

INDUCEMENT AND PROJECT AGREEMENT

This INDUCEMENT AND PROJECT AGREEMENT (the "Agreement") is between the HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, 420 East German Street, Suite 101A, Herkimer, New York 13350 (the "Agency") and DNA HOOPS, INC., 135 Gros Boulevard, Herkimer, New York 13350 (the "Company").

ARTICLE I PRELIMINARY STATEMENT

Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 898 of the Laws of 1970 of the State of New York (collectively, the "Act") to provide financial assistance to "Projects" (as defined in the Act) and to acquire title to Projects and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are (i) to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State and (ii) to encourage and assist in the providing of industrial pollution control facilities. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to provide assistance through sales tax, mortgage tax and real property tax incentives.

1.03. The Company has requested that the Agency assist in the development of a 11.70± acre parcel of land situated at 135 Gros Boulevard in the Town of Herkimer, County of Herkimer (the "Land"), construction and equipping of a 16,000 square foot recreation and tourism facility, office space and sports complex (collectively, the "Improvements") and the acquisition and installation of fixtures, furniture and equipment (collectively, the "Equipment" and together with the Land and Improvements, the "Facility" and the construction and equipping of the Facility is the "Project"), all for the purpose of providing a recreation and tourism facility, office space and sports complex (with an obligation to purchase) or sell the Facility to the Company.

1.04. The Company hereby represents to the Agency that (other than is permitted by law) the financing of the Facility through the Assistance will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State or the abandonment of one or more plants of the Company located in the State.

1.05. The Agency has determined that the acquisition, constructing and equipping of the Facility, as described in the Company's application to the Agency (the "Application") and the leasing or sale thereof to the Company will promote and further the purposes of the Act.

1.06. On March 25, 2025 the Agency adopted a resolution (the “Resolution”) agreeing to undertake the Assistance in order to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such assistance and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate.

1.07. In the Resolution, the Agency appointed the Company its agent for the purposes of acquiring, constructing, equipping, and financing the Facility, entering into contracts and doing all things requisite and proper for completing the Facility.

1.08. In the Resolution, the Agency contemplates that it will provide assistance to the Company in the form of exemptions from sales tax (value estimated at \$104,500.00) and exemptions from mortgage tax (value estimated at \$5,000.00) (collectively, the “Assistance”), to be more particularly described in a final authorizing resolution.

ARTICLE II UNDERTAKINGS ON THE PART OF THE AGENCY

Based upon the statements, representations and undertakings of the Company regarding the Facility and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, the Agency will adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) the acquisition by deed or lease and the construction, equipping, and financing of the Facility, and (ii) the assignment of the rights and delegation of duties respecting the Facility to the Company, all as shall be authorized by law and by mutually satisfactory to the Agency and the Company.

2.02. The Agency will take a leasehold interest in the Facility pursuant to a Lease Agreement entered into between the Company, as Lessor and the Agency as Lessee (the “Lease Agreement”) and will enter into a Leaseback Agreement respecting the Facility with the Company (the “Leaseback Agreement”). The Lease Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

2.03. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in the pursuance thereof.

2.04. Within thirty (30) days of appointing the Company as its agent and pursuant to Section 874(9) of the Act, the Agency agrees to file with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the “Thirty-Day Sales Tax Report”), a statement identifying the Company as agent of the Agency, setting forth the taxpayer identification number

of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating a rough estimate of the value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

ARTICLE III UNDERTAKINGS ON THE PART OF THE COMPANY

Based upon the statements, representations and undertakings of the Agency herein and in the Inducement Resolution and subject to the conditions set forth herein and in the Inducement Resolution, the Company agree as follows:

3.01. The Company hereby accepts the appointment made by the Agency in the Resolution to be the true and lawful agents of the Agency to (i) construct, renovate, equip, and finance the Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents of the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and the same validity as the Agency could do if acting on its own behalf. The Company shall file with the New York State Department of Taxation and Finance an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility in compliance with Section 874(8) of the Act.

3.02. The Company will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the acquisition, construction, equipping, and financing of the Facility (including any necessary contracts for the acquisition of real property necessary or useful in said Facility) and, on mutually agreeable terms and conditions, it will transfer to the Agency, or cause to be transferred to the Agency title to the land and all improvements comprising the Facility.

3.03. The Agency will enter into the Lease Agreement with the Company or designated company provided said company is an applicant containing, among other things, the terms and conditions described in Section 2.02 hereof and together with Company enter into such other financing agreements, indentures, guarantees, and related agreements as shall be necessary or appropriate to the Company.

