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**CITY OF FRESNO
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**

BY AND BETWEEN

**THE CITY OF FRESNO,
A CALIFORNIA MUNICIPAL CORPORATION**

AND

**GOLDEN STATE FC LLC
A DELAWARE LIMITED LIABILITY COMPANY**

CITY OF FRESNO

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

THIS CITY OF FRESNO ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") is entered into this 23 day of April, 2017 ("Execution Date") by and between THE CITY OF FRESNO, a California municipal corporation ("City") and GOLDEN STATE FC LLC, a Delaware limited liability company ("Company"). City and Company may be referred to collectively as the "Parties" and individually as a "Party."

RECITALS

The Parties enter into this Agreement with reference to the following circumstances:

- A. The Company is currently seeking approximately 700,000 square feet of industrial property in the City for a fulfillment center (a "Project").
- B. The Company anticipates that it will cause a total investment of well over \$100 million to build and equip the Project.
- C. The Company expects, at full build out, to employ at the Project approximately 2,000 employees and hire hundreds more of additional employees at peak sales time of year.
- D. The City anticipates over the term of the agreement to reap tens of millions of dollars in new property tax and employment driven benefits over and above the incentive investment set forth in this agreement.
- E. The purpose of this Agreement is to provide certain incentives and guarantees to the Company to induce the Company to create certain jobs and conduct business operations in the City, including, without limitation, those at the Project (collectively, the "Business Activities").
- F. City wishes to provide Company with incentives to locate and increase over time its Business Activities that are likely to result in substantial public benefits to the City, including job creation and the increase of property taxes and Local Sales and Use Tax Revenues (defined below).
- G. The Company wishes to locate its Business Activities, including without limitation, the Project, in a location offering operational advantages including, but not limited to, a qualified workforce, cost advantages, access to customers, and capacity to staff a certain number of jobs in said location.
- H. City wishes to encourage Company's location and growth of its Business Activities, including without limitation, the Project, within the City because the City expects that those Business Activities will create jobs, promote the stability and growth of City taxes and other revenues, further the City's economic development and promote a sound and healthy local economy.

TERMS AND CONDITIONS

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

For purposes of this Agreement, and in addition to certain terms defined elsewhere in this Agreement, the following capitalized terms shall have the following meanings:

“Full-Time Equivalent Position” means a position of employment, or combination of multiple positions of employment, in the City at which an employee is, or combination of employees are, compensated for no fewer than 1,750 hours during any consecutive 365-day period-of-time, inclusive of paid leave such as sick days and/or vacation days.

“Local Sales and Use Tax Revenues” means that portion of the sales and use taxes, if any, levied under the authority of the Sales Tax Law, paid by Company, which are finally and irrevocably allocated and paid to City by the BOE pursuant to the Sales Tax Law.

“New Job” means a filled Direct Job or Contract Job funded by the Company in the City.

“Direct Job” means a Full-Time Equivalent Position in which the Company directly employs the employee.

“Contract Job” means a Full-Time Equivalent Position in which a third party contractor to the Company employs an employee for purposes of satisfying a labor contract between the Company and a third party.

“Sales Tax Law” means California Revenue and Taxation Code Section 6001 et seq., and any successor law thereto, including the Bradley-Burns Uniform Local Sales and Use Tax Law (Rev. & Tax Code § 7200 et seq.), and any successor law thereto, and all regulations of the BOE and other binding rulings and interpretations relating thereto.

“Term” shall mean the term of this Agreement as described in Section 3.

2. ECONOMIC INCENTIVES

2.1 Eligibility Requirements. The Parties agree that creation of jobs and growth of tax revenue generated by Company and received by City as a result of Company's Business Activities are both central to this Agreement. Accordingly, to be eligible to receive the economic incentives (“Incentives”) described in this Agreement, Company shall fulfill both of the following eligibility requirements:

(a) Establish operations. Establish and increase Business Activities that are likely to result in the increase of tax revenues for the City. Such activities include, but are not limited to, purchase or lease of land, construction of improvements, and operation of a fulfillment center, among other activities; and

(b) New Job creation. Create or cause creation of a minimum of 750 net New Jobs in the City, with the possibility of creating as many as 5,000 or more net New Jobs.

