

## **JOB CREATION GRANT AGREEMENT**

This Agreement made and entered into by and between the **CITY OF HUDSON, OHIO**, a municipal corporation, with its main offices located at 1140 TEREX ROAD, HUDSON, OHIO 44236 (hereinafter referred to as "Hudson") and **FLEETHQ PARTNERS, LLC**, a limited liability company in Ohio, and qualified to do business in Ohio, with its main offices currently located at 6450 Rockside Woods Blvd., Independence, Ohio 44131, (hereinafter referred to as "Company"), and is effective as of \_\_\_\_\_, 2020.

### WITNESSETH:

WHEREAS, Hudson has encouraged the creation and retention of job opportunities throughout the City; and

WHEREAS, the Company is purchasing land at the corner of Boston Mills Road and West Executive Parkway to construct a headquarters building for the Company which will create employment opportunities (hereinafter sometimes referred to as the "PROJECT") within the boundaries of the City of Hudson, provided that the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the Council of Hudson by Resolution No. 05-39, adopted May 4, 2005, created the Job Creation Grant Program pursuant to Article XVIII, Section 3 and Article VIII, Section 13 of the Ohio Constitution; and

WHEREAS, the City of Hudson, having the appropriate authority for the stated type of program, is desirous of providing the Company with incentives available for the development of the PROJECT; and

WHEREAS, the Company has remitted the required application fee of \$500.00 made payable to Hudson; and

WHEREAS, the Economic Development Incentive Committee of Hudson has investigated the application of the Company and has recommended the same to Hudson City Council on the basis that the Company is qualified by financial responsibility and business experience to create employment opportunities in Hudson and improve the economic climate of Hudson;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Description of the Project.

- A. The Company shall construct a headquarters building at or near the corner of Boston Mills Road and West Executive Parkway, Hudson, Ohio to house its operations and associated office facilities.

2. Job Creation.

A. The Company shall create at the Project site in Hudson by December 31, 2024, the equivalent of 225 new fulltime (“F/T”) permanent job opportunities.

1) The Company's schedule for hiring the full-time and part-time employees is as follows:

<u>Year</u>	<u>Number of Jobs in Hudson</u>
No later than December 31, 2021	195 F/T
No later than December 31, 2022	205 F/T
No later than December 31, 2023	215 F/T
No later than December 31, 2024	225 F/T

B. The job creation period begins approximately January 1, 2021 and all new F/T jobs shall be in place by December 31, 2024.

C. Pursuant to the Company’s representations, the increase in the number of employees new to Hudson will result in approximately \$20,203,163.00 of additional annual payroll when the maximum employment level is achieved. However, it is estimated by the Company that the Company’s employees will work remotely (outside of the corporate boundaries of Hudson) for 40% of their time and therefore only 60% of the city income taxes generated by the Company’s annual payroll will be payable to the City of Hudson. Consequently, upon achievement by the Company of the maximum employment level, the total additional annual payroll from which the City of Hudson may levy city income tax will be approximately \$12,121,898.00.

3. Issuance of Grant.

A. Hudson authorizes a Job Creation Grant to the Company based upon the creation of new payroll and jobs in Hudson, according to the schedules in Section 2(A)(1) above and below.

<u>Years</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Hudson</u>
1-10	50%

B. For purposes of calculating the amount of the grant, the payroll upon which the grant is based may not exceed 125% above the maximum new payroll projected in Section 2(C) above that is taxable by the City of Hudson. Accordingly, the maximum payroll upon which the grant is based shall be \$15,152,372.50.

C. Grant payments will be made according to the parameters below:

(1)

<u>Year</u>	<u>Minimum New Employment to Receive Grant</u> (75% projected)	<u>Minimum New Payroll to Receive Full Grant</u> (90% projected)	<u>Minimum Payroll to Receive Any Grant</u> (75% projected)	<u>Maximum Eligible New Payroll</u> (125% of maximum projected in final yr. of grant)
1	147	\$8,761,968	\$7,301,640	\$15,152,372.50
2	154	\$9,456,872.40	\$7,880,689.50	\$15,152,372.50
3	162	\$10,172,531.70	\$8,477,109.75	\$15,152,372.50
4-10	169	\$10,909,708.20	\$9,901,423.50	\$15,152,372.50

(2) If the Company does not achieve at least 90% of payroll projections, the Company will receive reduced incentives according to the schedule below:

<u>% of Payroll Projection Achieved</u>	<u>Amount of Grant as a Percentage of Payroll Taxes to Hudson</u>
90-100%	50%
85-89%	45%
80-84%	40%
75-79%	35%
Less than 75%	No grant for that year

(3) If the Company fails to meet 75% of its payroll or 75% of its employment projections in any given year, the grant shall not be awarded for that year.