3.04. (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), any mechanics' or other liens against the Facility for labor or materials furnished in connection with the renovation, construction, and equipping of the Facility. The Company shall forever defend, indemnify and hold the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against all costs, losses, expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the renovation, construction and equipping of the

Facility or arising out of any contract or other arrangement therefor (and including any expenses of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall forever defend, indemnify and hold harmless the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employees of the Company) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Facility, including the failure to comply with the provisions of Article 3.04 hereof, or arising, directly or indirectly, out of the ownership, construction, renovation, operation, maintenance, repair or financing of the Facility, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing, including any proceedings or actions commenced challenging the actions of the Agency in regards to the Assistance or the Facility.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its member, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(d) The Company shall provide and carry worker's compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protection for the benefit of the Agency contractual coverage covering the indemnities herein provided for), with such limits and with such Company as may be approved by the Agency with the Agency in all cases named as an "added insured." Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

3.05. The Company agrees that, as agent for the Agency or otherwise, they will comply with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Facility, the acquisition, construction, equipping, and financing thereof, the operation and maintenance of the Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions. The Company certifies, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

3.06. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.07. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Facility, or are in any manner otherwise payable directly or indirectly in connection with the Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.08 The Company acknowledges that the Assistance shall be subject to modification, suspension or discontinuance in accordance with the policies adopted by the Agency.

3.09 In accordance with Section 875(3) of the General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that it may be subject to recapture of any and all Assistance if it is determined by the Agency that:

(a) the Company or its subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(b) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its subagents, if any; or

(c) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(d) the Company failed to comply with a material term of condition to use property of services in the manner required hereunder.

If the Agency determines to recapture any Assistance, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s), unless agreed to otherwise by any tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the New York State and local sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

3.10 In order to accomplish the foregoing and to assist the Agency in preparing its annual compliance report, the Company shall provide annually, to the Agency, a certified statement and documentation in substantially the form attached hereto as Schedule A.

ARTICLE IV GENERAL PROVISIONS

4.01. This Agreement shall take effect on the last date of execution hereof by the Agency and the Company and shall remain in effect until the Lease Agreement becomes effective, it is the intent of the Agency and the Company that this Agreement be superseded in its entirety by the Lease Agreement, except for the indemnities contained herein, which shall survive. No Assistance shall be provided to the Company prior to the effective date of this Agreement.

4.02. It is understood and agreed by the Agency and the Company that the execution of the Lease Agreement and related documents are subject to (i) obtaining all necessary governmental approvals (including, without limitation, the approvals required by the Tax Equity and Fiscal Responsibility Act of 1982), (ii) approval of the Company, (iii) approval of the members of the Agency, (iv) compliance with the State Environment Quality Review Act, (v) payment by the Company of the Agency's disbursements, Agency's agency fee and legal fee as described in Article 4.03.

4.03 The Company agrees that it will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses, which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder. Without limiting those expenses and in addition, the Company also agrees to pay (i) an application fee of \$500.00; (ii) an Agency fee of \$6,332.78 being $\frac{1}{2}$ of 1% of the total project amount of \$1,266,555.00 (Project Amount), 50% of which is payable upon execution of this Agreement (the "Project Fee Deposit") and the balance of which is payable at the closing of the transaction contemplated hereunder; and (iii) Agency counsel fees to the firm of Felt Evans, LLP in the amount of \$4,500.00 plus expenses in connection with the Application review, Inducement Resolution, this Agreement, the Lease Agreement, the Leaseback Agreement, the Approving Resolution, the Environmental Compliance and Indemnification Agreement, the Recapture Agreement, the Sublease Agreements, the Project Opinion, any Funding and related opinions, as well as such other documents as are reasonably to facilitate the transaction contemplated by this Agreement.

4.04. If for any reason the Lease Agreement is not executed on or before eighteen (18) months from the execution hereof, the provision of this Agreement (other than the provisions of Articles 3.04, 3.05, 3.06 and 3.08 above, which shall survive) shall, at the sole discretion of the Agency, terminate and be of no further force and effect, and following such termination neither party shall have any rights against the other party except:

(a) The Agency shall deduct from the Project Fee Deposit all expenses which were incurred by the Agency in connection with the acquisition, construction, equipping, and financing of the Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Facility; and

(c) The Agency shall deduct from the Project Fee Deposit the out-of-pocket expenses of members of the Agency and Agency counsel incurred in connection with the Facility and will pay the reasonable fees of Agency counsel for legal services incurred as of the date of termination relating to the Facility in accordance with Article 4.03; and

(d) After the Agency deducts the fees and expenses described in (a) and (c) above, the Agency shall return the balance of the Project Fee Deposit to the Company.

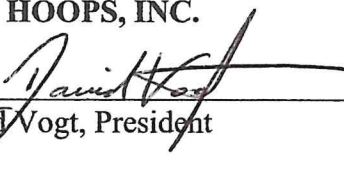
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IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on this 14th day of April, 2025.

**HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Vincent J. Bono, Chairman

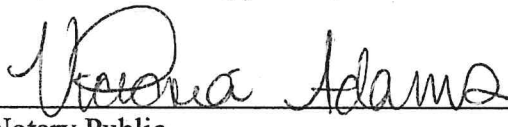
DNA HOOPS, INC.

