

BG WAREHOUSE LLC

and

TRENTON TECHNOLOGY, INC.

and

CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY

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PAYMENT-IN-LIEU-OF-TAX AGREEMENT

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City of Utica Industrial Development Agency  
2015 Real Estate Lease  
(BG Warehouse LLC Facility)

Oneida County, City of Utica, Utica City School District

Tax Account Nos.: **319.19-1-1.1**

## PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of July 1, 2015, is by and among **BG WAREHOUSE LLC**, a New York limited liability company with an address of Post Office Box 4325, Utica, New York 13504 (the "Company"), **TRENTON TECHNOLOGY, INC.**, a New York corporation with an address of 2007 Beechgrove Place, Utica, New York 13501 (the "Sublessee") and **CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at One Kennedy Plaza, Utica, New York 13502 (the "Agency").

### W I T N E S S E T H:

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 710 of the Laws of 1981 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 Company desires to renovate a 371,000± square foot manufacturing facility (the "Improvements") located on a 21.81± acre parcel of land situated at 2007 Beechgrove Place, City of Utica, Oneida County, New York (the "Land", more particularly described in the attached Exhibit A) and acquire and install machinery and equipment in the Improvements (the "Equipment"), all for the purpose of restoring and developing the Improvements for lease to manufacturing tenants, with the purpose of the primary tenant being to provide high-end manufacturing, design, assembly, delivery and distribution of computer boards for high tech manufacturers (the Land, Improvements and Equipment collectively, the "Facility"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to accept a leasehold interest in the Facility pursuant to a Lease Agreement dated of even date herewith and lease the Facility back to the Company pursuant to the terms and conditions contained in a Leaseback Agreement dated of even date herewith; and

WHEREAS, the Company will sublease a 181,000± square foot portion of the Facility, initially, to the Sublessee pursuant to a Sublease Agreement dated as of July 1, 2015 (the "Sublease Agreement"); and

WHEREAS, under the Sublease Agreement, the Sublessee is obligated to pay on behalf of the Company real property taxes and/or payments-in-lieu-of-taxes to the Taxing Jurisdictions assessed to the Facility; and

WHEREAS, the Company has, and may intend to hereafter, sublease other portions of the Facility to other manufacturing tenants, and the Company has leased other portions of the Facility to tenants making use of such portions of the Facility for storage/distribution; and

WHEREAS, the Agency has agreed to accept a leasehold interest to 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 Facility is 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 commencing August 1, 2015, the taxable status date, (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, in fact, have Exempt Taxes to pay under the provisions of the Leaseback Agreement from the first date of the Exemption Term (as that date is determined by the parties and described herein) through the term of the Leaseback Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule B 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 enter into an agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company and/or the Sublessee to the City of Utica, 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, Utica 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 and/or the Sublessee shall pay to each Taxing Authority:

(a) all taxes that are due with respect to the Facility prior to the 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 Lease 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. (a) The Company and/or the Sublessee shall pay an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:

(i) From the first through and including the tenth Exemption Year: a fixed sum of seventy-five thousand dollars (\$75,000.00); and

(ii) After the tenth Exemption Year: one hundred percent (100%) of Exempt Taxes.

Each PILOT Payment shall be allocated among each Taxing Authority as set forth on Schedule A attached hereto and made a part hereof in the same proportion as taxes would have been allocated but for the Agency's involvement, unless the Taxing Authorities have consented in writing to a specific allocation (For the purposes of apportioning the credit, each Taxing Authority shall use the tax rate for the prior Exemption Year).

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Leaseback Agreement terminates and the Agency terminates its leasehold interest in the Facility pursuant to the Leaseback Agreement.

(b) Anything herein to the contrary, notwithstanding, upon the failure of the Company and/or 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 Company and/or 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 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.

(c) The financial assistance contained in this PILOT Agreement is conditioned upon the Company or the Sublessee meeting the Employment Obligation (as defined in the Leaseback Agreement). Failure to meet the Employment Obligation may subject the Company to recapture under the Leaseback Agreement.

3. The Company and/or 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 have a leasehold or other interest in the Facility.

