

501 Main Street | Utica, NY 13501-1245 | bsk.com

LAURA S. RUBERTO

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February 3, 2016

#### **VIA CERTIFIED MAIL**

Joseph Surace, Assessor City of Rome 198 North Washington Street Rome NY 13440

Re: Oneida County Industrial Development Agency 2015 PILOT Extension

(Rome Community Brownfield Restoration Corporation/Owl Wire & Cable, LLC)

Dear Mr. Surace:

Enclosed you will please find Form RP-412-a (Application for Real Property Tax Exemption) in connection with the above-referenced transaction. Attached to the Application is a copy of the First Amended and Restated Payment in Lieu of Tax Agreement, the terms of which are effective as of <u>December 1, 2015</u>.

We direct your attention to the fact that all PILOT bills should be issued directly to Owl Wire & Cable, LLC.

Should you have any questions, please do not hesitate to contact our offices.

Very truly yours,

Laura S. Ruberto

Paralegal

/lsr

c: Attached Distribution List

#### **Distribution List**

Anthony J. Picente, Jr. Oneida County Executive 800 Park Avenue Utica, New York 13501

Anthony R. Carvelli Commissioner of Finance Oneida County Finance Department 800 Park Avenue Utica NY 13501

Kathy Pilbeam, Director Real Property Tax Services Oneida County 800 Park Avenue Utica, New York 13501

County of Oneida Receiver of Taxes 800 Park Avenue Utica, New York 13501 Jackie Izzo, Mayor City of Rome Rome City Hall 198 North Washington Street Rome, New York 13440

David C. Nolan, City Treasurer City of Rome Rome City Hall 198 North Washington Street Rome, New York 13440

Louis Daniello, President Board of Education Rome City School District 409 Bell Street Rome, New York 13440

Jeffrey P. Simons Superintendent of Schools Rome City School District 409 Bell Street Rome, New York 13440

Rome City School District Attn.: David Dreidel 409 Bell Street Rome, New York 13440



## 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 Owl Wire & Cable LLC				
Street 584 Phoenix Drive	Street 220 South Madison Street				
City Rome NY 13441	City Rome NY 13440				
Telephone no. Day (315 )338-0393	Telephone no. Day ( )315-697-2011				
Evening ( )	Evening ( )				
Contact Shawna Papale	Contact William E. Lucio				
Title Executive Director	Title Vice President of Finance				
<ul> <li>a. Assessment roll description (tax map no.,/roll year) 242.000-1-7.2</li> <li>b. Street address 220 South Madison Street</li> </ul>	d. School District_Rome City School District  e. County_Oneida  f. Current assessment				
c. City, Town or Village Rome	g. Deed to IDA (date recorded; liber and page)  January 11, 2005; Instr.#2005-000683				
4. GENERAL DESCRIPTION OF PROPERTY					
<ul> <li>Brief description (include property use) renovating industrial building to be used for manufacturing cop</li> </ul>	per wire and cable products				
b. Type of construction					
c. Square footage 180,000±  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)  June 30, 2026				
<ul> <li>e. Date construction commenced June 30, 2026</li> <li>5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION         <ul> <li>(Attach copy of the agreement or extract of the terms relating to the project).</li> </ul> </li> <li>a. Formula for payment Company will pay 66% of taxes years 1 - 5; 70% of taxes in year 6; 76% of taxes in year 7; 82% of taxes in year 8; 88% of taxes in year 9; 94% of taxes in year 10 and 100% of taxes thereafter. All PILOT Payments will be calculated using the lesser of the assessed value on the date of this agreement or a reduced assessment. First Amended and Restated PILOT Agreement is attached.</li> </ul>					
b. Projected expiration date of agreement June 30, 2026					

