

TROY INDUSTRIAL DEVELOPMENT AUTHORITY

AND

INDUSTRIAL PARK COLD STORAGE LLC

WITH ACKNOWLEDGMENT BY AND GUARANTY OF

OLD WORLD PROVISIONS, INC.

FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT

Project

**Industrial Park Cold Storage, LLC with Old World Provisions, Inc.
2019 Expansion Project**

Premises:

**12 Industrial Park Road in the City of Troy, New York
(Tax Map Number 112.0-4-34)**

Taxing Jurisdictions

**Rensselaer County
City of Troy
Enlarged School District of Troy**

FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT

THIS FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT (the "Agreement"), dated as of dated as of October 3, 2019, by and between **TROY INDUSTRIAL DEVELOPMENT AUTHORITY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 433 River Street, 5th Floor, New York 12180 (the "Authority") and **INDUSTRIAL PARK COLD STORAGE, LLC**, a New York limited liability company having offices at 12 Industrial Park Road, Troy, New York 12180 (the "Company"), with acknowledgment and performance guaranty by **OLD WORLD PROVISIONS, INC.**, a New York corporation having offices at 12 Industrial Park Road, Troy, New York 12180 (the "Operator").

WITNESSETH:

WHEREAS, by Title 11 of Article 8 of the Public Authorities Law of the State of New York (the "State"), as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (hereinafter collectively called the "Act"), the Authority was created with the authority and power to own, lease and sell property in furtherance of certain projects necessary and suitable for manufacturing, warehousing, research, commercial or industrial purposes as authorized by Section 1951 of the Act; and

WHEREAS, the Authority previously undertook a certain project (the "2009 Project") for the benefit of Industrial Park Cold Storage, LLC (the "Company") consisting of (i) the acquisition by the Authority of fee title to or a leasehold interest in one or more parcels of real property located at 10 and 12 Industrial Park Road, Troy, New York 12180 (the "2009 Land") and the existing improvements and approximately 9,000 square foot building located thereon, if any (the "2009 Existing Improvements"), (ii) the renovation, refurbishment and equipping of the 2009 Existing Improvements and construction and installation of an approximately 10,000 square foot refrigerated warehouse addition to the Existing Improvements for use as an integrated mat processing and warehouse facility (collectively, the "2009 Improvements") to be leased for operations to Old World Provisions, Inc. (the "Operator"), and (iii) the acquisition and installation by the Company in and around the 2009 Improvements of certain items of equipment and other tangible personal property necessary and incidental in connection with the Company's projected increase in the number of employees currently working at the Project facility (the "2009 Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "2009 Facility"); and

WHEREAS, in furtherance of the 2009 Project, the Authority and Company entered into (i) that certain Lease Agreement, dated as of February 1, 2009 (the "Lease Agreement"), with acknowledgment and guaranty of the Operator wherein the Company leased the 2009 Facility to the Authority, (ii) that certain Leaseback Agreement, also dated as of February 1, 2009, with acknowledgment and guaranty of the Operator (the "Leaseback Agreement"), wherein the Authority leased the 2009 Facility back to the Company, (iii) that certain Payment in Lieu of Tax Agreement, dated as of February 1, 2009 (the "PILOT Agreement"), with acknowledgment and guaranty of the Operator wherein the Company is obligated to make certain PILOT Payments to the Authority for the benefit of Affected Tax Jurisdictions, and (iv) related

documents (collectively, the foregoing being referred to as the "2009 Authority Documents"); and

WHEREAS, the Company and Operator have submitted an application to the Authority requesting the Authority's assistance with a certain project (hereinafter, the "Project") consisting of (i) retention of the Authority's leasehold interests that certain 4.74 acre parcel of land located at 12 Industrial Park Road in the City of Troy (the "Land", being more particularly identified as TMID No. 112.00-4-34) and the existing improvements located thereon consisting of approximately 20,000 sf of building space utilized for the production and packaging of specialty meat products by the Operator (the "Existing Improvements"), (ii) the planning, design, engineering, construction and operation of an approximately 13,300 sf building addition to expand production and related space and amenities, including production and building system improvements, modifications, upgrades, parking lot, curbage and related site and exterior improvements (collectively, the "Improvements"), (iii) the acquisition and installation by the Company in and around the Land, Existing Improvements and Improvements of certain items of equipment and other tangible personal property necessary and incidental in connection with the Company's development of the Project in and around the Land, Existing Improvements and Improvements (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"), and (iv) the lease of the Facility to the Company; and

