

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

## 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)	2. OCCUPANT (IF OTHER THAN IDA) (If more than one occupant attach separate listing)				
Name Oneida County Industrial Development Agency	Name Chickadee Properties, L.P.				
Street 584 Phoenix Drive	Street 6230 North Houston Rosslyn Road				
City Rome NY 13441	City Houston TX 77091				
Telephone no. Day (315 )338-0393	Telephone no. Day ( 7)3 462-8081				
Evening ( )	Evening ( )				
Contact Shawna Papale	Contact_Laurie Brooks				
Title Executive Director	Title _Vice President/CFO				
<ul> <li>3. DESCRIPTION OF PARCEL</li> <li>a. Assessment roll description (tax map no.,/roll year) 242.020-0001-018.003</li> <li>b. Street address 650 Harbor Way</li> </ul>	d. School District Rome City School District e. County Oneida				
	f. Current assessment \$5,350,000				
c. City, Town or Village City of Rome	g. Deed to IDA (date recorded; liber and page)  Memo of Lease 7/29/09 Inst#R2009-001421				
4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)  a. Brief description (include property use) construction of a 20,928± sf addition ("2015 Addition") to an existing 52,880± sf warehouse building ("2009 Facility") and 18,000± sf addition ("2012 Addition")					
b. Type of construction steel engineered					
c. Square footage see above d. Total cost See Exhibit A attached	f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)				
e. Date construction commenced	June 30, 2026				
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 See Exhibit A and Second Amended and Restated PILOT, attached.					
b. Projected expiration date of agreement June 30, 2026					

c. Municipal corporations to whic be made	h payments will	d. Person or entity re	sponsible for payment
of many	Yes No	Name Chickadee I	Properties, L.P.
County		Title Laurie Broo	ks, VP and CFO
County Town/City			
VillageSchool District			louston Rosslyn Rd
School District		Houston TX 7790	01
e. Is the IDA the owner of the pro If "No" identify owner and exp in an attached statement.			32-8081
6. Is the property receiving or has (check one) ☑		eived any other exemption fron	n real property taxation?
If yes, list the statutory exemp exemption GML §864(4)			nted:
7. A copy of this application, inclute to the chief executive official of each			
	CERTI	<u>FICATION</u>	
ɪ, Natalie L. Brown		, Vice Chairman	of
Name		Title	
Oneida County Industrial Develo	opment Agency	hereby certify tha	t the information
Organization on this application and accompany		a true statement of facts.	
December , 2015		Jataly L Br. Sig	m_
Date		Sig	nature
2	FOR USI	E BY ASSESSOR	
Date application filed			
3a. Agreement (or extract) da			
3b. Projected exemption expir			
4. Assessed valuation of pare	cel in first year of exe	mption \$	
5. Special assessments and s	pecial as valorem levi	es for which the parcel is liable	<b>:</b>
Date		Assace	r's signature
Date		W226220	i o oignatuic

#### Exhibit A

# Application for Real Property Tax Exemption (Form RP-412-a) Oneida County Industrial Development Agency (American Alloy Steel 2015 Facility Expansion)

### 4(d). Total Cost of Facility:

New Construction2,000,000Machinery & Equipment295,000Legal fees15,000Architechtural/Engineering35,000

Total:

\$ 2,345,000

#### 5(a) Formula for Payment

With respect to the 2009 Facility, the Company shall pay 1/3 of taxes years 1-5; 2/3 of taxes years 6-10; and 100% of taxes after year 10. With respect to the 2012 Facility, the Company shall pay 1/3 of taxes on the incremental assessment years 4-8; 2/3 of taxes on the incremental assessment years 9-13; and 100% of taxes after year 13. With respect to the 2015 Facility, the Company shall pay 1/3 of taxes on the incremental assessment years 7-11; 2/3 of taxes on the incremental assessment years 12-16; and 100% of taxes after year 16.

#### Transcript Document No. 3

#### CHICKADEE PROPERTIES, L.P.

and

#### ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

## SECOND AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Oneida County Industrial Development Agency 2009 Real Estate Lease (American Alloy Steel 2015 Facility Expansion)

Oneida County, City of Rome, Rome City School District

Tax Account No.:

242.020-0001-018.003

# SECOND AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS SECOND AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of December 1, 2015, is by and between **CHICKADEE PROPERTIES, L.P.,** a Texas corporation having an address of 6230 North Houston Rosslyn Road, Houston, Texas 77091 (the "Company") 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").