<ul> <li>Municipal corporations to which pa be made</li> </ul>	ymen	ts will	d. Person or entity responsible for payment
	Yes	No	Name Owl Wire and Cable LLC
County			Title William Lucio, VP of Finance
Town/City	~		
Village			Address 220 South Madison Street
VillageSchool District			Rome NY 13440
e. Is the IDA the owner of the proper If "No" identify owner and explain in an attached statement.			` '
6. Is the property receiving or has the (check one) ✓ Ye			eived any other exemption from real property taxation?
			sessment roll year on which granted: sment roll year 2004 - present
7. A copy of this application, includin to the chief executive official of each r	g all a nunic	attachments, ipality with	has been mailed or delivered on which the project is located as indicated in Item 3.
		<u>CERTI</u>	FICATION
I, David C. Grow			, Chairman of
Name			Title
Oneida County Industrial Developm	ent A	gency	hereby certify that the information
Organization		4.4	1 2 2 2
on this application and accompanying  February 1, 2016  Date	paper	s constitutes	Adud Gignature
		FOR US	E BY ASSESSOR
Date application filed			
2. Applicable taxable status date			
3a. Agreement (or extract) date			
3b. Projected exemption expiratio	n (ye	ar)	
4. Assessed valuation of parcel in	n first	year of exe	mption \$
5. Special assessments and speci	al as v	/alorem levi	es for which the parcel is liable:
Date			Assessor's signature

#### **Exhibit A**

# Application for Real Property Tax Exemption (Form RP-412-a) Oneida County Industrial Development Agency (Owl Wire and Cable LLC Facility)

4(d) Project Cost:

> Renovation \$1,800,000

> Architectual/Engineering 25,000

> **Total** \$1,825,000

#### ROME COMMUNITY BROWNFIELD AND RESTORATION CORPORATION

and

OWL WIRE & CABLE LLC

and

#### ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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

Oneida County Industrial Development Agency 2015 Real Estate Lease (Owl Wire & Cable LLC Facility)

Oneida County, City of Rome, Rome City School District

Tax Account No.: 242.000-1-7.2

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

THIS FIRST AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of December 1, 2015, is by and among ROME COMMUNITY BROWNFIELD RESTORATION CORPORATION, a New York not-for-profit corporation having an office at 584 Phoenix Drive, Rome, New York 13441 (the "Company"), OWL WIRE & CABLE LLC, a Delaware limited liability company having an office at 220 South Madison Street, Rome, New York 13440 (the "Sublessee") 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, the Agency owns fee title to a 10.2± acre parcel of land situate at 220 South Madison Street, City of Rome, Oneida County, New York (the "Land") and the industrial facilities located thereon (the "Improvements") (the Land and the Improvements, collectively, the "Facility"); and

WHEREAS, the Agency leases the Facility to the Company pursuant to a Lease Agreement dated as of December 22, 2004 (the "Original Lease Agreement"), a memorandum of which Original Lease Agreement was recorded in the Oneida County Clerk's Office on January 11, 2005 as Instrument No. R2005-000052; and

WHEREAS, the Company subleases a 5± acre portion of the Land (the "Owl Wire Land") and a 180,000± square foot industrial facility situated on the Owl Wire Land (the "Owl Wire Improvements") more particularly described on Exhibit A attached hereto to the Sublessee pursuant to a Sublease Agreement dated January 10, 2005 as amended on April 27, 2015 and on December 1, 2015, as the same may be further amended from time to time (the "Sublease Agreement"); and

WHEREAS, the Sublessee desires to renovate the Owl Wire Improvements and acquire and install equipment therein (the "Owl Wire Equipment"), all to be used for the purpose of manufacturing copper wire and cable products (the Owl Wire Land, the Owl Wire Improvements and the Owl Wire Equipment referred to collectively as the "Facility"); and

WHEREAS, the Agency and the Company entered into a Payment-In-Lieu-of-Tax Agreement dated as of July \_\_\_\_\_, 2006 and filed with the Rome Assessor's Office on July 25, 2006 (the "Original PILOT Agreement") making provisions for payments in lieu of taxes relating to the Owl Wire Facility; and

WHEREAS, in order to induce the Sublessee to develop the Owl Wire Facility, the Agency is willing to maintain its fee interest in the Land, Improvements and Equipment constituting the Facility and continue to lease said Land, Improvements and Equipment (including the Owl Wire Facility) to the Company pursuant to the terms and conditions contained in a First Amended and Restated Lease Agreement dated as of December 1, 2015, as the same may be amended from time to time (the "First Amended and Restated Lease Agreement"); and