Company will provide such information as is commercially reasonable to City, from time to time, in order to implement the terms of the Agreement, including, without limitation, completed employment surveys, in the format of Exhibit 1, certifying the number of New Jobs in the City as of each December 31st during the Term of the Agreement. The employment survey will be due each April 1st during the Term of the Agreement. The Company's obligation to report New Jobs to the City will terminate three years after the earlier of (i) the Incentives Cap being reached or (ii) the end of the Term occurring.

2.2 Calculation and Payment of Incentives. City shall provide Incentives to Company, so long as Company continues to comply with the eligibility requirements set forth above. Company shall be eligible to receive Incentives commencing on the Execution Date. After December 31, 2020, no Incentives shall be paid in any year in which the number of New Jobs is less than 750. If Company does not create 750 New Jobs by December 31, 2022, any and all Incentives paid to Company on or before that date must be refunded to City and said refund shall be paid in full within thirty days. Company may receive Incentives following said refund in any year in which it achieves 750 New Jobs.

The Incentives shall be as follows:

\$15,000 per Direct Job

\$10,000 per Contract Job

\$5,000 per Contract Job in which the Full-Time Equivalent Position is comprised of multiple positions of employment

The total Incentives payable under this Agreement shall be up to \$15,000 per Direct Job, \$10,000 per Contract Job, and \$5,000 per Contract Job in which the Full-Time Equivalent Position is comprised of multiple positions of employment (calculated based on annual average) up to a maximum total payment of \$30,000,000 ("Incentives Cap").

The number of New Jobs shall be measured on each December 31st during the term of this Agreement and reported on the employment survey in the format attached as Exhibit 1. Incentives will be deemed earned when a New Job has been maintained for a minimum of three 365-day periods following the December 31st of the year in which the New Job was created. Incentives paid for each New Job that does not meet the three-year maintenance requirement may be, in the discretion of the City, subject to recapture. Incentives paid or payable for each New Job that satisfies the three-year maintenance requirement are deemed fully earned and not subject to recapture.

In the event a new position under this Agreement is initially created as a Contract Job on either a Full-time or Full-time Equivalent basis, and an incentive is paid on that basis, and should the Company later convert that position to a Direct Job, the Company would be eligible for a true-up incentive based on the difference between the Direct Job incentive and the Contract Job incentive actually paid.

To ensure that Incentives shall not exceed incremental revenues to the City generated as a result of Company activities, Incentives shall be calculated to include:

Local Sales and Use Tax on Purchases. 100% of the Local Sales and Use Tax Revenues (annually, on a cumulative basis) paid by, or on behalf of, Company from the Execution Date

through the end of the thirtieth 365-day period in which applicable taxes are paid for four full consecutive quarters ("Full Year") following execution of a lease or purchase of the site for the Project in connection with the purchase of taxable tangible personal property placed into service within the City, as long as such tax is reported and allocated to the City.

Incremental City Property Taxes Attributable to Investment Made or Caused by Company. 90% of the City's share of secured real property and personal property taxes in connection with improvements to, and capital equipment purchases for, the Business Activities. The taxes on improvements to and capital equipment purchases for the Business Activities shall be determined by subtracting the amount of the secured real property and personal property tax obligations for each such Business Activity in the last full year prior to the commencement of such Business Activity ("Base Year Property Taxes") from the amount of such secured real property and personal property tax obligations for such Business Activity in any subsequent year ("Incremental Property Taxes") through the thirtieth Full Year following Company's receipt of the Certificate of Occupancy for such Business Activity. Within thirty calendar days of commencement of a Business Activity, City and Company shall confirm in writing the amount of the Base Year Property Taxes. Incentives under this section will be payable only after property tax obligations for the Business Activity have been paid by, or on behalf of, the Company to the County, and County has distributed such property taxes to the City. Company is eligible to receive 90% of Incremental Property Taxes incurred on or after January 1st following the Execution Date through January 1st following the thirtieth Full Year following receipt of the Certificate of Occupancy for such Business Activity. The City will confirm receipt of Incremental Property Taxes for such Business Activity within thirty days of receipt of the distribution of funds from the County. Within thirty days of confirming the amount of such Incremental Property Taxes, City will issue payment to Company equal to 90% of such Incremental Property Taxes. Incremental Property Taxes include secured real property and personal property taxes paid pursuant to a lease for a Business Activity whether by Company or Company's lessor.