WHEREAS, in furtherance of the Project, the Authority and Company have entered into a certain Agent and Financial Assistance and Project Agreement, dated as of the date hereof (the "Agent Agreement"), wherein the Authority and Company have memorialized the terms and conditions governing the Authority's appointment of the Company as agent to undertake the Project; and

WHEREAS, the Authority, Company and Operator desire to amend the 2009 PILOT Agreement pursuant to and in accordance herewith in order to induce the Company to acquire, renovate, construct and equip the Facility, the Authority is willing to acquire and retain a leasehold interest in the Land, Improvements and personal property constituting the Facility pursuant to a First Amendment to Lease Agreement and a First Amendment to Leaseback Agreement to be dated on or about the date hereof (the "Leaseback Agreement" and together with the Lease Agreement, the "Lease Agreements"); and

WHEREAS, the Authority and the Company deem it necessary and proper to enter into this Agreement to make provisions for continued payments in lieu of taxes by the Company to the Authority relative to the Facility for the benefit of Rensselaer County (the "County"), the City of Troy (the "City"), and the Enlarged School District Of Troy (hereinafter the "School District" or "School" and, collectively with the City and the Town, 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. Additional Exemption. Subject to the completion and filing by the taxable status date of March 1, 2020 (the "Taxable Status Date") New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under RPTL Section 412 and Section 1963 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Land, Existing Improvements (along with the Improvements once constructed by the Company as agent of the Authority) and Facility shall continue to be exempt from Real Estate Taxes for the periods set forth in Section 1.5 of this Agreement.

Section 2. Section 1.1(B) of the 2009 PILOT Agreement is amended to read as follows:

B. Payee. As long as the Facility is owned by the Authority or leased by the Company to the Authority, or under the Authority's jurisdiction, control or supervision, the Company agrees to pay annually in the aggregate to the Affected Tax Jurisdictions as a payment in lieu of taxes, on or before **February 1** (City and County) and **October 1** (School) of each year (collectively, the "Payment Dates"), commencing on **October 1, 2019**, an amount equal to the Total PILOT payment, as defined in Schedule A, hereto.

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.

Section 3. Schedule A of the 2009 PILOT Agreement is hereby amended and replaced by Schedule A, hereto, with applicability to all payments due hereunder as of and following the date hereof.

Section 4. By execution of this Agreement, the parties hereby agree that the Project shall not be deemed a Future Addition as defined within Section 1.4 of the 2009 PILOT Agreement.

Section 5. Section 1.5 of the 2009 PILOT Agreement is amended to read as follows:

1.5 Period of Benefits. The tax benefits provided for herein shall be deemed to include for the Land, Existing Improvements and Improvements (i) the 2020 County and City tax year through the 2030 County and City Tax year, and (ii) the 2019/2020 School tax year through the 2029/2030 School tax year. This PILOT Agreement shall expire on December 31, 2030; *provided, however*, the Company shall pay the 2031 County and City tax bill and the 2030/2031 School tax bill on the dates and in the amounts as if the Authority were not in title on the tax lien 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 and 485-e 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 6. Section 6.1 of the 2009 PILOT Agreement is amended to read as follows:

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company (or any authorized assignee hereunder) to: (i) make the payments described in Section I on or before the Payment Date (the "Delinquency Date"), and such failure continues and remains uncured for a period of thirty (30) days after written notice thereof is sent to the Company; (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, and such failure continues and remains uncured for a period of thirty (30) days after written notice thereof is sent to the Company; (iii) the occurrence and continuance of any events of default after the expiration of any applicable notice and cure periods under the Leaseback Agreement; or (iv) the occurrence and continuance of any events of default after the expiration of any applicable notice or cure periods under any Permitted Mortgage, as defined within the Leaseback Agreement. Upon the occurrence and during the continuance of any Event of Default hereunder, in addition to any other right or remedy the Authority and/or the Affected Tax Jurisdictions may have at law or in equity, the Authority and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Authority 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 Authority 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 applicable provisions of the Act and the Company shall immediately notify the Authority of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount. PIONEER BANK (herein, the "Lender"), is hereby granted the right, but not an obligation, to cure any Event of Default under the 2009 PILOT Agreement, as amended hereby, with notice and cure periods as provided within same.