#### WITNESSETH:

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, pursuant to a certain Lease Agreement dated as of July 1, 2009 (the "Original Lease"), the Company conveyed to the Agency a leasehold interest in a certain parcel of land consisting of 5.962± acre parcel of land located at 650 Harbor Way in the City of Rome, Oneida County, New York (the "Land"), which Land is more particularly described in Exhibit A hereto; and

WHEREAS, the Agency previously provided financial assistance to the Company in connection with a project undertaken by the Company consisting of (A) (1) the acquisition, construction and equipping of a 52,880± square foot, one-story steel engineered warehouse building and 4,000± square foot, one-story attached office building and outside concrete area for storage and parking lots (the "Improvements") located on the Land; and (2) the acquisition and installation therein of certain machinery and equipment (the "Equipment") (the Improvements and the Equipment are hereinafter collectively referred to as the "2009 Facility") and (B) the construction of an approximately 18,000 square foot addition to the 2009 Facility (the "2012 Addition") and the acquisition and installation of furnishings and equipment at the 2012 Addition (the "2012 Equipment") (the 2012 Addition and the 2012 Equipment are collectively referred to as the "2012 Facility"); and

WHEREAS, pursuant to a Leaseback Agreement dated as of July 1, 2009 (the "Original Leaseback"), a memorandum of which was recorded in the Oneida County Clerk's Office on July 28, 2009 at Instrument R2009-001422, the Company agreed to acquire, construct and install the 2009 Facility, as agent of the Agency, and the Agency agreed to lease the 2009 Facility to the Company for a term commencing as of July 1, 2009 and terminating June 30, 2020; and

WHEREAS, in furtherance of the Agency's financial assistance for the 2012 Project, the Agency and the Company entered into (A) a First Amendment to Lease Agreement dated as of December 1, 2015 (the "First Amendment to Lease") pursuant to which the term of the Original Lease was extended an additional three (3) years to expire on June 30, 2023 and (B) a First Amendment to Leaseback Agreement dated as of December 1, 2015 (the "First Amendment to Leaseback") pursuant to which, among other things, (1) the definition of the "Facility" therein was amended to mean both the 2009 Facility and the 2012 Facility, and (2) the term of the Original Leaseback was extended an additional three (3) years to expire on June 30, 2023; and

WHEREAS, the Agency and the Company entered into a payment-in-lieu-of-tax agreement dated as of July 1, 2009 (the "Original PILOT Agreement") pursuant to which the Company agreed to make payments in lieu of real property taxes on the 2009 Facility for the term of the Original Leaseback; and

WHEREAS, the Agency and the Company entered into a First Amended and Restated Payment-In-Lieu-of-Tax Agreement dated as of November 1, 2012 (the "First Amended and Restated PILOT Agreement") whereby the parties amended and restated the Original PILOT Agreement in its entirety for the purposes of, among other things, (1) including both the 2009 Facility and the 2012 Facility within the scope thereof, and (2) extending the term of the Original PILOT Agreement for an additional three (3) years; and

WHEREAS, the Company proposes to undertake a certain project (the "2015 Project") consisting of construction of an approximately 20,928± square foot addition to the Facility (the "2015 Addition") and the acquisition and installation of furnishings and equipment at the 2015 Addition (the "2015 Equipment") (the 2015 Addition and the 2015 Equipment are collectively referred to as the "2015 Facility"); and

WHEREAS, the Company has requested that the Agency provide financial assistance for the 2015 Project by granting (i) abatement of real property taxes on the incremental assessment of the 2015 Facility resulting from the construction of the 2015 Addition for a period of ten (10) years and (ii) exemptions from sales and use taxes on purchases in connection with the 2015 Project; and

WHEREAS, by resolution dated June 20, 2014, the Agency determined to undertake the 2015 Project and to grant the financial assistance requested in connection therewith; and