For the unexpired portion of the Term, the Company may, in its sole discretion, expand its Business Activities in the City using (i) different legal entities that are affiliates of the Company and/or (ii) different facilities within the City (a "Business Activities Expansion"). In the event of a Business Activities Expansion during the Term, Local Sales and Use Tax Revenues and Incremental Property Taxes arising out of any Business Activities Expansion shall be included for the remaining portion of the Term when calculating Incentives.

Notwithstanding the foregoing, in no event shall City be obligated to make payment of 90% of Incremental Property Taxes to Company upon the expiration of this Agreement.

If a property tax assessment appeal is filed by or on behalf of Company or Company's lessor at any time during the term of this Agreement and if, as a result of such appeal, Company or Company's lessor receives a refund of any property taxes previously paid by Company or Company's lessor for any property tax fiscal year which were used as a basis for calculating the Base Year Property Taxes or Incremental Property Taxes, then the next installment of payment of Incremental Property Taxes shall be reduced by an amount equal to 90% of the City's share of secured real and personal property taxes of said refund.

2.3 Timing of Incentives Payment. Subject to the provisions of this Agreement, City shall pay the Incentives to Company, in an amount not to exceed the Incentives Cap, in Annual Payments. Before making each Annual Payment, City shall confirm that Company has created or caused to be created, and/or maintained the required New Jobs in accordance with Section 2.2 and City has received Local Sales and Use Tax Revenues from the BOE or Incremental Property

Taxes from the County Assessor. Company will submit a written request for the Annual Payment, together with a copy of any supporting Documentation, including the Documentation described below in Section 2.6 and other documentation reasonably requested by City.

2.4 Plan Check and Related Fees. As part of this Agreement, the City will set a flat rate, to be mutually agreed upon by the parties, for plan check, entitlements, building permit, building safety, fire safety review, sprinkler plan check and inspections for each Business Activity under this Agreement.

2.5 Verification of Revenue. No Incentives payment will be made by City to Company until City has verified receipt of Local Sales and Use Tax Revenues paid to the City by the BOE or Incremental Property Taxes received by the City from the County. City shall have three months following the receipt of the Local Sales and Use Tax Revenues to verify the allocation and receipt of such local taxes. City will make commercially reasonable efforts to verify its receipt of such local taxes.

2.6 Documentation. For the purposes of this Agreement, the term "Documentation" means any and all bills, invoices, schedules, vouchers, statements, receipts, cancelled checks, and any other documents evidencing the amount of Local Sales and Use Tax Revenues paid by Company to the BOE, including: copies of all schedules and reports filed by Company with BOE during that Fiscal Quarter, including, without implied limitation, those relating to Local Sales and Use Tax Revenues paid by Company. "Documentation" shall also include evidence of the amount of Incremental Property Taxes paid by, or on behalf of, the Company, to the County. Company, on behalf of itself and any affiliate, and to the extent such consent is required by any applicable legal provision, consents to the City's review and use of the information contained in the documentation Company submits to the BOE to the extent necessary for the City to verify the allocation and receipt of Local Sales and Use Tax Revenues.

2.7 Reduction of Amount. The amount of any Incentives payable to Company shall be reduced by the amount by which any Local Sales and Use Tax Revenues are reallocated from the City by the BOE if such reallocation reduces the basis upon which the Incentives would otherwise be paid.

2.8 Recapture of Incentive Payments. If, at any time during or after the Term of this Agreement, the BOE determines that all or any portion of the Local Sales and Use Tax Revenues received by the City were improperly allocated and/or paid to the City, and if BOE requires redistribution, repayment or offsets against future Local Sales and Use Tax Revenues payments, or otherwise recaptures from the City any such Local Sales and Use Tax Revenues determined by the BOE to have been improperly allocated or paid, then Company shall, within thirty days after written demand from the City, repay all City Payments (or applicable portions thereof) theretofore paid to Company which are attributable to such repaid, offset or recaptured Local Sales and Use Tax Revenues. If Company fails to make such repayment within thirty days after the City's written demand, then such obligation shall accrue interest from the date of the City's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid. It is the express intent of City and Company any risk of loss or diminution of Local Sales Tax Revenues be borne by Company and not by the City; provided however, the City and Company shall cooperate in any proceeding to prevent or mitigate any loss or diminution of Local Sales Tax Revenues or to recover any Local Sales Tax Revenues so lost or diminished.

