

SECOND AMENDMENT TO LEASEBACK AGREEMENT

This Second Amendment to Leaseback Agreement (the "Second Amendment") dated as of May 23, 2019 is entered into by and between **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency"), a New York public benefit corporation having its office at 584 Phoenix Drive, Rome, New York 13441 and **KRIS-TECH WIRE COMPANY, INC.**, a New York corporation having an address of Post Office Box 4377, Rome, New York 13442 (the "Company"), and amends that certain Leaseback Agreement dated as of November 1, 2015, as amended on November 1, 2016 (the "Leaseback Agreement") entered into by and between the Agency and the Company, a memorandum of which was recorded in the Oneida County Clerk's Office on November 5, 2015 at Instrument Number R2015-001474.

All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Leaseback Agreement.

Recitals

A. Pursuant to a certain Lease Agreement dated as of November 1, 2015 (the "Lease Agreement"), the Company conveyed to the Agency a leasehold interest in a certain parcel of land consisting of an 8.040± acre parcel of land situated at 80 Otis Street in the Griffiss Business and Technology Park (the "Land"). In connection with the certain financial assistance to the Company hereinafter described, the Agency leases the Land back to the Company pursuant to the Leaseback Agreement for a term expiring June 30, 2027.

B. The Agency previously provided financial assistance to the Company in connection with a project undertaken by the Company consisting of (1) the construction and equipping of a 45,000± square foot manufacturing facility (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 "Facility"), all to be used for the manufacturing of bare and insulated copper wire products.

C. Pursuant to the Leaseback Agreement, the Company agreed to acquire, construct and install the Facility, as agent of the Agency, and the Agency agreed to lease the Facility to the Company for a term commencing as of November 1, 2015 and terminating June 30, 2027.

D. The Company requested the Agency provide additional financial assistance in connection with a project consisting of construction of a 22,000± square foot addition to the Improvements (the "2016 Addition") and acquisition and installation of equipment in the 2016 Addition (the "2016 Equipment") (the 2016 Addition and the 2016 Equipment are collectively referred to as the "2016 Facility" and the construction and equipping of the 2016 Facility is referred to as the "2016 Project").

E. The Agency and the Company entered into a First Amendment to Leaseback Agreement (the "First Amendment") dated as of November 1, 2016 in connection with the 2016 Project.

F. The Company and the Agency previously entered into an amended payment-in-lieu-of-tax agreement dated as of November 1, 2016 (the "First Amended and Restated PILOT Agreement") pursuant to which the Company agreed to make payments in lieu of real property taxes on the Land and the Facility for the terms of the Lease Agreement and the Leaseback Agreement.

G. The Company now proposes to undertake a certain project consisting of construction of a 3,000± square foot addition to the Improvements (the "2018 Addition") and acquisition and installation of equipment (the "2018 Equipment") (the 2018 Addition and the 2018 Equipment are collectively referred to as the "2018 Facility" and the construction and equipping of the 2018 Facility is referred to as the "2018 Project").

H. The Company has requested that the Agency provide financial assistance for the 2018 Project by granting abatement of real property taxes on the incremental assessment of the 2018 Facility resulting from the construction of the 2018 Addition for the balance of the Lease Term and exemptions from sales and use taxes on materials purchased in connection with the 2018 Project.

I. As an inducement for granting the financial assistance for the 2018 Project, the Company has agreed to commit to retaining the existing 58 full time equivalent positions at the Facility, creating an additional 10 full time equivalent positions, and maintaining all for the duration of the Lease Term as a result of undertaking the 2018 Facility.

J. By resolution dated July 13, 2018, the Agency determined to undertake the 2018 Project and to grant the financial assistance requested in connection therewith.

K. JPMorgan Chase Bank, N.A. (the "Bank") proposes to finance a portion of the costs of the Facility by extending a loan to the Company in the principal amount of \$4,350,000 to be secured by a Mortgage dated May 23, 2019 (the "Mortgage") from the Agency and the Company to the Bank.

L. By resolution dated April 25, 2019, the Agency authorized an increase in the value of the mortgage recording tax exemption previously authorized by the Agency, and extending said mortgage recording tax exemption to the Mortgage.

M. The Agency and the Company now desire to further amend the Leaseback Agreement to amend the definition of the Facility to add and include the 2018 Facility and the Mortgage.

Agreement

In consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Agency and the Company hereby agree as follows:

1. Amendments to Definitions of Leaseback Agreement.

(a) The definition of "Facility" is hereby amended to add and include the 2018 Facility.

(b) The definition of "Job Creation and Recapture Agreement" is hereby amended to mean the First Amended and Restated Job Creation and Recapture Agreement dated May 23, 2019 between the Agency and the Company.

(c) The definition of "Project" is hereby amended to add and include the 2018 Project.

(d) The definition of "PILOT Agreement" is hereby amended to mean the Second Amended and Restated PILOT Agreement dated as of May 23, 2019 by and between the Agency and the Company.

(e) The definition of "Bank" is hereby added to mean JPMorgan Chase Bank, N.A., and its successors and assigns.

(f) The definition of "Mortgage" is hereby added to mean the Mortgage dated May 23, 2019 from the Agency and the Company to the Bank, as the same may be consolidated, extended, modified or amended from time to time.

