

STATE OF NORTH CAROLINA  
GUILFORD COUNTY

THIS CONTRACT is hereby made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between GUILFORD COUNTY, hereinafter referred to as the "COUNTY", and \_\_\_\_\_ a corporation currently doing business in GUILFORD COUNTY, North Carolina, hereinafter referred to as the "COMPANY", and collectively referred to as the "Parties".

**WITNESSETH:**

For the purpose and subject to the terms and conditions hereinafter set forth, the COUNTY and COMPANY hereby agree as follows, in accordance with N. C. General Statutes §158-7.1, and action duly taken by the GUILFORD COUNTY Board of Commissioners following a public hearing on April 5, 2018.

1. The COMPANY agrees to invest a minimum of \$400,000,000 including the purchase of the following nine (9) GUILFORD COUNTY Tax Parcels #0119113; #0119080; #0119081; #0117421; #0117426; #0117416; #0117441; and #0117423 totaling 341.66 acres and rezoning said parcels to an Industrial Zoning Classification in GUILFORD COUNTY, NC.
2. Said investment includes the construction of the following in two (2) Phases:  
Phase 1: Refrigerated Warehouse Building; and  
Phase 2: Future HV Warehouse Building.
3. The COMPANY will (1) cause to increase the GUILFORD COUNTY property tax base by adding to the tax rolls; (2) create one-thousand (1,000) new full-time jobs in GUILFORD COUNTY; (3) compensate the persons employed in the one-thousand (1,000) new positions with average annual wages of at least \$42,000; (4) pay substantial benefits to the new employees as defined in Paragraph 23-Definitions; and (5) pay additional GUILFORD COUNTY property taxes based on the increased assessed value of at least \$300 Million in real (land value and new construction) and personal property (new machinery and equipment); hereinafter referred to as "Value".

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4. The activities of the COMPANY will add to the GUILFORD COUNTY tax base, provide employment to GUILFORD COUNTY citizens and generally greatly benefit economic conditions and business prospects for GUILFORD COUNTY.
5. The COUNTY agrees to pay to the COMPANY an incentive grant not to exceed 80% of the actual assessed value (or taxes paid). Payment shall be made according to the schedule in Paragraph No. 6 (below) unless in any grant year 1) the number of new Full-Time Jobs added to the payroll is less than the specified number set out in the schedule, in which case the incentive grant for that year shall be pro-rated based on the actual number of new Full-Time Jobs; and (2) the average compensation to persons employed in the new jobs falls below \$42,000 annually. Pro-ration of the annual wage will be calculated as a percentage of the wage shortfall. If more than one of the goals is not met, then the incentive grant payment for that year shall be reduced in a percentage amount equal to the unweighted average of the percentages by which the COMPANY falls behind.
6. Subject to the terms and conditions of this AGREEMENT, GUILFORD COUNTY shall pay COMPANY in amounts equal to eighty percent (80%) of the annual COUNTY of GUILFORD real and personal property taxes assessed and paid upon value of real and personal property for Tax Years 2022 through 2031. For the purposes of this AGREEMENT, the BASE YEAR is Tax Year 2018. Any increase in real and personal property values after BASE YEAR 2018 will be paid in accordance with this AGREEMENT.

<b>Grant Year</b>	<b>Tax/ Calendar Year</b>	<b>Payment Year</b>	<b>Minimum Projected Assessed Value</b>	<b>Cumulative Headcount Growth</b>
1	2022	2023	\$214,750,000	500
2	2023	2024	\$255,580,000	
3	2024	2025	\$300,000,000	750
4	2025	2026	N/A	1000
5	2026	2027	N/A	
6	2027	2028	N/A	
7	2028	2029	N/A	
8	2029	2030	N/A	
9	2030	2031	N/A	
10	2031	2032	N/A	

Values shall be the same as the value of such property as determined annually by the GUILFORD COUNTY Tax Department, subject to the appeal procedures set forth in North Carolina General Statutes. Any decrease in value after appeal

is subject to recalculation of the appropriate amount of the Incentive Payment from the COUNTY under this AGREEMENT. If the COUNTY already has issued the Incentive Payment to the COMPANY based on the larger value, payment to the COUNTY by COMPANY of such difference shall be remitted within sixty (60) days to the COUNTY after final determination of appeal.