By: 
David Vogt, President

STATE OF NEW YORK)
COUNTY OF HERKIMER) ss.:

On the 14th day of April, 2025, before me, the undersigned, a Notary Public, in and for said State, personally appeared, **Vincent J. Bono**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

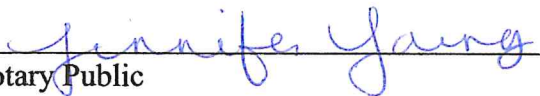
VICTORIA L. ADAMS
Notary Public, State of New York
Reg. No. 01AD6325291
Qualified in Herkimer County
Commission Expires 05/26/27


Notary Public

STATE OF NEW YORK)
COUNTY OF HERKIMER) ss.:

On the 7 day of April, 2025, before me, the undersigned, a Notary Public, in and for said State, personally appeared, **David Vogt**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

JENNIFER YOUNG
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01Y00029107
QUALIFIED IN HERKIMER COUNTY
MY COMMISSION EXPIRES SEPTEMBER 24, 2028

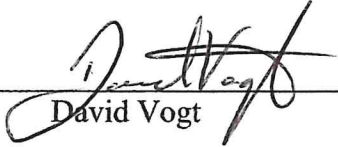

Notary Public

CERTIFICATION OF PROJECT OPERATOR

STATE OF NEW YORK)
COUNTY OF HERKIMER) ss.:

DAVID VOGT, being first duly sworn, deposes and says:

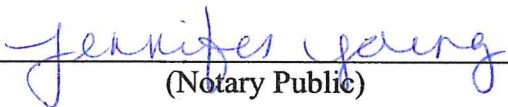
1. That I am the President of DNA Hoops, Inc. and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.



David Vogt

Subscribed and affirmed to me under penalties of perjury

this 7th day of April 2025.



(Notary Public)

JENNIFER YOUNG NOTARY PUBLIC, STATE OF NEW YORK NO. 01Y00029107 QUALIFIED IN HERKIMER COUNTY MY COMMISSION EXPIRES SEPTEMBER 24, 2028
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SCHEDULE A
ANNUAL EMPLOYMENT VERIFICATION AND COMPLIANCE REPORT
Report Year 20__

Project or Company Name: _____

1. Original estimate of permanent jobs to be created and retained (from the project application).
Created _____ Retained _____

Note to first year reporters only: If estimates in Section F. Employment Information/Job Creation has changed from original application, please contact the IDA for further instructions.

2. Number of current full time equivalent employees (at end of Report Year) _____
Please attach a copy of a filed **NYS-45** Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return for the last payroll date in the month of December for the Report Year.
3. If original estimate of jobs to be created and retained does not equal number of full time equivalent employees as of the end of the Report Year, please explain:

4. Number of full time equivalent **construction jobs** during Report Year (if any) _____
5. Provide amount of mortgage recording tax exemption (if any) _____
6. Provide amount of sales tax exemption (if any) NYS _____ Local _____
Please attach a copy of a filed NYS Department of Taxation and Finance Form **ST-340** Annual Report of Sales and Use Tax Exemption for the Report Year.
7. If project is still in development, provide any amount of **capital investment** (see definition below) for this project for the Report Year (if any) _____. **Please attach** supporting documentation.
8. **Please attach** an updated Certificate of Insurance naming the Agency as "Additional Insured". Please refer to your project documents for further information regarding required insurance.
9. If your project includes an industrial revenue bond, please provide the following:
- | | | |
|--|-------|----------------------------|
| Bond Balance at Beginning of Report Year | _____ | Final Maturity Date: _____ |
| Total Amount Paid on Bond in Report Year | _____ | |
| Bond Balance at End of Report Year | _____ | |
10. Has any event of default under the project documents occurred or is continuing during the Report Year?
Y/N _____ If yes, please explain

11. Let us know of any significant changes in your company or if we may be of assistance for any future projects.

CERTIFICATION

I hereby certify that I am the owner of the project site or am the duly authorized representative and may sign this data submission on behalf of the owner(s) of said project site. I have read and understand all of the requirements contained within the project documents and I have read the foregoing Annual Employment Verification and Compliance Report.

Name (Print) _____

Title _____

Signature _____

Date _____

Phone Number _____

Email _____

For reporting purposes, **Capital Expenditures** per your application are amounts paid for new buildings or permanent improvements or betterments to the value of any property, vacant or constructed. Please include:

1. Cost of acquisition of building;
2. Cost of construction of building;
3. Cost of acquisition of machinery and equipment;
4. Cost of acquisition of furniture and fixtures;
5. Improvements that put the property in better operating condition; and
6. Improvements that improve the efficiency quality, strength and/or capacity of the property