behalf of which the person acted, executed the instrument.

Notary Public

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

On the ___ day of December 2022, before me, the undersigned, personally appeared **MICHAEL NISBET**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and (s)he acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the person, or entity upon behalf of which the person acted, executed the instrument.

Notary Public

(Acknowledgment Page to Assignment Agreement - PILOT)

STATE OF NEW YORK)
COUNTY OF) ss.:

On the ___ day of _____ 20__, before me, the undersigned, personally appeared **PENELOPE A. GRAY**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and (s)he acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the person, or entity upon behalf of which the person acted, executed the instrument.

Notary Public

STATE OF Pennsylvania
COUNTY OF Westmoreland) ss.:

On the 10th day of January 2023, before me, the undersigned, personally appeared **WILLIAM BAKER**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and (s)he acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the person, or entity upon behalf of which the person acted, executed the instrument.

Commonwealth of Pennsylvania - Notary Seal
Kelli M. Knauff, Notary Public
Westmoreland County
My commission expires August 15, 2025
Commission number 1217520

Kelli M. Knauff
Notary Public

Member, Pennsylvania Association of Notaries
STATE OF NEW YORK)
COUNTY OF STEUBEN) ss.:

On the ___ day of December 2022, before me, the undersigned, personally appeared **MICHAEL NISBET**, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and (s)he acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the person, or entity upon behalf of which the person acted, executed the instrument.

Notary Public

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

On the ___ day of December, 2022, before me, the undersigned, personally appeared PENNY GRAY, 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

STATE OF _____)
)SS.:
COUNTY OF _____)

On the ___ day of December, 2022, before me, the undersigned, personally appeared WILLIAM BAKER, 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

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

On the 22nd day of December, 2022, before me, the undersigned, personally appeared MIKE NISBET, 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.

Margaret Frungillo
Notary Public

(Acknowledgment Page to Assignment Agreement - PILOT)

MARGARET FRUNGILO
Notary Public, State of New York
No. 0168110474
Qualified in Steuben County
My Commission Expires May 24, 2024

Exhibit A

Payment-in-Lieu-of-Tax Agreement, dated as of July 1, 2016
(the "PILOT Agreement")

COPY

GRAY MANUFACTURING INDUSTRIES, L.L.C.

AND

CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT IN LIEU OF TAX AGREEMENT

Dated:

As of July 1, 2016

Street Address:

6270 Ice House Road
City of Hornell, Steuben County

Tax Map Number:

166.00-03-009.300

Affected Tax Jurisdictions:

Steuben County
City of Hornell
Hornell City School District

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "Agreement"), dated as of July 1, 2016, is by and between the **CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 40 Main Street, Hornell, New York 14843 (the "Agency") and **GRAY MANUFACTURING INDUSTRIES, L.L.C.**, a New York limited liability company with offices at 6258 Ice House Road, Hornell, New York 14843 (the "Company") (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 670 of the Laws of 1974 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 Company (for itself, an affiliate or an entity to be formed) has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in a parcel (or parcels) of land located at 6270 Ice House Road, in the City of Hornell, Steuben County, New York (the "Land") the existing improvements located thereon, if any (the "Existing Improvements"; and, together with the Land, the "Facility"); and (ii) the lease of the Facility by the Agency to the Company to be used by the Company to supply goods and technical services to the transit industry and refurbish rail cars; and

WHEREAS, in order to induce the Company to under the Project, the Agency is willing to take a leasehold interest in the Land, the Existing Improvements and the equipment constituting the Facility pursuant to the terms of a certain lease agreement, dated as of July 1, 2016, by and between the Company, as lessor, and the Agency, and lessee (the "Lease Agreement"), and lease the Land, the Existing Improvements and the equipment constituting the Facility back to the Company pursuant to the terms and conditions of a certain leaseback agreement dated as of July 1, 2016 (the "Leaseback Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of Steuben County (the "County"), the City of Hornell (the "City"), and the Hornell City School District (the "School District" and, collectively with the County and the City, the "Affected Tax Jurisdictions").

