

STATE OF TEXAS §
 § ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT
COUNTY OF DALLAS §

This Economic Development Incentive Agreement (“Agreement”) is made by and between the City of Coppell, Texas (the “City”), and Welbilt FSG US Holding, LLC, a Delaware limited liability company (the “Company”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized officers.

W I T N E S S E T H:

WHEREAS, Company owns the real property and Improvements (hereinafter defined) located at 1010 W. Sandy Lake Road in Coppell, Texas, being further described in Exhibit “A” (“Land”) (collectively the “Improvements” and “Land” referred to as the “Real Property”); and

WHEREAS, Company has advised the City that a contributing factor that would induce the Company to purchase the Real Property would be an agreement by the City to provide an economic development grant to Company; and

WHEREAS, promoting the expansion and maintenance of existing business enterprises within the City will promote economic development, stimulate commercial activity, generate additional sales tax, and will enhance the property tax base and economic vitality of the City; and

WHEREAS, the City has adopted programs for promoting economic development and this Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs; and

WHEREAS, the City is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to the Company in accordance with this Agreement is in accordance with the City Economic Development Program and will: (i) further the objectives of the City; (2) benefit the City and the City’s inhabitants; and (iii) promote local economic development and stimulate business and commercial activity in the City.

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Article I Term

This Agreement shall be effective on the Effective Date and shall continue until the Expiration Date, unless sooner terminated as provided herein.

Article II Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Bankruptcy or Insolvency” shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of receiver for any part of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Cash Grant” shall mean an economic development grant in the amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00), to be paid as set forth herein.

“City” shall mean City of Coppel, Texas.

“Commencement Date” shall mean January 1, 2024.

“Company” shall mean Welbilt FSG US Holding, LLC, a Delaware limited liability company.

“Company Affiliate” shall mean any entity that is directly or indirectly controlled by or is under common control with Company.

“Effective Date” shall mean the last date of execution hereof.

“Expiration Date” shall mean the date of payment of the last of the Real Property Grants.

“First Grant Year” shall mean the Tax Year immediately following the calendar year in which the Commencement Date occurs.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, terrorism, civil commotion, insurrection, government or de facto governmental action, restrictions or interferences (unless caused by the intentional acts or omissions of the

Party), fires, explosions, floods or other inclement weather, strikes, slowdowns or work stoppages, incidence of disease or other illness that reaches outbreak, epidemic, or pandemic proportions or similar causes that results in a reduction of labor force or work stoppage in order to comply with local, state, or national disaster orders, construction delays, shortages or unavailability of supplies, materials or labor, necessary condemnation proceedings, or any other circumstances which are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstances are similar to any of those enumerated or not, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or performance shall be extended for a period of time equal to the period such Party was delayed, provided the Party whose performance is delayed provides written notice to the other Party not later than fifteen (15) business days after the last day of the month of the occurrence of the event(s) or condition(s) causing the delay or the date the Party whose performance has been delayed becomes aware or should have reasonably known of the event, describing such event(s) and/or condition(s) and the date on which such event(s) and/or condition(s) occurred.

“Grant Year” shall mean a given Tax Year, except “First Grant Year” shall mean the Tax Year 2025.

“Grants” shall collectively mean the Cash Grant and the Real Property Grants.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary, and extraordinary, foreseen, and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Company or any property or any business owned by Company within the City.

“Land” shall mean the real property described in **Exhibit “A”**.

“Payment Request” shall mean: (i) with respect to the Cash Grant, a written request from Company to City for payment of the Cash Grant; and (ii) with respect to the Real Property Grants, a written request from Company to the City for payment of the applicable Real Property Grant, which request shall be accompanied by copies of tax statement and/or receipt(s) and/or other evidence reasonably satisfactory to the City to establish that the ad valorem taxes assessed by the City against Property have been timely paid for such Grant Year,”

“Real Property” shall collectively mean the Land and Improvements.

“Real Property Grants” shall mean eight (8) consecutive annual economic development grants to be provided by the City to the Company, each in an amount equal to ninety percent (90%) of the ad valorem taxes assessed by the City against the Real

Property and collected by the City for the applicable Grant Year, to be paid as set forth herein.

“Related Agreement” shall mean agreement (other than this Agreement) by and between: (i) the City and the Company or any Company Affiliate; and (ii) the Tax Abatement Agreement.

“Required Use” shall mean the distribution of the Company’s and any Company Affiliate’s equipment and products for the food service industry, demonstration kitchens and showrooms for products, office space including, but not limited to, offices for certain Company Affiliate North American headquarters and other business of Company and Company Affiliates related to the following NAICS Codes: 33241 Food Product Machinery; 333415 Commercial Refrigeration; 333318 Other Commercial Machinery.

“Tax Abatement Agreement” shall mean that certain tax abatement agreement by and between City and Tenant dated approximate date herewith.