WHEREAS, the Agency has agreed to maintain its fee interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Owl Wire Facility has been 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 Owl Wire Facility since July 27, 2004 and the Owl Wire Facility will continue 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 Owl Wire Facility or the interest therein of the Company or the occupancy thereof by the Sublessee commencing upon execution of this First Amended and Restated PILOT Agreement (the "Exempt Taxes"), because the Agency owns fee title to the Owl Wire Facility and the Owl Wire 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 Sublessee understands that it, as sublessee of the Owl Wire Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the First Amended and Restated Lease Agreement from the first date of the First Amended and Restated Exemption Term (as that date is determined by the parties and described herein) through the term of the Sublease Agreement (the "First Amended and Restated Exemption Term"); and

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

WHEREAS, the Agency, the Company and the Sublessee deem it necessary and proper to amend the Original PILOT Agreement making provision for payments-in-lieu-of-taxes relating to the Owl Wire Facility and such assessments by the Sublessee to the City of Rome, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Owl Wire Facility is or may be, wholly or partially located, Oneida County, Rome City School District and appropriate special districts (hereinafter each a "Taxing")

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Authority" and collectively the "Taxing Authorities") in which any part of the Owl Wire 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 First Amended and Restated Lease 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 Sublessee shall pay to each Taxing Authority:
- (a) all taxes or PILOT Payments that are due with respect to the Owl Wire Facility prior to the First Amended and Restated Exemption Term, 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 First Amended and Restated Lease Agreement for which the Owl Wire Facility is not exempt, no later than the last day during which such payments may be made without penalty.
- 2. (a) The Sublessee 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 with respect to the Owl Wire Facility as follows:
  - (i) sixty-six percent (66%) of such taxes from the first through and including the fifth Exemption Year; and
  - (ii) seventy percent (70%) of such taxes during the sixth Exemption Year; and
  - (iii) seventy-six percent (76%) of such taxes during the seventh Exemption Year; and
  - (iv) eighty-two percent (82%) of such taxes during the eighth Exemption Year; and
  - (v) eighty-eight percent (88%) of such taxes during the ninth Exemption Year; and
  - (vi) ninety-four percent (94%) of such taxes during the tenth Exemption Year; and
  - (viii) one hundred percent of such taxes after the tenth Exemption Year.

All PILOT Payments shall be calculated using the lesser of (x) the assessed value of the Facility on the date of this Agreement or (y) any reduced assessment that may be assigned to the Owl Wire Facility following the execution of this Agreement.

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the earlier date on which (a) the First Amended and Restated Lease Agreement shall terminate and the Agency shall convey to the Company its fee interest in the Facility pursuant to the First Amended and Restated Lease Agreement or (b) the Sublease Agreement shall terminate. The benefits under this Agreement are subject to the terms and conditions of a certain Job Creation and Recapture Agreement by the Sublessee dated as of December 1, 2015.

- (b) Anything herein to the contrary, notwithstanding, upon the failure of the Sublessee 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 Sublessee 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 reasonable 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 Sublessee 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 be made without penalty as if the Agency did not own the Owl Wire Facility.
- 4. The PILOT Payments to be made by the Sublessee pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Owl Wire Facility leased to the Company by the First Amended and Restated Lease Agreement and subleased to the Sublessee by the Sublease Agreement if the Agency did not own the Owl Wire 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 Sublessee is required to pay any tax which the payments specified herein are intended to be in lieu of, the Sublessee 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 Sublessee 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 Owl Wire Facility.
  - 6. This Agreement shall be binding upon the successors and assigns of the parties.

- It is the intent of the parties that the Sublessee 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 Sublessee is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not own the Owl Wire Facility. It is the further intent of the parties that the Sublessee will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not own the Owl Wire 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 ownership of the Owl Wire Facility, the Company or the Sublessee 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 and the Sublessee 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 and the Sublessee in all respects in any such proceeding, all at the sole cost and expense of the Sublessee.
- 8. All amounts payable by the Sublessee 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, the Company or the Sublessee, as the case may be, addressed as follows:

To the Agency: Oneida County Industrial Development Agency

584 Phoenix Drive

Rome, New York 13441-4105

Attn.: Chairman

With a Copy To: Bond, Schoeneck & King, PLLC

501 Main Street

Utica, New York 13501

Attn.: Linda E. Romano, Esq.