4. The PILOT Payments to be made by the Company and/or the Sublessee 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 and/or the Sublessee is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company and/or 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 Company and/or 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 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 and/or 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 Company is obligated to make a payment hereunder, 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 and/or the Sublessee will have all of the rights and remedies of a taxpayer 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 and/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/or 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/or the Sublessee in all respects in any such proceeding at the sole cost and expense of the Company and/or the Sublessee.

8. All amounts payable by the Company and/or 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 or the Company, as the case may be, addressed as follows:

To the Agency: City of Utica Industrial Development Agency  
One Kennedy Plaza  
Utica, New York 13502  
Attn.: Executive Director



With a Copy To: Bond, Schoeneck & King, PLLC  
501 Main Street  
Utica, New York 13501  
Attn.: Linda E. Romano, Esq.

To the Company: BG Warehouse LLC  
P.O. Box 4325  
Utica, New York 13504  
Attn.: Albert S. Mazloom, Sole Member/Manager,  
and David Mazloom, Manager

With a Copy To: Kowalczyk, Deery & Broadbent, LLP  
185 Genesee Street, 12<sup>th</sup> Floor  
Utica, New York 13501  
Attn.: Andrew S. Kowalczyk III, Esq.

To the Sublessee: Trenton Technology, Inc.  
1001 Broad Street  
Utica, New York 13501  
Attn.: Albert S. Mazloom, Chief Executive Officer

With a Copy To: Kowalczyk, Deery & Broadbent, LLP  
185 Genesee Street, 12<sup>th</sup> Floor  
Utica, New York 13501  
Attn.: Andrew S. Kowalczyk III, 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.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this **PILOT Agreement** as of the date first above written.

BG WAREHOUSE LLC

By: 

Name: David Mazloom

Title: Manager

TRENTON TECHNOLOGY, INC.

By: 

Name: Albert S. Mazloom

Title: Chief Executive Officer

CITY OF UTICA INDUSTRIAL  
DEVELOPMENT AGENCY

By: 

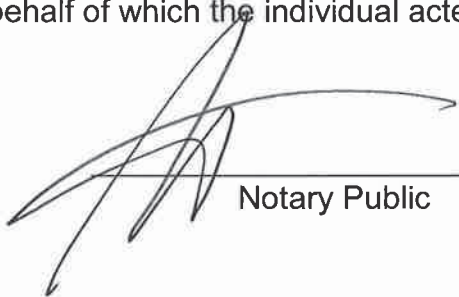
Name: Joseph H. Hobika, Sr.

Title: Chairman



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

On the 25 day of July 2015 before me, the undersigned a notary public in and for said state, personally appeared **David Mazloom**, 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.

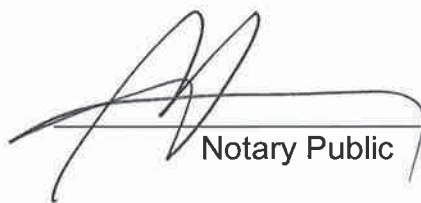


\_\_\_\_\_  
Notary Public

ANDREW S. KOWALCZYK, III  
Notary Public, State of New York  
Reg. #02KO4782128  
Appointed in Oneida County  
My Commission Expires 05/31/ 15

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

On the 28 day of July 2015 before me, the undersigned a notary public in and for said state, personally appeared **Albert S. Mazloom**, 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.



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Notary Public

ANDREW S. KOWALCZYK, III  
Notary Public, State of New York  
Reg. #02KO4782128  
Appointed in Oneida County  
My Commission Expires 05/31/ 15

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

On the 27<sup>th</sup> day of July 2015 before me, the undersigned a notary public in and for said state, personally appeared **Joseph H. Hobika, Sr.**, 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.



