

**AMENDMENT NO. 1 TO AGENT AND FINANCIAL ASSISTANCE
AND PROJECT AGREEMENT**

THIS AMENDMENT NO. 1 TO AGENT AND FINANCIAL ASSISTANCE AND PROJECT AGREEMENT (this "Amendment") dated as of January 19, 2024 (the "Effective Date"), by and between the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at One West Street, Mineola, NY 11501 (the "Agency"), and DEUTSCHE LUFTHANSA AG, a foreign corporation organized and existing under the laws of Germany and authorized to do business in the State of New York, having an office at 400 RXR Plaza, Uniondale, NY 11556 (the "Company").

WITNESSETH:

WHEREAS, the Company presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A) the acquisition and installation of various machinery, equipment, furniture, fixtures and personal property (collectively, the "Equipment") into the Company's 47,143 square foot office facility located at 400 RXR Plaza, Uniondale, NY 11556 (the "Project Facility"); and (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from sales and use taxes (collectively, the "Financial Assistance"); and

WHEREAS, the Agency appointed the Company as agent of the Agency to undertake the acquisition, installation and equipping of the Project Facility, all pursuant to the terms and conditions set forth in that certain Agent and Financial Assistance and Project Agreement dated as of October 31, 2019 between the Company and the Agency (as amended, the "Project Agreement"), and the other Transaction Documents (as defined in the Project Agreement); and

WHEREAS, by letter dated October 20, 2023 (the "Default Letter"), the Agency notified the Company that the Company is not in compliance with its obligations under the Project Agreement and the other Transaction Documents and that a default has occurred as a result of the failure to maintain the Minimum Employment Requirement (as defined in the Project Agreement) required as of December 31, 2022, as evidenced by the jobs report dated February 21, 2023 submitted by the Company to the Agency; and

WHEREAS, pursuant to the Default Letter, the Agency also notified the Company that a recapture event has occurred as a result of the failure to maintain the Minimum Employment Requirement at all times during the term of the Project Agreement, which constitutes a Recapture Event pursuant to Section 4.8(c)(vi) of the Project Agreement; and

WHEREAS, based on discussions between the Company and the CEO/Executive Director of the Agency, the Company proposed that the Agency waive the default and recapture event set forth in the Default Letter (collectively, the "Disclosed Event") and enter into an amendment of

the Project Agreement to adjust the Minimum Employment Requirement (the "Proposed Transaction"); and

WHEREAS, by resolution adopted by the members of the Agency on December 14, 2023 (the "Consent Resolution"), the Agency consented to the Proposed Transaction and authorized the execution and delivery of this Amendment and related documents, instruments and agreements;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Company and the Agency mutually covenant, warrant and agree as follows:

SECTION 1. DEFINITIONS.

SECTION 1.1 Interpretation. For purposes of this Amendment, unless otherwise defined herein, all capitalized terms used herein including, but not limited to, those capitalized terms used and/or defined in the recitals hereto, shall have the respective meanings assigned to such terms in the Transaction Documents.

SECTION 2. AMENDMENTS.

SECTION 2.5 Minimum Employment Requirement. The first sentence of Section 2.1(p) of the Project Agreement is hereby deleted and replaced with the following:

"Effective as of January 1, 2023, the Company shall maintain at least two hundred (200) full-time equivalent, private sector jobs and shall maintain such jobs at all times throughout the term of this Project Agreement, all of which jobs shall, at all applicable times during the term of this Project Agreement, be located at the Project Facility (collectively, the "Minimum Employment Requirement")."

SECTION 3. CONDITIONS.

SECTION 3.1 Conditions Precedent. This Amendment shall only become effective upon the fulfillment, prior to or contemporaneously with the delivery hereof, of the following conditions precedent:

(A) the execution and delivery by the Company and the Agency of an original or counterparts of this Amendment;

(B) the Company shall deliver such other documents, instruments and agreements as the Agency may reasonably require in connection with the transactions contemplated by this Amendment;

(C) all other documents and legal matters in connection with this Amendment and the transactions contemplated by the Lease as amended by this Amendment shall be satisfactory in form and substance to the Agency; and

(D) the Company shall pay the Agency's consent and amendment fee in the amount of \$750 and shall pay all reasonable fees and expenses (including reasonable attorneys' fees and expenses) incurred by the Agency in connection with the preparation, execution and delivery of this Amendment and the closing of the transactions contemplated hereby.

SECTION 4. MISCELLANEOUS.

SECTION 4.1 Representations and Warranties.

(A) All terms, conditions, covenants, representations and warranties of the Company contained in the Transaction Documents, except as expressly modified hereby, are ratified, confirmed and reaffirmed by the Company as of the date hereof, remain in full force and effect as of the date hereof, and are subject to the terms of this Amendment.

(B) The Company represents and warrants to the Agency that it has the necessary power and has taken all necessary action to make this Amendment the valid and enforceable obligation it purports to be, and that this Amendment constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(C) The Company represents and warrants to the Agency that no Event of Default specified in any of the Transaction Documents has occurred that remains uncured and, to the Company's knowledge, no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Neither the Company nor any Affiliate of the Company has employed or retained any appointed or elected government official to solicit or secure the Agency's agreement to enter into this Amendment upon an agreement or understanding for a commission or percentage, brokerage or contingent fee.