4. Grant Payments.

A. Initial Grant Payment.

(1) Year 1 projections must be met by January 1, 2022. The initial grant payment shall be made by June 30, 2022, provided that the Company files its Reconciliation of Return Income Tax Withheld Form 17 by February 28, 2022 and meets the eligibility requirements in this Agreement.

(2) If the Project start or occupancy of the PROJECT facility is delayed, Year 1 may be extended to the following year and the Year 1 projections deadline adjusted accordingly and all subsequent deadlines may be extended by one (1) year, but only upon written request by the Company to the Hudson Director of Economic Development and provided that the extension is approved by the Director of Economic Development with notice to the Economic Development Incentive Committee.

(3) If the PROJECT or occupancy of the PROJECT facility begins in the third or fourth quarter of the year and the Company is not able to meet its Year 1 projections by December 31<sup>st</sup> of that year, Year 1 will be considered the first full year of occupancy, and the first grant payment will occur in the year following the first full year of the PROJECT or occupancy of the PROJECT facility.

- B. Timing of Annual Grant Payments. Annual grant payments shall be made by June 30th, provided that the Company files its Reconciliation of Return Income Tax Withheld Form 17 by February 28th of said year. If the Company requests an extension for filing of its Form 17, Hudson will make the grant payment within three months of the extended filing date. It is the responsibility of the Company to advise the Director of Economic Development of the filing extension.
5. Payment of Taxes and Filing Reports and Returns. The Company shall pay such real and tangible personal property taxes as are charged against such property in Hudson and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are terminated beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.
6. Information for Annual Review. The Company shall timely provide to Hudson any information reasonably required by Hudson to evaluate the Company's compliance with this Agreement.
7. Maintenance of Grant.
- A. Hudson shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain incentives granted under this Agreement including, without limitation, joining in the execution of all documentation and providing necessary information to maintain the incentives granted hereunder.
- B. If for any reason the Job Creation Grant Program is discontinued, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Company materially fails to fulfill its obligations under this Agreement and Hudson terminates or modifies the incentives granted under this Agreement.
8. Certification as to Payment of Taxes. The Company certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which the Company is liable under Chapters 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, and further certifies that it has not filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has not been filed against the Company. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.
9. Non-Discrimination Hiring. Hudson has a policy to ensure recipients of Job Creation

Grants practice non-discriminatory hiring in their operations. By executing this Agreement, the Company is committing to following non-discriminatory hiring practices acknowledging that no individual may be denied employment solely based on race, religion, sex, disability, color, national origin, or ancestry.

10. Transfer and Assignment. This Agreement is not transferable or assignable without the express, written approval of Hudson. Hudson acknowledges that it would be unreasonable to withhold such consent in the event of a proposed transfer or assignment to any parent, subsidiary or affiliate of the Company or to any third party so long as with respect to all or any of such proposed transfers or assignments, the proposed transferee or assignee adequately and sufficiently demonstrates to Hudson, to Hudson's reasonable satisfaction, its financial ability, business experience and intentions to continue its operations of the PROJECT facility and PROJECT in a manner similar to that of the Company in all pertinent respects.

11. Termination or Modification of Incentives.

A. If the Company fails to meet 75% of payroll in any given year, the grant shall not be awarded for that year. The Company must also achieve 75% of the job creation projected for the given year. If payroll is within an acceptable range for any given year, but employment is less than 75% of projected, no grant will be awarded for that year.

B. If the PROJECT does not proceed as specified in Section 4(A)(1) of the Agreement or within the approved one-year extension period as specified in Section 4.(A).(2) or (3), Hudson may terminate the Agreement upon recommendation of the Economic Development Incentive Committee.