2. Employment Obligation. Section 1.2(h) of the Leaseback Agreement is hereby replaced with the following language:

In its Application for Financial Assistance dated May 9, 2018, the Company projected that, as a result of the Project, it will retain the existing fifty-eight (58) full time equivalent positions at the Facility, create no less than ten (10) full time equivalent positions by the commencement of year six of the Lease Term, and maintain all for the duration of the Lease Term as a result of undertaking the Facility (the "Employment Obligation"). The Company acknowledges that the financial assistance granted by the Agency in connection with the Facility is conditioned upon achieving the Employment Obligation.

3. Rent. Section 2.6(a) of the Leaseback Agreement is hereby replaced with the following language:

The Company shall pay basic rent for the Facility as follows: Five Hundred Dollars (\$500.00) per year commencing on the Closing Date and on the First Business Day of each and every January through January 1, 2019. Commencing January 1, 2020, the Company shall pay basic rent for the Facility as follows: Seven Hundred Fifty Dollars (\$750.00) per year on the First Business Day of each and every January through the expiration of the Lease Term.

4. Notices. The notice address for Company Counsel shall be amended to read as follows:

Barclay Damon, LLP
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202
Attn.: Heather L. Sunser, Esq.

5. Bank Rights. A new Section 9.13 is added:

Section 9.13 Subordination to Mortgage. This Leaseback Agreement and the rights of the Company and the Agency hereunder (other than with respect to the Unassigned Rights) are subject and subordinate to the Lien of the Mortgage, and all extensions, renewals or amendments thereof. The subordination of this Leaseback Agreement to the Mortgage shall be automatic, without execution of any further subordination agreement by the Company or the Agency. Nonetheless, if the Bank requires a further written subordination agreement, the Company and the Agency hereby agree to execute, acknowledge and deliver the same.

Section 9.14 Rights of Bank.

(a) Bank is hereby given the right by the Agency, in addition to any other rights herein granted, without any requirement to obtain the Agency's consent, to mortgage the mortgagors' respective interests in the Facility and, in the case of the Company, to assign and grant a security interest in the Company's rights under the Company Documents as collateral security for its obligations to the Bank, upon the condition that all rights acquired by Bank shall be subject to all rights and interests of the Agency herein and in the other Company Documents, none of which covenants, conditions or restrictions is or shall be waived by the Agency by reason of this right to mortgage or grant a security interest in the Facility and the Company Documents, including Unassigned Rights.

(b) There shall be no renewal, cancellation, surrender, acceptance of surrender, material amendment or material modification of this Leaseback Agreement or any other Company Document by joint action of the Agency and the Company alone, without, in each case, the prior consent in writing of Bank, nor shall any merger result from the acquisition by, or devolution upon, any one entity of any fee and/or leasehold estates or other lesser estates in the Facility. Failure of the Bank to consent to a modification of this Leaseback Agreement by the Agency shall constitute an Event of Default.

(c) If the Agency serves a notice of default upon the Company, it shall also serve a copy of such notice upon Bank at the address set forth in Section 9.1.

(d) In the event of any default by the Company under this Leaseback Agreement or any other Company Document, the Bank shall have fifteen (15) days for a monetary default and thirty (30) days in the case of any other default, after notice to the Company and the Bank of such default to cure or to cause to be cured the default complained of and the Agency shall accept such performance by or at the instigation of Bank as if same had been done by the Company. The Agency in its sole discretion will determine whether such action by the Bank amounts to a cure.

(e) Except where Bank or its designee or nominee has succeeded to the interest of the Company in the Facility, no liability for any payments to be made pursuant to this Agreement or the performance of any of the Company's covenants and agreements under this Agreement shall attach to or be imposed upon the Bank, and if the Bank or its nominee or designee succeeds to the interest of the Company in the Project, all of the obligations and liabilities of the Bank or its nominee or designee shall be limited to such entity's interest in the Facility and shall cease and terminate upon assignment of this Leaseback Agreement by the Bank; provided however, that the Bank or its nominee or designee shall pay all delinquent PILOT Payments, if any, prior to said assignment.

(g) Notwithstanding any provision of this Leaseback Agreement or any other Company Document to the contrary, foreclosure of a mortgage or any sale of the Company's interest in this Leaseback Agreement and/or the Facility in connection with a foreclosure, whether by judicial proceedings, or any conveyance of the Company's interest in this Agreement and/or the Facility to Bank by virtue of or in lieu of foreclosure or other appropriate proceedings, or any conveyance of the Company's interest in this Leaseback Agreement and/or the Facility by Bank shall not require the consent or approval of the Agency and failure to obtain the Agency's consent shall not be a default or Event of Default hereunder.

6. Ratification. Except as expressly amended hereby, the Leaseback Agreement is in all respects ratified and confirmed, and the terms, provisions and conditions thereof shall be deemed to remain in full force and effect.

7. Counterparts. This Second Amendment may be executed in duplicate counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

8. Effective Date. This Second Amendment shall be effective as of May 23, 2019.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed and delivered this **Second Amendment to Leaseback Agreement** as of the day and year first above written.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY


By: 
David C. Grow
Chairman

KRIS-TECH WIRE COMPANY, INC.

By: 
Graham Brodock
President

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

On the 2nd day of May in the year 2019 before me, the undersigned, a notary public in and for said State, personally appeared **David C. Grow**, 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 this instrument.



Notary Public
LAURA S. RUBERTO
COMMISSION EXPIRES
Oneida County
NOTARY
PUBLIC
01RUS031396
AUG. 1, 2022
STATE OF NEW YORK

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

On the 10th day of May in the year 2019 before me, the undersigned a notary public in and for said state, personally appeared **Graham Brodock**, 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

WENDY ANNE MACLAUGHLIN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA6365756
Qualified In Oneida County
My Commission Expires 10-16-2021