WHEREAS, in furtherance of the Agency's financial assistance for the 2015 Project, the Agency and the Company will enter into (A) a Second Amendment to Lease Agreement dated as of December 1, 2015 (the "Second Amendment to Lease") pursuant to which the term of the Original Lease will be extended an additional three (3) years to expire on June 30, 2026 (the Original Lease as amended from time to time, including but not limited to amendments pursuant to the First Amendment to Lease and Second Amendment to Lease, is hereafter referred to as the "Lease Agreement") and (B) a Second Amendment to Leaseback Agreement dated as of December 1, 2015 (the "Second Amendment to Leaseback") pursuant to which, among other things, (1) the definition of the "Facility" therein will be amended to mean the 2009 Facility, the 2012 Facility and the 2015 Facility, and (2) the term of the Original Leaseback will be extended an additional three (3) years to expire on June 30, 2026 (the Original Leaseback as amended from time to time, including but not limited to amendments pursuant to the First

Amendment to Leaseback and Second Amendment to Leaseback, is hereinafter referred to as the "Leaseback Agreement"); and

WHEREAS, the parties now intend to amend and restate the First Amended and Restated PILOT Agreement in its entirety for the purposes of, among other things, (1) including the 2009 Facility, the 2012 Facility and the 2015 Facility within the scope thereof, and (2) extending the term of the First Amended and Restated PILOT Agreement for an additional three (3) years; and

WHEREAS, the Facility continues to be 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 or the interest therein of the Company or the occupancy thereof by the Company (the "Exempt Taxes"), because the Agency has a leasehold interest in the Facility and the Facility is 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 lessee of the Facility leased by the Agency, will not be required to pay Exempt Taxes through the term of the Leaseback Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on <u>Schedule</u> <u>B</u> attached hereto (each year being referred to as an "Exemption Year"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this amended agreement making additional provision for payments-in-lieu-of-taxes and such assessments by the Company to the City of Rome, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Oneida County, Rome City School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

- 1. The Company shall pay to each Taxing Authority:
- (a) all taxes that are due with respect to the Facility prior to the Exemption Term, including but not limited to payments due under the First Amended and Restated PILOT Agreement, no later than the last day during which such payments may be made without penalty; and

- (b) all special assessments and ad valorem taxes coming due and payable during the term of the Leaseback Agreement and the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.
- 2. The Company shall pay to each Taxing Authority as set forth on <u>Schedule A</u> attached hereto and made a part hereof an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:
  - (a) With respect to the 2009 Facility:
  - (i) one-third of such taxes from the first through and including the fifth Exemption Year; and
  - (ii) two-thirds of such taxes from the sixth through and including the tenth Exemption Year; and
  - (iii) one hundred percent (100%) of such taxes after the tenth Exemption Year.
    - (b) With respect to the 2012 Facility:
  - (i) one-third of such taxes on the incremental assessment resulting from the 2012 Project from the fourth through and including the eighth Exemption Year; and
  - (ii) two-thirds of such taxes on the incremental assessment resulting from the 2012 Project from the ninth through and including the thirteenth Exemption Year; and
  - (iii) one hundred percent (100%) of such taxes after the thirteenth Exemption Year; and
    - (c) With respect to the 2015 Facility:
  - (i) one-third of such taxes on the incremental assessment resulting from the 2015 Project from the seventh through and including the eleventh Exemption Year; and
  - (ii) two-thirds of such taxes on the incremental assessment resulting from the 2015 Project from the twelfth through and including the sixteenth Exemption Year; and
  - (iii) one hundred percent (100%) of such taxes after the sixteenth Exemption Year.

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 leasehold interest in the Facility pursuant to the Leaseback Agreement.

- (b) Anything herein to the contrary, notwithstanding, upon the failure of the Company 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, the Company shall henceforth pay as PILOT Payments one hundred (100%) percent of the Exempt Taxes together with interest at the rate of nine (9%) percent per annum on any delinquent PILOT Payments together with expenses of collection, including but not limited to, payment of attorneys' fees; 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.
- 3. The Company will make PILOT Payments to each Taxing Authority hereunder for each Exemption Year by making the required payment to such Taxing Authority no later than the last day during which such Exempt Taxes could otherwise by made without penalty as if the Agency did not have a leasehold or other interest in the Facility.
- 4. 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 have a leasehold or other interest in the Facility.
- 5. 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 Exemption 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.
  - 6. This Agreement shall be binding upon the successors and assigns of the parties.
- 7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will 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 taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's interest in the Facility, the Company does not have the right to bring a proceeding

to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company.