C. If the Company fails to submit required information and/or reports as set forth in Section 6 above, Hudson, after thirty (30) days' notice of said default and failure to cure, may terminate or modify this Agreement and deny or modify future grants heretofore granted from the date of the Company's breach or default.

In the case as provided in this Subsection C, Hudson's termination or modification of this Agreement may be instituted only if the Company fails to cure any breach of any term of this Agreement as determined by Hudson within thirty (30) days of receiving written notice of such failure from Hudson or, if cure of the breach cannot be completed within thirty (30) days, if the Company has not made a good faith start of the cure, and/or not diligently pursued the same.

D. Hudson may terminate or modify this Agreement and may also require the repayment of the full amount of grant payments awarded under this Agreement, upon the occurrence of any of the following:

- 1) Hudson determines that the certification as to delinquent taxes required by this Agreement is fraudulent, or
- 2) The Company vacates the PROJECT facility and moves the PROJECT out of Hudson or terminates its operations at the PROJECT facility altogether

during a ten (10)-year period beginning on the effective date of this Agreement (or, during an eleven (11) year period beginning on the effective date of this Agreement if year one of the Agreement is extended pursuant to Section 4.A.(2) or (3)), or

- 3) The Company fails to meet 75% of its payroll or 75% of its employment projections for three consecutive years at any time during the term of this Agreement.

Hudson may, absent any legislative action, resolution or court ordered mandate to the contrary, collect any and all grant payments awarded under this Agreement, and the Company shall pay directly to Hudson or its authorized agent any and all grant payments awarded under this Agreement due on the date the Company moves the PROJECT out of Hudson or terminates its operations at the PROJECT facility altogether during the ten (10)-year period beginning on the effective date of this Agreement (or, during the eleven (11)-year period beginning on the effective date of this Agreement if year one of the Agreement is extended pursuant to Section 4.A.(2) or (3)); or within ten (10) days from the date the Company is notified by Hudson that any tax certification is fraudulent; or within ten (10) days from the date the Company is notified by Hudson that the Agreement is terminated due to Company's failure to meet 75% of its payroll or 75% of its employment projections for three consecutive years.

- E. The Company or its successor entity shall promptly notify Hudson if any of the following events occur:

- (i) If control of the Company or substantially all its assets located at the PROJECT site is obtained by another entity or members of the limited liability company; or
- (ii) If the Company merges with another entity; or
- (iii) If the Company substantially restructures itself through an acquisition or divestiture or otherwise;

and if any of these events affects the ability of the Company or its successor entity to substantially perform the obligations of the Company under this Agreement and to meet the employment and payroll projections set forth herein. "Control of the Company" for the purposes of this subsection means that persons and/or entities owning a majority of the financial interest in the Company on the date of this Agreement cease to own such or cease to be members of the limited liability company that is the Company.

- F. Each provision for modification or termination hereunder shall not affect the Company's obligations or Hudson's rights under any other provision of this Agreement.

12. Any notices, statements, acknowledgements, consent approvals, certificates, or requests required to be given on behalf of either party shall be made in writing addressed as follows:

If to the City to:                      City of Hudson  
   1140 Terex Road  
   Hudson, OH 44236  
   Attention: City Manager

With a copy to: Solicitor – City of Hudson  
1140 Terex Road  
Hudson, OH 44236  
Attention: Matthew J. Vazzana, Esq.

If to the Company to: FleetHQ Partners, LLC  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: Mark Genger, VP Risk and Finance

or such other address as may be noticed to the other party.

13. Condition Precedent. The Company and Hudson acknowledge that this Agreement must be approved by formal action of the legislative authority of Hudson as a condition for the Agreement to take effect.

The City of Hudson, Ohio, by Jane Howington, its City Manager, pursuant to Hudson City Council Resolution No. 20-\_\_\_\_\_, and FleetHQ, LLC, by Mark Genger, its authorized representative, have caused this Agreement to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF HUDSON, OHIO**

By: \_\_\_\_\_  
Jane Howington, City Manager

**FLEETHQ PARTNERS, LLC**

By: \_\_\_\_\_  
Mark Genger, VP Risk and Finance

*The legal form and correctness of this Agreement is approved.*

\_\_\_\_\_  
Matthew J. Vazzana, Esq.  
City Solicitor, City of Hudson

Date: \_\_\_\_\_