

C O N T R A C T F O R T A X A B A T E M E N T

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An AGREEMENT between CITY OF CHARLOTTE, a municipal corporation located at 111 E. Lawrence Avenue, Charlotte, Michigan 48813, (“City”) and Shyft Group USA, located at 41280 Bridge St, Novi, MI 48375 (“Company”), is entered into as follows:

Recitals:

- A. The Company has applied to City for the issuance of an Industrial Facilities Exemption Certificate (“Certificate”) pursuant to the provisions of Act 198 of the Public Acts of 1974, as amended (the “Act”), which requires a contract between the City and the Company to be agreed and submitted with the Company’s application for said Certificate.
- B. That in addition to statutory requirements, the City has determined that it is in the best interests of the taxpayers, property owners, and residents of the City that this Agreement be approved and executed prior to the issuance of the requested Certificate, and the City deems this Contract, together with the conditions set forth in the said Act to constitute a necessary element in the City’s determination whether or not to issue the Certificate.
- C. The Company intends to install the project set forth in its Certificate application (“Project”) at 1540 Mikesell (Plant 4) which it believes qualifies for the process of issuing the Certificate.
- D. The City, provided this Agreement is executed, will determine whether to issue the Certificate based upon the potential for the production of full-time jobs, the continuation or increase of economic activity, planning and zoning considerations, and the City’s general plan and intentions regarding economic development.

NOW THEREFORE THE PARTIES AGREE:

1. **COMPANY AGREEMENT**

The Company irrevocably commits to the investment, job retention and/or job creation promises made in its application, a copy of which is attached hereto and incorporated herein (the “Application”). In particular the Company agrees:

That One Hundred Percent (100%) of the promised new jobs shall be in place with full-time employee by a date no later than two (2) years from the date of the granting of the Certificate by the Michigan State Tax Commission (the “Commission”) (the “Achievement Date”).

- 1.1 The Company, by the Achievement Date shall have completed the investment of \$3,820,000 in real property improvements and \$3,690,000 in machinery and equipment (industrial personal property) as shown in the Application. The parties acknowledge that industrial personal property is exempt from local taxation.
- 1.2 That the improvements and equipment to receive the tax abatement treatment shall be completed by the Achievement Date.

- 1.3 The Company shall pay its specific taxes required by the Act in a timely manner, and shall not delay payments so as to incur any penalties or interest.
- 1.4 The Company shall fully cooperate with the City and with the City's representatives in supplying all requested and required documentation regarding jobs, investment, the meeting of all goals, and the timely installation and utilization of the equipment and improvements. The City shall be entitled to inspect at reasonable hours the Company's premises where the said improvements and equipment have been installed and where the said jobs are performed.
- 1.5 The Company shall maintain, from the Achievement Date through the entire period for which the tax abatement is granted (which date will be 12-years following the date of the Certificate, the "Term of the Abatement"), the level of jobs, production and utilization of the improvements and equipment at the site where the Certificate has been granted, except as provided in Section 4.
- 1.6 The Company shall comply with all environmental law and governmental orders on its premises in the City. It shall report any releases of hazardous substances to the appropriate governmental authority in a timely and complete manner, and provide copies of said report documentation to the City, to the extent required by applicable law.
- 1.7 The Company shall maintain the equipment and improvements so as to minimize physical or functional obsolescence.
- 1.8 The Company shall comply with all zoning and building codes as well as other regulations or restrictions as approved by the Charlotte City Council.
- 1.9 The Company shall continue to operate its business location in the City, containing the same number of and type of jobs, for the term of the Certificate, except as provided in Section 4.
- 1.10 The Company shall make any required site improvements identified by the City Council as set forth in the Investment Schedule attached to the Application, within the identified timeframe.

2. AGREEMENT BY THE CITY

Provided this contract has been executed and further provided all applications to create an Industrial Development District and issue the Certificate have been properly filed, the City shall, in a timely manner, determine in a public meeting to receive, process, and approve thereafter the Company's application for an Industrial Facilities Exemption Certificate. The City may consider this contract in a meeting separate from and prior to the meeting in which the City considers the issuance of the Certificate. The City shall require the submission of this contract signed by the Company together with its applications, before issuing the Certificate.