Section 7. A new Section 8.5 is added to the 2009 PILOT Agreement to read as follows:

8.5 Notwithstanding anything contained herein to the contrary, the Authority, at its sole but reasonable discretion and on a case-by-case basis, may reasonably determine, (but shall not be required to do so) with respect to the Facility, that the Facility has failed to meet its intended goals and to require the Company to agree to the recapture by the Authority of the value of any or all exemptions from taxation granted with respect to the Facility by virtue of the Authority's involvement. Events that the Authority may determine will trigger recapture are to (i) sale or closure of the Facility; (ii) significant employment reduction; (iii) significant change in use in the Facility; and (iv) significant change in business activities of the Company. If the Authority determines to provide for the recapture with respect to the Facility, the Authority also shall, in its sole but reasonable discretion determine the timing and percentage of recapture. The Authority shall notify the Company in writing within thirty (30) days of any such occurrence of its intent to recapture PILOT Benefits (or any portion thereof), with any such election by the

Authority to be subject to the Company's right to cure such occurrence for a period of thirty (30) days following its receipt of such written notice.

Section 8. Notices and PILOT Billing. The address of the Authority for notification purposes as set forth within the 2009 PILOT Agreement is hereby amended to reflect that as set forth above. All notices given pursuant to the 2009 PILOT Agreement shall also be given to Lender, as follows:

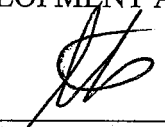
To Lender: PIONEER BANK
652 Albany Shaker Road
Albany, New York 12211
Attn: SVP, Capital Markets

The Authority shall provide the Lender with copies of all PILOT Invoices issued to the Company at the same time issued by the Authority. Likewise, the Company, upon payment of same to the Authority, shall provide the Lender with copies of remittance and check to the Lender.


Section 9. All other provisions of the 2009 PILOT Agreement shall remain in full force and effect.

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

TROY INDUSTRIAL
DEVELOPMENT AUTHORITY


By: 
Name: Steven Strichman
Title: Executive Director

INDUSTRIAL PARK COLD STORAGE, LLC

By: 
Name: Mark Shuket
Title: Member

WITH ACKNOWLEDGMENT BY:

OLD WORLD PROVISIONS, INC.

By: 
Name: Seth Shuket
Title: President

SCHEDULE A

**FIRST AMENEDMENT TO PILOT AGREEMENT
TROY INDUSTRIAL DEVELOPMENT AUTHORITY AND
INDUSTRIAL PARK COLD STORAGE, LLC
WITH ACKNOWLEDGMENT BY
OLD WORLD PROVISIONS, INC.**

PILOT Year	County/ City Tax Years	School Tax Year	Total Taxable Valuation
Interim	2019* 2020	2019-2020*	Base Valuation
Year 1	2021	2020-2021	Base Valuation, plus (Added Value x .00)
Year 2	2022	2021-2022	Base Valuation, plus (Added Value x .00)
Year 3	2023	2022-2023	Base Valuation, plus (Added Value x .00)
Year 4	2024	2023-2024	Base Valuation, plus (Added Value x .00)
Year 5	2025	2024-2025	Base Valuation, plus (Added Value x .00)
Year 6	2026	2025-2026	Base Valuation, plus (Added Value x .50)
Year 7	2027	2026-2027	Base Valuation, plus (Added Value x .50)
Year 8	2028	2027-2028	Base Valuation, plus (Added Value x .50)
Year 9	2029	2028-2029	Base Valuation, plus (Added Value x .50)
Year 10	2030	2029-2030	Base Valuation, plus (Added Value x .50)

For the term of this PILOT Agreement, the Company shall pay full taxes based on a Full Market Value (as may be equalized) to be fixed at **\$965,000.00** for the term hereof (the "Base Valuation"). The Total Taxable Valuation for each Total PILOT Payment shall be calculated such that a graduated abatement factor ("Abatement Factor") shall be applied to the increased assessed valuation attributable to the Improvements made to the Facility by the Company, as an Agent of the Authority, for the Project (the "Added Value"). The abatement schedule shall allow for a 100% exemption from taxation for the Added Value in PILOT Years one through five, with such exemption being reduced to 50% for PILOT Years 6-10. Once the Total Taxable Valuation is established using the Abatement Factor, the Total PILOT Payment shall be determined by multiplying the Total Taxable Valuation by the respective tax rate for each affected tax jurisdiction (after application of any applicable equalization rate). After the tenth PILOT Year, the Facility shall be subject to full taxation by the affected taxing jurisdictions.

Total Taxable Valuation = Base Valuation + (Added Value x Abatement Factor)
Total PILOT Payment = Total Taxable Valuation (after equalization) x Tax Rate

* - previously paid on or before the date hereof