2.9 Annual Appropriation. City covenants to take such action as may be necessary to include all such Incentive Payments due pursuant to this Agreement in its annual budgets during the term of this Agreement and to make the necessary annual appropriations for all such Incentive Payments. The covenants of City set forth in this Section 2.9 shall be considered ministerial duties imposed by law and it shall be the duty of each and every public official of City to take such action and do such things as are required by law in the performance of the official duty of such official to enable City to carry out and perform the covenants of City set forth in this Section 2.9.

3. AGREEMENT TERM

This Agreement shall terminate on the date upon which City provides payment to Company in the amount of the Incentives Cap, or thirty-five years following the Execution Date, whichever occurs first. It is the intent of this Agreement to provide incentives to the Company to continue to invest and create new jobs in the City.

4. INDEMNIFICATION

Company agrees to indemnify, defend (if so requested by the City, and with counsel reasonably acceptable to both the Company and the City), and hold the City, its officers, employees, agents, and assigns (severally and collectively, any "Indemnitee"), harmless from any loss, expense or other cost (including, without limitation, attorneys' fees) related to any claim, action, lawsuit or other proceeding, whether administrative, at law or in equity, brought or maintained by or on behalf of any person or entity (other than Company or any Indemnitee) against any Indemnitee as a result of any conduct of Company in performing any obligation arising under this Agreement, except to the extent that any such claim, action, lawsuit, or other proceeding was caused by an Indemnitee's sole negligence or willful misconduct. Without limitation on the foregoing provisions, and notwithstanding any other provision of this Agreement, if any court or administrative body of competent jurisdiction orders the return to the City of any Incentives Payment, Company shall hold any Indemnitee harmless from any such claims Company may have for reimbursement or contribution with respect to any such funds.

To the full extent required by applicable federal and state law, Company and its contractors and agents shall comply with California Labor Code Section 1720 et seq. and the regulations adopted pursuant thereto ("Prevailing Wage Laws"), if so required, and shall be solely responsible for carrying out the requirements of such provisions. Company shall indemnify, defend (with counsel reasonably acceptable to both the Company and the City) and hold the City and its elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the "Indemnitees") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors, or third party claimants pursuant to Labor Code sections 1726 and 1781), the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including, but not limited to the Prevailing Wage Laws, or any act or omission of Company related to this Agreement with respect to the payment or requirement of payment of prevailing wages.

Notwithstanding any other provision of this Agreement (1) Company shall have no obligation to indemnify any of the Indemnitees for any punitive, indirect, incidental or consequential damages whether arising at law, in equity or otherwise; and (2) the maximum combined liability of or repayment amount due from the Company under this Agreement shall not exceed the total amount of Incentive Payments actually received by the Company from the City under this Agreement.

5. GENERAL PROVISIONS

5.1 Notice. Notice as referenced herein shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the Parties set forth in this Section: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via: first class mail, postage prepaid; or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt).

If to City: CITY OF FRESNO
 Attn: City Manager
 2600 Fresno Street
 Fresno, CA 93721

If to Company: GOLDEN STATE FC LLC
 Attn: Economic Development
 410 Terry Ave N
 Seattle, WA 98109

With a copy to: Amazon.com, Inc.
 Attn: General Counsel (Real Estate)
 P.O. Box 81226
 Seattle, WA 98108-1226
 using the subject line - Re: FAT1

5.2 Non-Discrimination Requirements. To the extent required under federal, state or City laws, Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Company understands and agrees that violation of this clause shall be considered a material breach of the Agreement and may result in Agreement termination, or other sanctions.