In connection with each request for the grant payment, or at any time upon request during the applicable grant years, the COMPANY shall deliver to the COUNTY Manager or his designee a performance letter certifying that it has successfully completed all of the acts enumerated in Paragraph 6. Annually, until the initial performance requirements are met, the COMPANY shall permit and provide access for the COUNTY to the subject property to review the performance requirements and workforce information. Information attained during these visits shall remain under the possession of the COMPANY and not leave the property unless specifically required by the Agreement. If the COMPANY does not meet all of the conditions required to be certified in the performance letter, it shall qualify for a pro-rated incentive grant payment for that year. Upon the request of the COUNTY Manager or designee, the COMPANY shall present to the COUNTY such evidence as the COUNTY may request to confirm the facts in the performance letter (excluding real and/or personal projected property valuations), especially those relating to employment. Any such requested evidence shall be kept confidential and shall remain the property of the COMPANY, to be returned after the COUNTY'S review, to the full extent allowed by law.

The other provisions of this AGREEMENT notwithstanding, in any year of the grant periods stated above the COMPANY may, due to economic conditions, market vitality and other overriding business considerations which affect the COMPANY's growth plans, exercise its option to waive the incentive grant payment for that year and to shift the above schedule of incentive grant payments forward one year. This option may be exercised, if at all, no more than two times during the term of this AGREEMENT. If such an extension of incentive grant payments is taken by the COMPANY, all of the terms of this AGREEMENT shall be adjusted accordingly.

7. If, in any Grant Year, the COMPANY files for a grant payment, yet qualified for a payment that is less than the maximum payment for each Grant Year, the difference between the maximum amount and the eligible amount may be carried forward in the following manner: At the end of the eighth year (after seven years of incentive grant payments), if the COMPANY invested or caused to be invested in Capital Investments (real and personal) in which the real and personal assessed value is at least \$300 Million and still retains no less than the 1,000 new Full-Time Jobs at an average wage of \$42,000 per year, then one residual payment representing the total annual differences between eligible and actual payments for each of the seven years may be made. The COUNTY agrees to

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pay to the COMPANY an incentive grant not to exceed 80% of the actual assessed value (or taxes paid).

The COMPANY shall request its first grant payment in Fiscal Year 23/24 subject to payment of property taxes after July 1, 2023 (unless the benchmarks are delayed by COMPANY as provided in Paragraph 5 above). The COMPANY may request each grant payment at any time after payment of all of its GUILFORD COUNTY property taxes for the tax year.

If the COMPANY has any outstanding taxes due to GUILFORD COUNTY at the time a request for payment is made by the COMPANY, COUNTY shall give the COMPANY thirty (30) days written notice of nonpayment with a description of the unpaid invoice and an opportunity to cure the nonpayment of taxes. The COUNTY shall not withhold payment of any incentives for outstanding taxes if the COMPANY is challenging the taxes.

8. The Parties recognize that the incentive payments set out herein are contingent upon increased Capital Investments and the creation of viable long-term employment within GUILFORD COUNTY. COMPANY agrees that it will maintain at least eighty percent (80%) of the created full-time jobs/verified positions for a period of three (3) years after receipt of payment for the employment of said positions. COMPANY agrees to pay the COUNTY, in liquidated damages, eighty percent (80%) of the total amount of economic incentive paid to the COMPANY during that subject year, if the level of full-time employment falls below eighty percent (80%) of the total employment positions verified and compensated under this AGREEMENT.
9. In connection with each request for the grant payment, the COMPANY shall deliver to the GUILFORD COUNTY Manager or his designee a performance letter certifying that it has successfully completed all of the acts enumerated in Paragraph 3. If the COMPANY does not meet all of the conditions required to be certified in the performance letter, it shall qualify for a pro-rated reimbursement for that year. Upon the request of the COUNTY Manager or designee, the COMPANY shall present to the COUNTY such evidence as may be requested to confirm the facts in the performance letter, especially those relating to employment. Any such requested evidence shall be kept confidential and shall remain the property of the COMPANY to be returned after the COUNTY'S review, to the full extent allowed by law.
10. The obligation of the COUNTY to reimburse the COMPANY for the sums provided herein shall not be limited or restricted to any particular source of funds, but such reimbursement may be paid from any funds legally available to the COUNTY for such purpose.