- 8. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority 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.
  - 9. (a) 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.
  - (b) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.
  - (c) 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, to the Agency or 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:

Chickadee Properties, L.P.

6230 North Houston Rosslyn Road

Houston, Texas 77091 Attn.: Arthur J. Moore

With a Copy To:

F. Christopher Giruzzi, Esq., PLLC

One Hopper Street Utica NY 13501

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

- (e) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.
- 10. This Agreement amends and restates, in its entirety, the First Amended and Restated PILOT Agreement, to be effective as of December 1, 2015.

[signature page follows]

# IN WITNESS WHEREOF, the parties have executed this **Second Amended and Restated PILOT Agreement** as of the date first above written.

CHICKADEE PROPERTIES, L.P., a Texas limited partnership

By: Chickadee Properties GP, Inc.,

its General Partner/

Arthur J. Moore, President

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By:

Natalie L. Brown Vice Chairman

STATE OF TEXAS	
	: ss.;
COUNTY OF	)
said state, personally a satisfactory evidence to acknowledged to me th	day of December 2015 before me, the undersigned a notary public in and for peared <b>Arthur J. Moore</b> , personally known to me or proved to me on the basis of be the individual whose name is subscribed to the within instrument and at he executed the same in his capacity, and that by his signature on the hall or the person upon behalf of which the individual acted, executed the Notary Public

On the day of December 2015 before me, the undersigned a notary public in and for said state, personally appeared **Natalie L. Brown**, 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.

: ss.:

STATE OF NEW YORK

**COUNTY OF ONEIDA** 

Notary Public

LAURA S. RUBERTO Notary Public, State of New York Appointed in Oneida County Reg. No. 01RU5031396 Commission Expires August 1, 2018

# **EXHIBIT A**

## **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.: Diane A. Delude, District Treasurer

# **SCHEDULE B**

# **EXEMPTION YEARS**

Exemption Year (Assessment Roll Year)	County/City Taxes	School Taxes
Year One (07/28/2009)	01/01/2010 - 12/31/2010	07/01/2010 - 06/30/2011
Year Two (07/27/2010)	01/01/2011 - 12/31/2011	07/01/2011 - 06/30/2012
Year Three (07/26/2011)	01/01/2012 - 12/31/2012	07/01/2012 - 06/30/2013
Year Four (07/31/2012)	01/01/2013 - 12/31/2013	07/01/2013 - 06/30/2014
Year Five (07/30/2013)	01/01/2014 - 12/31/2014	07/01/2014 - 06/30/2015
Year Six (07/29/2014)	01/01/2015 - 12/31/2015	07/01/2015 - 06/30/2016
Year Seven (07/28/2015)	01/01/2016 - 12/31/2016	07/01/2016 - 06/30/2017
Year Eight (07/26/2016)	01/01/2017 — 12/31/2017	07/01/2017 - 06/30/2018
Year Nine (07/25/2017)	01/01/2018 - 12/31/2018	07/01/2018 - 06/30/2019
Year Ten (07/31/2018)	01/01/2019 - 12/31/2019	07/01/2019 - 06/30/2020
Year Eleven (07/30/2019)	01/01/2020 - 12/31/2020	07/01/2020 - 06/30/2021
Year Twelve (07/28/2020)	01/01/2021 - 12/31/2021	07/01/2021 - 06/30/2022
Year Thirteen (07/27/2021)	01/01/2022 - 12/31/2022	07/01/2022 - 06/30/2023
Year Fourteen (07/30/2022)	01/01/2023 - 12/31/2023	07/01/2023 - 06/30/2024
Year Fifteen (07/28/2023	01/01/2024 - 12/31/2024	07/01/2024 - 06/30/2025
Year Sixteen (07/27/2024)	01/01/2025 - 12/31/2025	07/01/2025 - 06/30/2026