5.3 Waivers. The failure by either Party to enforce at any time any provision or condition of this Agreement shall not be construed to be a waiver of such provision or condition contained herein or a waiver of any subsequent breach or violation of the same or any other provision or condition, nor in any way to "affect the validity of this Agreement or any part hereof or the right of a Party to thereafter enforce each and every such provision or condition. A waiver under this Agreement must be in writing and state that it is a waiver. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

5.4 Confidentiality. City shall keep any and all proprietary and confidential information and data provided by Company under this Agreement strictly confidential to the extent permitted

by law. City will use information provided by Company pursuant to this Agreement only for purposes within the scope of this Agreement. Company shall clearly mark or otherwise identify in writing all information it considers to be proprietary and confidential at the time it is delivered to City. The confidentiality obligation under this section shall not apply to: (a) information which is already public information or which is otherwise available to the general public; (b) information received from a third party without a similar confidentiality restriction who is lawfully in possession of the information and who has the lawful right to disclose it; (c) information that is already in City's possession prior to receiving it from Company; or (d) information delivered by Company to City and not marked or otherwise identified as proprietary and confidential at the time it was delivered. Company shall defend, at Company's expense, any legal actions or challenges seeking to obtain from City any information requested under the California Public Records Act withheld by City at Company's request. Furthermore, Company shall indemnify City and hold it harmless for any claim or liability, and defend any action brought against City, resulting from City's refusal to release information requested under the Public Records Act withheld at Company's request.

5.5 Local, State and Federal Laws. Company hereby agrees to carry out Business Activities in conformity with all applicable federal, state, and City laws.

5.6 Termination. Other provisions of this Agreement notwithstanding, Company may, at its sole discretion, terminate this Agreement at any time by providing notice in writing to City.

5.7 Successors and Assigns. This Agreement shall be binding upon the Parties' successors and assigns. Company shall not assign this Agreement or any right or obligation hereunder; provided, however, that Company may assign this Agreement to any entity that is controlled by, under the control of, or under common control with [to be added] without notice or consent.

5.8 Entire Agreement. This Agreement (including the exhibits hereto, which are integral parts of this Agreement) supersedes all previous representations, understandings, negotiations and agreements either written or oral between the Parties or their representatives. This Agreement may not be modified except by the written agreement executed and delivered by both Parties.

5.9 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby and shall remain valid and enforceable to the greatest extent permitted by law.

5.10 Counterparts and Electronic Signatures. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. The counterparts of this Agreement and all related documents may be executed by electronic signature by any of the Parties and delivered to any other Party by facsimile, email, or other electronic means and the receiving Party may rely on the receipt of such document so executed by electronic signature and delivered by facsimile, email, or other electronic means as if the original had been received.

5.11 Force Majeure. No Party to this Agreement shall be deemed in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, strikes, lockouts, riots, floods, hurricanes, earthquakes, fires, casualty, acts of God, acts of public enemy, epidemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities service, lack of transportation, severe weather and other acts or failures beyond the

control or without the control of any Party; provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay, and in no event shall any of the foregoing excuse any financial liability of a Party.

[signatures on following page]

IN WITNESS WHEREOF, this Agreement is executed.

GOLDEN STATE FC LLC
a Delaware limited liability company

DocuSigned by:
Braden Cox
By: Braden Cox
Its: Vice President
Date: April 23, 2017

THE CITY OF FRESNO
a California municipal corporation

By: Bruce Rudd
Bruce Rudd
City Manager
Date: 5/5/17

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: Marcos Martinez
Deputy Marcos Martinez
5/8/17

APPROVED AS TO FORM
DOUGLAS T. SLOAN
City Attorney

By: Laurie Avedisian-Favini 5/3/17
Laurie Avedisian-Favini
Assistant City Attorney

Exhibit 1 - EMPLOYMENT SURVEY

GOLDEN STATE FC LLC

FULL-TIME EQUIVALENT JOB CREATION

Business Activity Information

(to be completed as of December 31st each year with the report due by April 1st of each subsequent year during the Agreement Term)

Employment Address(es) in City of Fresno:

Full-Time Equivalent Positions <i>(List Title of Positions currently filled by Company at address(es) above.)</i>	Count of Positions by Status		
	DIRECT	CONTRACT	ANNUAL HOURS WORKED

(Attach additional worksheets as needed)

I hereby certify that GOLDEN STATE FC LLC employs the job positions listed above at the locations listed above as of _____ (date).

GOLDEN STATE FC LLC

Signature

Printed Name/Title

Date