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:

Section 1 - Payment in Lieu of Ad Valorem Taxes:

Section 1.1 A. Section 1.1 A. Subject to the completion and filing by the taxable status date (**January 1, 2017**) (the "Taxable Status Date") of New York State Form RP-412-a "Application For Real Property Tax Exemption" (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the 2016-2017 City tax year, the 2016-2017 School District tax year and the 2016 County tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the City, County and School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in that certain Leaseback Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Payee. For the term of this Agreement, the Company agrees to pay annually on **July 31** of each year to the Agency at 40 Main Street, Hornell, New York 14843, or at such other address as shall be designated from time to time by the Agency, on behalf of the Affected Tax Jurisdictions and as a payment in lieu of taxes, commencing on or before **July 31, 2016**, an amount equal to the Total PILOT Payment. The Total PILOT Payment shall be calculated as described on Schedule A attached hereto and made part hereof. The Company shall make all such payments regardless of whether the Agency, the Affected Tax Jurisdictions or any other party invoices therefor.

The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder (if any) within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total PILOT Payment among the Affected Tax Jurisdictions, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County and City and special district purposes, the tax rates used to determine the allocation of the Total PILOT Payment shall be the tax rates relating to the calendar year which includes the PILOT payment due date. For School District purposes, the tax rates used to determine the PILOT payment shall be the rate relating to the School District year which includes the PILOT payment due date.

1.4 Valuation of Future Additions to the Facility: If there shall be a future addition to the Facility constructed or added in any manner after the date of this Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total PILOT Payment. The Agency shall notify the Company of any proposed increase in the Total PILOT Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased PILOT payment until a different Total PILOT Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total PILOT Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding PILOT payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2016-2017 School District and City tax years through the 2025-2026 School District and City tax years, and (ii) the 2016 County tax year through the 2025 County tax year. This PILOT Agreement shall expire on **December 31, 2025**; *provided, however*, the Company shall pay the 2026-2027 School District and City tax bills, and the 2026 County tax bill on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax

Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section 2 - Special District Charges, Special Assessments and other Charges. Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

Section 3 - Transfer of Facility. In the event that the Facility is transferred from the Agency to the Company (that is, the Leaseback Agreement is terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section 1 herein, or this Agreement terminates and the property is not timely transferred to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

Section 4 - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section 5 - Changes in Law. To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section 6 - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section 1 within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Lease Agreement after any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section 1 herein are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section 1 herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section 7 - Assignment. No portion of any interest in this Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

Section 8 - Miscellaneous.

8.1 This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: City of Hornell Industrial Development Agency
40 Main Street
Hornell, New York 14843
Attn: James W. Griffin, Executive Director

With a Copy to: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn.: Russell E. Gaenzle, Esq.

To the Company: Gray Manufacturing Industries, L.L.C.
6258 Ice House Road
Hornell, New York 14843
Attn: David Gray

With copies to: John Dagon, Esq.
Law Offices of John Dagon
29 Church Street
Hornell, New York 14843

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

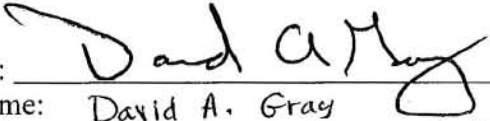
8.3 This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Steuben County, New York.

8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. Neither member of the Agency nor any person executing this Agreement on its behalf shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Agreement.

[SIGNATURE PAGE FOLLOWS]

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

**GRAY MANUFACTURING INDUSTRIES,
L.L.C.**

By: 
Name: David A. Gray
Title: Authorized Representative

**CITY OF HORNELL INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
James W. Griffin, Executive Director

SCHEDULE A

**TO PILOT AGREEMENT DATED AS OF JULY 1, 2016, BY AND BETWEEN THE
CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY
AND
GRAY MANUFACTURING INDUSTRIES, L.L.C.**

<u>Year No.</u>	<u>School Tax and City Years</u>	<u>County</u>	<u>PILOT Payment</u>	<u>Payment Date</u>
1	2016-2017	2016	\$9,000.00	July 31, 2016
2	2017-2018	2017	\$9,270.00	July 31, 2017
3	2018-2019	2018	\$9,548.10	July 31, 2018
4	2019-2020	2019	\$9,834.54	July 31, 2019
5	2020-2021	2020	\$10,326.27	July 31, 2020
6	2021-2022	2021	\$10,842.58	July 31, 2021
7	2022-2023	2022	\$11,384.71	July 31, 2022
8	2023-2024	2023	\$11,953.95	July 31, 2023
9	2024-2025	2024	\$12,551.65	July 31, 2024
10	2025-2026	2025	\$13,179.23	July 31, 2025

[END OF SCHEDULE A]