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11. The COUNTY agrees to provide expedited/fast track plan review, permitting, and inspections at the standard fee schedule.
12. This AGREEMENT contains on-going bilateral obligations from one party to the other and is agreed to by both parties as being a continuing CONTRACT pursuant to N.C.G.S. §153A-13. As a continuing CONTRACT, the obligations established under this AGREEMENT shall be binding upon future Boards of COUNTY Commissioners.
13. The COMPANY agrees to substantially comply with all federal, state, and local regulations with regard to building and site improvement activities.
14. The COMPANY shall operate as an independent contractor for all purposes. The Parties agree to each solely be responsible for their own acts or omissions in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their individual acts or omissions to the extent allowable by law.
15. It is agreed that the COUNTY, through its auditors, shall have the right upon reasonable notice, to inspect, audit, examine and copy COMPANY records pertaining to construction costs and wages paid pursuant to this AGREEMENT. All records revealed by the COMPANY to the COUNTY'S auditors shall remain confidential and may be used by the COUNTY only for audit purposes to the full extent allowed by law.
16. This AGREEMENT shall inure to the benefit of and is binding upon the COMPANY and the COUNTY and their respective successors and assigns.
17. If any provision of this AGREEMENT is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof. All remaining provisions of this CONTRACT shall remain in full force and effect.
18. This AGREEMENT is enforceable subject to the jurisdiction and laws of the State of North Carolina.
19. If the COMPANY should undergo merger, acquisition, bankruptcy or any change in their ownership or their name for any reason, COMPANY must immediately notify COUNTY in writing of these changes and provide GUILFORD COUNTY with legal documentation supporting these changes such as an Assumption Agreement, Bill of Sale, Articles of Incorporation, Articles of Amendment, Sales Contract, Merger Documents, etc. Further, the COMPANY will submit the name and address of the assuming COMPANY'S registered agent for service of process and/or all notices required under this CONTRACT. The CONTRACT

may not be assumed or otherwise transferred to another party by the COMPANY without the express written consent of COUNTY, which said consent will be evidenced by acceptance memo or letter from the COUNTY Manager or designee to the COMPANY and the assuming COMPANY; provided, however, that the COMPANY may without the consent of COUNTY assign this AGREEMENT to an Affiliate of COMPANY.

- 20.** All notices pursuant to this AGREEMENT shall be in writing and delivered personally or mailed by certified mail, registered mail, postage prepaid, with return receipt requested, at the addresses appearing below, but each party may change such address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three (3) days after mailing.

To COUNTY:

COUNTY Manager  
GUILFORD COUNTY  
P. O. Box 3427  
301W. Market Street  
Greensboro, NC 27402

To Company:

Project Sky  
ADDRESS

- 21.** This CONTRACT sets forth the entire AGREEMENT between the Parties. All prior conversation or writings between the Parties hereto or their representatives are merged within and extinguished. This CONTRACT shall not be modified except by a writing subscribed to by both Parties.
- 22.** It is understood by the parties that the COMPANY has a separate incentive grant agreement with the City of Greensboro, which covers the same new construction as are the subject of this AGREEMENT. It is understood and agreed that any terms of an incentive grant agreement with the City of Greensboro shall in no way have any bearing or effect on the terms contained in this AGREEMENT and vice versa.
- 23.** Definitions:

Affiliate: Shall be deemed to mean and include any entity owned by, controlled by or in common ownership with Project Sky. Affiliate includes (presently existing or hereafter acquired or created by the COMPANY). In determining compliance with this AGREEMENT, COMPANY shall be entitled to include contributions from its Affiliates for satisfying the benchmarks for Capital Investments and/or Headcount Growth.

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Capital Investments: Shall be deemed to include investments directly made by the COMPANY or caused by the Company to be made by third parties for the benefit of the COMPANY. Third parties shall be deemed to include COMPANY's

landlords under existing or future lease agreements, lease amendments or other agreements. Likewise, if the COMPANY, through a lease amendment, requires its landlord to make certain improvements to an existing structure, such as installing equipment, machinery or fixtures, all such costs incurred by COMPANY's landlord would count toward the COMPANY's Capital Investment benchmarks. Capital Investments shall include new building construction (including construction of new buildings, additions to existing buildings and/or renovations), machinery and equipment).

Full-Time Job: Shall be deemed to mean an employee working 35 or more hours per week with fringe benefits including group health insurance, \_\_\_\_\_.

IN WITNESS WHEREOF, the COUNTY and COMPANY have set their hands and seals as of the day and year first above written.

ATTEST:

GUILFORD COUNTY

\_\_\_\_\_  
Clerk to Board

By \_\_\_\_\_  
Marty Lawing, COUNTY Manager

ATTEST:

PROJECT SKY CORPORATION

\_\_\_\_\_  
Corporate Secretary

By \_\_\_\_\_  
TITLE

(CORPORATE SEAL)

Printed Name: \_\_\_\_\_

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Finance Director