3. EVENTS OF DEFAULT

During the Term of the Abatement, the following actions or failures to comply shall be considered events of default by the Company:

- 3.1 Failure to meet any of the commitments set forth above.
- 3.2 The closing of the Company's facilities in the City. Closing shall mean, relocating the jobs and investment as described under the application to a community outside of the city or laying off all or substantially all of the jobs created by this improvement for greater than 30 consecutive days, or all or substantially all of the production that results from the improvement ceases at the Company's facility in Charlotte for greater than 30 consecutive days. Closing does not mean any matters related to force majeure.
- 3.3 Failure to afford to the City the documentation and reporting required.
- 3.4 The failure to create or retain jobs or expend the funds on equipment and improvements as represented in the Application within the times required hereby, unless Company asks for a reasonable extension and subsequent amendment to the application.
- 3.5 The failure to pay any and all taxes and assessments levied on the Company's property or any other taxes, local state or federal.
- 3.6 The performance or omission of any act which would lead to revocation under MCLA 207.565, being subsection 15 of the Act.
- 3.7 The violation of any provisions, promises, commitments, considerations, or covenants of this Agreement.

4. MITIGATION IN EVENT OF JOB LOSS

- 4.1 Commencing on year five (5) of the term of the Certificate, the Company shall provide an annual report as follows:
 - (a) A jobs report that includes the number of jobs created and retained, and current total employment at the facility in Charlotte.
 - (b) A vehicle or product production report related to the improvement for which the Certificate was obtained.
 - (c) A forecast for the coming two (2) years on both (a) and (b). This may include current customers and projections for future production.
 - (d) The information provided herein shall be considered proprietary and confidential, shall be limited to certain Public Officials who shall execute a Confidentiality Agreement as prepared by the Company, and the information shall be exempt from disclosures pursuant to the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq.*
- 4.2 If the Company so complies, any clawback for a closing of the facility, as defined herein before, shall be limited to five (5) years from the date of Certificate. Thereafter, so long as the default remains in place, the Certificate shall be revoked as provided in Section 5.1.2.

5. REMEDIES ON DEFAULT

In the event of any of the above defaults the City shall have the following remedies which it may invoke without notice, except as may be reasonably required by the Company's rights to due process:

5.1 Except as provided in Section 4, in the event of closing as determined after investigation of the facts and a public hearing, the Company shall be immediately liable for clawback of all taxes to be paid forthwith to the City, determined as follows:

5.1.1 The Company shall pay to the City, for pro rata distribution to the taxing units experiencing the abatement, an amount equal to the difference between the Industrial Facilities Tax which it has paid, and the total property taxes to the relevant taxing units which it would have paid, given its installations or improvements or equipment, during the years for which the Certificate was in effect.

In essence, the Company shall be liable to refund, in full, all abated taxes.

5.1.2 Immediate Revocation. The Company hereby consents to the revocation of the Certificate before the Commission, without hearing, and the City shall submit a copy of this Agreement to the Commission in connection with its revocation procedure, giving notice that the default has occurred and immediate revocation should occur.

5.2 In the event the improvements and equipment have not been installed by the Achievement Date, in addition to the revocation procedures before the Commission, then the abatement shall immediately be reduced by the City proportionately, and any installations which have not been finished by the Achievement Date shall not be eligible for the abatement thereafter and shall be placed on the regular tax roll. Provided, however, this shall not apply if the City and the Company have collectively agreed that conditions upon which the targeted investment and job creation have been delayed or reduced are acceptable.

5.3 Failure to Expend the Funds Represented. In the event, (whether or not the installations have been completed), the Company has not expended the funds it has represented on its Application that it would invest for the installation or equipment, the abatement shall be reduced pro rata, and any remaining value of equipment shall be placed on the regular tax roll.

5.4 Job Creation and Retention. In the event the promised number of jobs have not been created or retained by the Achievement Date, the abatement shall be reduced proportionately.

5.5 Special Assessment. For any amount due to be paid to the City, under this Section 5, the Company consents that the City shall have an action against the Company for the said amount, and in addition, cumulatively, and not by election, the City shall have a special assessment lien on all the property of the Company personal and real, located in the City, for the

collection of the amounts due as and in the manner of property taxes and in such case the collection of the said special assessment shall be accomplished by addition by the City to the Company's property tax statement regularly rendered.

5.6 For other violations of this Agreement or for actions or omissions by the Company amounting to grounds for revocation by statute, the City shall recommend to the Commission immediate revocation of the Certificate.

6. GOVERNING LAW

This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

7. COUNTERPARTS

This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same Agreement.

8. BENEFIT

This Agreement shall be binding upon and inure to the benefit of the respective parties, their successors, and personal representatives.

9. EFFECTIVE DATE

This Agreement shall be effective on the date the Commission grants to the Company the Certificate.

City of Charlotte

Company

By: _____
Michael Armitage, Mayor

By: Mike Vandieren _____

Its: Vice President _____

And: _____
Mary LaRocque, Clerk

And: _____

Its: _____