CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY

AND

PG ROCKLAND SILK MILL LLC

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Project Address:
18 North Main Street
City of Hornell
Steuben County, New York

Tax Map Number:
151.13-01-061.000

Affected Tax Jurisdictions:
Steuben County
City of Hornell
Hornell City School District

Dated as of February 1, 2020

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS **PAYMENT-IN-LIEU-OF-TAX AGREEMENT**, dated as of February 1, 2020 (the "PILOT Agreement"), is by and between the **CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 40 Main Street, Hornell, New York 14843 (the "Agency") and **PG ROCKLAND SILK MILL, LLC**, a limited liability company duly organized and validly existing under the laws of the State of New York, with an address c/o Park Grove Realty, LLC, 46 Prince Street, Rochester, New York 14607 (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 (the "State"); and

WHEREAS, the Company has previously submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the conveyance by the Agency of fee title to and the retention by the Agency of a leasehold interest in an approximately 0.89-acre parcel of land located at 18 North Main Street in the City of Hornell, Steuben County, New York (the "Land"), and the existing improvements located thereon, principally consisting of a two-story abandoned commercial building commonly known as the Marion-Rohr Building (the "Existing Improvements"), (ii) the construction, reconstruction, renovation and rehabilitation of the Existing Improvements to consist of approximately twenty-three (23) residential apartments (the "Improvements"), (iii) the acquisition and installation by the Company in and around the Existing Improvements and Improvements of certain items of equipment and other tangible personal property (the "Equipment"; and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct, reconstruct, renovate and equip the Facility, the Agency is willing to retain or take a leasehold or other interest in the Facility and lease said Facility back to the Company pursuant to a certain Leaseback Agreement, dated as of February 1, 2020 (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 for the benefit of Steuben County, New York (the "County"), the City of Hornell, New York (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 I - Payment in Lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the taxable status date **January 1, 2021** (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 (the "RPTL") 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 (as hereinafter defined) commencing with the 2021-2022 School District tax year, the 2022 County tax year, and the 2021-2022 City tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County, the City and the School District. The Company shall provide 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 the 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.

B. Agreement to Make Payments. As long as the Facility is leased to the Agency or under its jurisdiction, control or supervision, the Company agrees to pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes, on or before on or before January 1 (the "Payment Date"), commencing on January 1, 2022, an amount equal to the Total PILOT Payment, as described in **Schedule A** attached hereto. The Company shall make all such Total PILOT Payments in the amounts and on the dates specified above, whether or not any such Total PILOT Payment is billed by the Agency, the Affected Tax Jurisdictions, or any other party.

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, 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 Payment Date. For School District purposes, the tax rates used to determine the Total PILOT Payment shall be the rate relating to the School District year which includes the Payment 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 PILOT 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; provided, however, the Company may seek real property tax abatement for the Future Addition under this PILOT Agreement, as provided by law and under the terms contained herein. If the Company shall disagree with the determination of assessed value for any Future Addition, 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 Total PILOT Payment until a different Total PILOT Payment shall be established. If a lesser Total PILOT 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 Total PILOT Payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2021-2022 School District tax year through the 2040-2041 School District tax year, (ii) the 2022 County tax year through the 2041 County tax year, and (iii) the 2021-2022 City tax year through the 2040-2041 City tax year. This PILOT Agreement **shall expire on December 31, 2041**; *provided, however*, the Company shall pay (i) the 2041-2042 School District tax bill, (ii) the 2042 County tax bill, and (iii) the 2041-2042 City 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, with any prior excess payment made towards the Total PILOT Payment(s) applied as a credit against the School District, the County, and the City tax bills. 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 PILOT Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility while this PILOT Agreement is in effect, 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 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 II - Special District Charges, Special Assessments and Other Charges.

2.1 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 III - Transfer of Facility.

3.1 In the event that the Facility is transferred from the Agency to the Company (i.e., the Lease Agreement and Leaseback Agreement are 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 I herein, or this PILOT Agreement terminates and the property is not timely transferred back 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 IV - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer with respect to any proposed change in assessment of the Facility by any of the Affected Taxing 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 PILOT Agreement.

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 and (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section V - Changes in Law.

5.1 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 VI - 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 I 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 Act 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 I 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 I herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, the 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, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest as determined hereunder or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section VII - Assignment.

7.1 No portion of any interest in this PILOT 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, except as provided in Section 6.3 of the Leaseback Agreement.

Section VIII - Miscellaneous.

8.1 This PILOT Agreement may be executed in any number of counterparts each of which shall be deemed an original but all of 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: Executive Director
With a Copy to:	Harris Beach PLLC 99 Garnsey Road Pittsford, New York 14534 Attn: Shawn M. Griffin, Esq.
To the Company:	PG Rockland Silk Mill, LLC c/o Park Grove Realty, LLC 46 Prince Street Rochester, New York, 14607 Attn: Andrew V. Bodewes, Partner
With a Copy to:	Nixon Peabody LLP 1300 Clinton Square Rochester, New York 14604 Attn: John D'Amanda, Esq.

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 PILOT 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. No member of the Agency nor any person executing this PILOT Agreement on its behalf shall be liable personally under this PILOT 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 PILOT Agreement.

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

CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Name: James W. Griffin
Title: Executive Director

[Signature Page to PILOT Agreement]
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PG ROCKLAND SILK MILL, LLC,

By: Park Grove Realty, LLC,
as its sole member

By: _____
Name: Andrew V. Bodewes
Title: Partner

SCHEDULE A-1
TO
PILOT Agreement, dated as of February 1, 2020,
By and Between
The City of Hornell Industrial Development Agency
and
PG Rockland Silk Mill, LLC

Tax Year	School District Tax Year	County Tax Year	City Tax Year	Total PILOT Payment
1	2021-2022	2022	2021-2022	$0
2	2022-2023	2023	2022-2023	$0
3	2023-2024	2024	2023-2024	$0
4	2024-2025	2025	2024-2025	$1,000
5	2025-2026	2026	2025-2026	$1,500
6	2026-2027	2027	2026-2027	$2,000
7	2027-2028	2028	2027-2028	$2,000
8	2028-2029	2029	2028-2029	$2,500
9	2029-2030	2030	2029-2030	$2,500
10	2030-2031	2031	2030-2031	$3,000
11	2031-2032	2032	2031-2032	$4,000
12	2032-2033	2033	2032-2033	$4,500
13	2033-2034	2034	2033-2034	$4,500
14	2034-2035	2035	2034-2035	$4,500
15	2035-2036	2036	2035-2036	$4,500
16	2036-2037	2037	2036-2037	$12,000
17	2037-2038	2038	2037-2038	$16,000
18	2038-2039	2039	2038-2039	$18,500
19	2039-2040	2040	2039-2040	$18,500
20	2040-2041	2041	2040-2041	$18,500