(E) The Company represents and warrants to the Agency that, other than the Disclosed Event, no Event of Default or Recapture Event specified in the Lease or in any of the other Transaction Documents has occurred and is continuing and no event has occurred and is continuing which with notice or lapse of time or both would become an Event of Default or Recapture Event specified in the Lease or in any of the other Transaction Documents. The Agency hereby waives the Event of Default and Recapture Event arising as a result of the Disclosed Event. The Company acknowledges and agrees that nothing in this Amendment or in any document, instrument or agreement executed in connection with this Amendment shall constitute a waiver by the Agency of any default, Event of Default or Recapture Event under the Lease or any of the other Transaction Documents, except with respect to the Disclosed Event as set forth herein.

SECTION 4.2 Additional Matters. All other documents and legal matters in connection with this Amendment and the transactions contemplated by the Project Agreement as amended by this Amendment shall be satisfactory in form and substance to the Agency.

SECTION 4.3 Survival of Representations and Warranties. All representations and warranties made in this Amendment or any other document furnished in connection with this Amendment shall survive the execution and delivery of this Amendment and no investigation by the Agency or any closing shall affect the representations and warranties or the right of the Agency to rely upon them.

SECTION 4.4 Reference to Project Agreement. The Project Agreement, the Transaction Documents and any and all other agreements, documents, or instruments heretofore, now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Project Agreement, as amended hereby, are hereby amended so that any reference to the "Project Agreement" in the Project Agreement, the Transaction Documents or such other agreements, documents or instruments executed in connection with the Project Agreement shall mean a reference to the Project Agreement, as amended hereby.

SECTION 4.5 Governing Law. This Amendment, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the laws of the State of New York, as in effect from time to time, without regard to principles of conflicts of laws.

SECTION 4.6 Successors and Assigns. The Company and the Agency, as such terms are used herein, shall include the legal representatives, successors and assigns of those parties.

SECTION 4.7 Counterparts; Electronic Transmission. This Amendment may be executed in any number of counterparts and by the Company and the Agency on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or email shall be effective as delivery of a manually executed counterpart of this Amendment. This Amendment may be modified only by a written agreement signed by Authorized Representatives of the Company and the Agency.

SECTION 4.8 Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

SECTION 4.9 Conflicting Provisions. In the event of any conflict in the terms and provisions of this Amendment and the terms and provisions of the Project Agreement, the terms and provisions of this Amendment shall govern.

SECTION 4.10 No Waiver. Except as expressly provided herein, this Amendment shall not be construed to be a waiver or modification, express or implied, of any of the terms or provisions of the Project Agreement, any other Transaction Document or any other agreement, document or instrument executed and/or delivered in connection with any of the foregoing, or of any of the Agency's rights thereunder, all of which are and shall remain in full force and effect. This Amendment shall not be construed to constitute a consent to other or further action by the Company or to entitle the Company to any other consent.

SECTION 4.11 Entire Agreement. This Amendment constitutes the entire agreement and understanding between the parties hereto with respect to the transactions contemplated hereby and

supersedes all prior negotiations, understandings, and agreements between such parties with respect to such transaction.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

Company:

DEUTSCHE LUFTHANSA AG

By: 

Name: Dirk Janzen
Title: Vice President, Area Management
Americas

By: 

Name: Paul Majeran
Title: Senior Director, Area Americas

Agency:

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

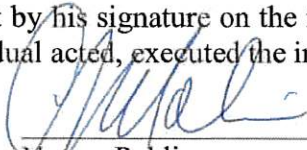
By: 

Sheldon L. Shrenkel
CEO/Executive Director

[Signature Page to Amendment No. 1 to Project Agreement]

STATE OF)
) SS. :
COUNTY OF)

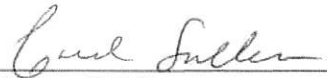
On the 29th day of January, 2024, before me, the undersigned, personally appeared Dirk Janzen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, 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

STATE OF NEW YORK)
) SS. :
COUNTY OF NASSAU)

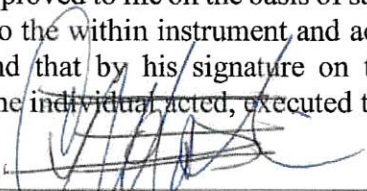
On the 14 day of January, 2024, before me, the undersigned, personally appeared Paul Majeran, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, 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
CAROL A. SULLIVAN
Notary Public, State of New York
No. 0128100709
Qualified in Nassau County
Commission Expires 5/17/2024

STATE OF NEW YORK)
) SS. :
COUNTY OF NASSAU)

On the ___ day of December, 2023, before me, the undersigned, personally appeared Sheldon L. Shrenkel, 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

[Acknowledgement Page to Amendment No. 1 to Project Agreement]

STATE OF)
) SS. :
COUNTY OF)

On the ___ day of January, 2024, before me, the undersigned, personally appeared Dirk Janzen, 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

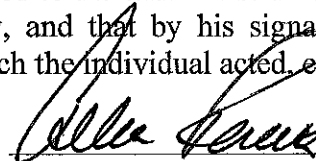
STATE OF)
) SS. :
COUNTY OF)

On the ___ day of January, 2024, before me, the undersigned, personally appeared Paul Majeran, 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

STATE OF NEW YORK)
) SS. :
COUNTY OF NASSAU)

On the March 5, 2024 day of ~~December, 2023~~, before me, the undersigned, personally appeared Sheldon L. Shrenkel, 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

COLLEEN PEREIRA
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PE6183424
Qualified in Nassau County
My Commission Expires 3/17/2028

[Acknowledgment Page to Amendment No. 1 to Project Agreement]