To the Sublessee:

Owl Wire & Cable LLC 220 South Madison Street Rome, New York 13440

Attention: William E. Lucio, Vice President of Finance

With a Copy To:

Hancock Estabrook, LLP

AXA Tower I

100 Madison St #1500 Syracuse, NY 13202

Attention: Daniel K. Mannion, Esq.

To the Company:

Rome Community Brownfield Restoration Corporation

584 Phoenix Drive Rome, New York 13441

Attn.: Roberto G. Angelicola, President

With a Copy To:

Saunders Kahler, L.L.P.

185 Genesee Street, Suite 1400

Utica, New York 13501

Attn.: Joseph E. Saunders, Esq.

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

- (d) 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 Original PILOT Agreement, to be effective immediately.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this **FIRST AMENDED AND RESTATED PILOT AGREEMENT** as of the date first above written.

OWL WIRE & CABLE L/C

By:

William E. Lucio

Vice President of Finance

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By:

David C. Grow Chairman

ROME COMMUNITY BROWNFIELD RESTORATION CORPORATION

By: Roberto G. Angelicola

President

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

On the day of February 2016 before me, the undersigned a notary public in and for said state, personally appeared **William E. Lucio**, 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

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

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

On the <u>f</u>St day of February 2016 before me, the undersigned a notary public in and for said state, personally appeared **Roberto G. Angelicola**, 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** 

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

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

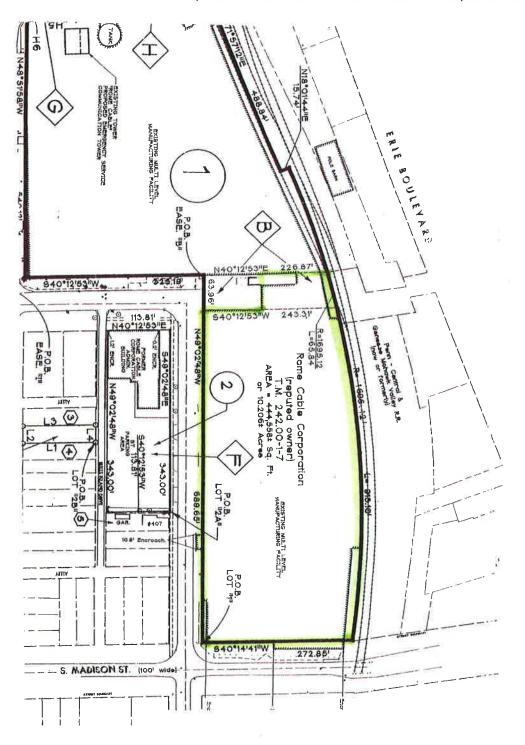
On the <u>for</u> day of February 2016 before me, the undersigned a notary public in and for said state, personally appeared **David C. Grow**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged 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 the instrument.

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**

### Description of Owl Wire Land and Owl Wire Improvements



#### **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.: David Dreidel, District Treasurer

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### SCHEDULE B

### **EXEMPTION YEARS**

Exemption Year	County/Town Taxes	School Taxes
Year One	01/01/2016 – 12/31/2016	07/01/2016 — 06/30/2017
Year Two	01/01/2017 - 12/31/2017	07/01/2017 – 06/30/2018
Year Three	01/01/2018 – 12/31/2018	07/01/2018 – 06/30/2019
Year Four	01/01/2019 – 12/31/2019	07/01/2019 – 06/30/2020
Year Five	01/01/2020 - 12/31/2020	07/01/2020 – 06/30/2021
Year Six	01/01/2021 - 12/31/2021	07/01/2021 – 06/30/2022
Year Seven	01/01/2022 – 12/31/2022	07/01/2022 – 06/30/2023
Year Eight	01/01/2023 - 12/31/2023	07/01/2023 – 06/30/2024
Year Nine	01/01/2024 - 12/31/2024	07/01/2024 — 06/30/2025
Year Ten	01/01/2025 - 12/31/2025	07/01/2025 — 06/30/2026

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