Article III

Economic Development Grant

3.1 Cash Grant. Subject to the continued satisfaction of all the terms and conditions of this Agreement by Company, and the obligation of the Company to repay the Grants pursuant to Article V hereof, the City agrees to provide the Company with the Cash Grant to be paid to the Company within thirty (30) days after receipt of a Payment Request following the Commencement Date.

3.2 Real Property Grant.

(a) Real Property Grant. Subject to the continued satisfaction of all the terms and conditions of this Agreement by the Company, and the obligation of the Company to repay the Grants pursuant to Article V hereof, and provided the Taxable Value for the Real Property is at least Nine Million and No/100 Dollars (\$9,000,000.00) (the “Minimum Taxable Value”), as of the First Grant Year and as of each Grant Year thereafter during the term of this Agreement, the City agrees to provide the Company with eight (8) consecutive Real Property Grants, to be paid within thirty (30) days after the City receipt of the applicable Payment Request following March 1 of each calendar year (or the immediately following business day if March 1 is not a business day), beginning with March 1 of the calendar year following the First Grant Year, provided the City has timely received the City ad valorem taxes assessed against the Real Property in full for the respective Grant Year (i.e., the tax year immediately preceding the year in which an Real Property Grant is to be made). Company shall submit a Payment Request for the respective Real Property Grant on or after March 1 of the calendar year that follows such Grant Year, but no later than 90-days thereafter, beginning March 1 of the calendar year following the First Grant Year. Failure to timely submit a Payment Request for a given Grant Year shall operate as a forfeiture of the Real Property Grant for such Grant Year. The failure of the Real Property to have the Minimum Taxable Value for any given Grant Year shall not be an event of default subject to termination and

repayment of the Grants pursuant to Article V hereof but shall result in the forfeiture of the Real Property Grant for such Grant Year. If such a forfeiture occurs the Company will still be eligible to receive the remaining Real Property Grants provided Company is otherwise not in breach of or default of this Agreement or a Related Agreement.

(b) Tax Protest. In the event the Company or another Party timely and properly protests or contests (including any motion to correct the appraisal roll) the Taxable Value and/or the taxation of the Real Property or portion thereof (the “Protest Property”) with the applicable appraisal district (or its successor) (“Tax Protest”), the obligation of the City to provide the Real Property Grant for such Grant Year shall be delayed with respect to the portion protested or contested until a final determination has been made of such protest or contest. In the event the Tax Protest results in a final determination that changes the amount of ad valorem taxes assessed and due for the Real Property (or portion thereof) after any Real Property Grant has been paid for such Grant Year, the Real Property Grant for such Grant Year shall be adjusted (increased or decreased as the case may be) accordingly on the date of payment of the next Real Property Grant or within thirty (30) business days after such determination in the event no further Real Property Grant is due under the Agreement.

(c) Refunds and Underpayments of Grants. In the event the City reasonably determines that the amount of any Real Property Grant paid by the City to the Company was greater than the correct amount to which the Company was entitled, the Company shall, within sixty (60) calendar days after receipt of written notification thereof from the City specifying the amount by which such Real Property Grant exceeded the correct amount to which the Company was entitled (together with such records, reports and other information necessary to support such determination), pay such amount to City. If the City or the Company reasonably determines that the amount by which such Real Property Grant was less than the correct amount to which the Company was entitled (together with such records, reports, and other information necessary to support such determination), the City shall, within sixty (60) calendar days after such determination, pay the adjustment to the Company. The Parties shall mutually determine an underpayment or overpayment of a Real Property Grant based on records and reports of the City ad valorem taxes assessed against the Real Property and collected by the City for the applicable Tax Year.

3.3 Current Revenue. Under no circumstances shall the obligations of the City hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. The Grants shall be paid solely from annual appropriations from the general funds of the City or from such other funds of the City as may be legally set aside for such purpose consistent with Article III, Section 52(a) of the Texas Constitution.

3.4 Grant Limitations. The City shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by the Company. None of the obligations of the City under this Agreement shall be pledged or otherwise encumbered by the Company in favor of any commercial lender and/or similar financial institution.

Article IV

Conditions to Grants

The obligation of the City to pay the Grants shall be conditioned upon the compliance and satisfaction by the Company of the terms and conditions of this Agreement and each of the conditions set forth in this Article IV, provided however, the failure to meet a condition shall not prevent the payment of the applicable Grant prior to the specified deadline for satisfaction of the condition:

4.1 Payment Request. The Company shall, as a condition precedent to the payment of each applicable installment of the Real Property Grant, timely provide the City with the applicable Payment Request.