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Notary Public

LINDA E. ROMANO  
Notary Public, State of New York  
ONEIDA COUNTY  
Commission Expires Jan. 27, 2017

## EXHIBIT A

### SCHEDULE "A"

ALL THAT TRACT, PIECE OR PARCEL OF LAND situate in the City of Utica, County of Oneida and State of New York, bounded and described as follows:

Commencing at a concrete monument, said monument located at the original intersection of the southwesterly street boundary of Culver Avenue with the southerly street boundary of existing Dwyer Avenue; thence South  $71^{\circ} 10' 30''$  East along the last mentioned street boundary 479.71 feet to a point; thence South  $31^{\circ} 17' 54''$  West, 30.72 feet to the POINT OF BEGINNING, said point located on the southerly street boundary of relocated Dwyer Avenue; thence South  $71^{\circ} 09' 21''$  East, along the relocated Dwyer Avenue and parallel to the original southwesterly street boundary of Dwyer Avenue 427.90 feet to an angle point in said relocated Dwyer Avenue; thence South  $55^{\circ} 47' 04''$  East, continuing along the southwesterly street boundary of relocated Dwyer Avenue and parallel with the original street boundary 627.34 feet to a point, said point located at the intersection of said southwesterly street boundary of the relocated Dwyer Avenue with the division line between the herein described property on the northwest and the property of One Oxford Crossing, LLC (now or formerly), on the southeast; thence South  $30^{\circ} 10' 33''$  West, being easterly of and 15 feet parallel with the existing structure, a distance of 890.82 to a point; said point being 10 feet northerly of the former northerly street boundary of Beechgrove Place; thence North  $59^{\circ} 46' 31''$  West along a line which is 10 feet northerly and parallel with the former northerly street boundary of Beechgrove Place, a distance of 815.10 feet to an angle point; thence North  $55^{\circ} 19' 21''$  West, along a line 10 feet northerly and parallel with the former northerly street boundary of Beechgrove Place, a distance of 247.11 feet to a point located on the division line between the herein described property on the southeast and the property of Health Pak, Inc. (now or formerly) on the northwest; thence North  $31^{\circ} 17' 54''$  East, along the last mentioned division line and the division line between herein described property on the southeast and the property of Utica Urban Renewal Agency (now or formerly), on the northwest, a distance of 831.08 feet to the point of beginning.

**SCHEDULE A**

COUNTY OF ONEIDA  
Receiver of Taxes  
800 Park Avenue  
Utica, New York 13501

CITY OF UTICA  
Receiver of Taxes  
One Kennedy Plaza  
Utica, New York 13502  
Attn.: City Treasurer

UTICA CITY SCHOOL DISTRICT  
Receiver of Taxes  
106 Memorial Parkway  
Utica, New York 13501

**SCHEDULE B**

**EXEMPTION YEARS**

<b>Exemption Year (Assessment Roll Year)</b>	<b>County Taxes</b>	<b>City Taxes</b>	<b>School Taxes</b>
Year One (08/01/2015)	01/01/2016 – 12/31/2016	04/01/2016 – 03/31/2017	07/01/2016 – 06/30/2017
Year Two (08/01/2016)	01/01/2017 – 12/31/2017	04/01/2017 – 03/31/2018	07/01/2017 – 06/30/2018
Year Three (08/01/2017)	01/01/2018 – 12/31/2018	04/01/2018 – 03/31/2019	07/01/2018 – 06/30/2019
Year Four (08/01/2018)	01/01/2019 – 12/31/2019	04/01/2019 – 03/31/2020	07/01/2019 – 06/30/2020
Year Five (08/01/2019)	01/01/2020 – 12/31/2020	04/01/2020 – 03/31/2021	07/01/2020 – 06/30/2021
Year Six (08/01/2020)	01/01/2021 – 12/31/2021	04/01/2021 – 03/31/2022	07/01/2021 – 06/30/2022
Year Seven (08/01/2021)	01/01/2022 – 12/31/2022	04/01/2022 – 03/31/2023	07/01/2022 – 06/30/2023
Year Eight (08/01/2022)	01/01/2023 – 12/31/2023	04/01/2023 – 03/31/2024	07/01/2023 – 06/30/2024
Year Nine (08/01/2023)	01/01/2024 – 12/31/2024	04/01/2024 – 03/31/2025	07/01/2024 – 06/30/2025
Year Ten (08/01/2024)	01/01/2025 – 12/31/2025	04/01/2025 – 03/31/2026	07/01/2025 – 06/30/2026