4.2 Good Standing. The Company shall not have an uncured breach or default of this Agreement or a Related Agreement.

4.3 Required Use. During the term of this Agreement, beginning on the Commencement Date and continuing until the Expiration Date, the Real Property shall not be used for any purpose other than the Required Use, and the operation of the Real Property in conformance with the Required Use shall not cease for more than thirty (30) continuous days except in connection with, and to the extent of, an event of Force Majeure or casualty, or for reasonable periods of time not to exceed one hundred twenty (120) days for expansion, re-equipping or remodeling.

4.4 Continuous Ownership and Occupancy. The Company or any Company Affiliate shall, beginning on the Commencement Date and continuing thereafter until the Expiration Date, continuously own and occupy the Real Property.

Article V

Termination; Repayment

5.1 Termination. This Agreement shall terminate upon any one or more of the following:

- (a) By written agreement of the Parties;
- (b) Expiration Date;
- (c) On the date set forth in a written notice, by either Party in the event the other Party breaches any of the terms or conditions of this Agreement, or a Related Agreement, and such breach is not cured within sixty (60) days after the nonbreaching Party sends written notice to the breaching Party of such breach;
- (d) On the date set forth in a written notice, by the City, if the Company suffers an event of Bankruptcy or Insolvency;
- (e) On the date set forth in a written notice, by the City, if any Impositions owed to the City or the State of Texas by Company shall become delinquent

subject to notice and cure in accordance with subsection 5.1(c) above (provided, however, Company retains the right to timely and properly protest and contest any such Impositions); and

- (f) On the date set forth in a written notice, by either Party, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.2 Repayment. In the event the Agreement is terminated by the City pursuant to Section 5.1 (c), (d), (e) or (f), the Company shall immediately refund to the City an amount equal to the Grants paid by the City to the Company preceding the date of such termination, plus interest at the rate of interest periodically announced by the *Wall Street Journal* as the prime or base commercial lending rate, or if the *Wall Street Journal* shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the City) as its prime or base commercial lending rate, from the date on which each of the Grants were paid by the City until the Grants are refunded by the Company. The repayment obligation of the Company set forth in this section shall survive termination.

5.3 Right of Offset. The City may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to the City from the Company, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement or otherwise and regardless of whether the debt due the City has been reduced to judgment by a court.

Article VI Miscellaneous

6.1 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received upon the earlier of (a) actual receipt or (b) three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below, or such other address as is designated by the applicable Party from time to time, or on the day actually received as sent by courier or otherwise hand delivered.

If intended for City, to:

With a copy to:

Attn: City Manager
City of Coppel, Texas
P. O. Box 478
Coppel, Texas 75019

Attn: Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Company, to:

With a copy to:

Attn: Kim Perez, CFO
Welbilt FSG US Holding, LLC
2227 Welbilt Boulevard
New Port Richey, Florida 34655

Attn: Maribel de la Rosa
VP of Tax
Ali Group North America
101 Corporate Woods Parkway
Vernon Hills, Illinois 60061

6.2 Authorization. This Agreement was authorized by resolution of the City Council approved by its Council meeting authorizing the Mayor to execute this Agreement on behalf of the City.

6.3 Severability. In the event any section, subsection, paragraph, sentence, phrase, or word herein is held invalid, illegal, or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the Parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word.

6.4 Governing Law. This Agreement shall be governed by the laws of the State of Texas without regard to any conflict of law rules. Exclusive venue for any action under this Agreement shall be the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute the same instrument.

6.6 Entire Agreement. This Agreement embodies the complete agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the Parties to be attached to and made a part of this Agreement.

6.7 Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.

6.8 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

6.9 Assignment. This Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. This Agreement may not be assigned by the Company, or Company Affiliate, without the prior written consent of the City Manager.

6.10 Employment of Undocumented Workers. During the term of this Agreement, the Company agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), the Company shall repay the Grants, and any other

funds received by the Company from the City as of the date of such violation within 120 days after the date the Company is notified by the City of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. The Company is not liable for a violation of this section by a subsidiary, affiliate, or franchisee of Company or by a person with whom Company contracts.

6.11 Conditions Precedent. The obligations of the Parties pursuant to this Agreement are expressly subject to the execution of the Tax Abatement Agreement.

[Signature page to follow]

EXECUTED in duplicate originals the ____ day of _____, 2023.

CITY OF COPPELL, TEXAS

By: _____
Wes Mays, Mayor

Attest:

By: _____
Ashley Owens, City Secretary

Agreed as to Form:

By: _____
City Attorney

EXECUTED in duplicate originals the ____ day of _____, 2023.

WELBILT FSG US HOLDING, LLC

By: _____
Name: _____
Title: _____

EXHIBIT “A”
Legal Description

Being Lot 1, Block A of West Sandy Lake Road Addition II, an Addition to the City of Coppell, Dallas County, Texas, according to the plat thereof recorded in cc#202200001345, in the Plat Records, Dallas County Texas.