

## **INDENTURE OF LEASE**

**INDENTURE OF LEASE** made this       day of       , 2021 between **F AND K, LLC**, a Limited Liability Company organized and existing under the laws of the State of Connecticut, having an office at 320 Whalley Avenue, New Haven, Connecticut (hereinafter “**LANDLORD**”), and **THE CITY OF NEW HAVEN**, a municipal corporation organized and existing under the laws of the State of Connecticut, with a mailing address of 165 Church Street, New Haven, Connecticut, 06510 (hereinafter “**TENANT**”),

### **W I T N E S S E T H:**

1. **Premises** The Landlord hereby demises and leases unto the Tenant, and the Tenant hereby hires and takes from the Landlord, for the term and upon the rental hereinafter specified, the first floor of the premises known as 332 Whalley Avenue, New Haven, Connecticut, consisting of approximately Two Thousand Five Hundred Fifty Seven (2,557sq. ft) square feet (hereinafter referred to as “**Premises**” or “**Demised Premises**”).

2. **Term.** The term of this Lease shall be for a period of five (5) years commencing on September 1, 2021.

3. **Base Rent.** The base rent for the Lease term shall be One Hundred Eight Thousand Dollars (\$108,000.00) and shall be payable in monthly installments of One Thousand Eight Hundred Dollars (\$1,800.00) each commencing on September 1, 2021 and continuing with a like payment on the first day of each month thereafter during the five (5) year term.

4. **Gross Lease; Utilities**

a) It is the intention of the parties that this is a gross lease, except for the payment of certain utilities separately metered to the Tenant as hereinafter set forth, and that the Tenant shall not be liable for payment of, inter alia, real estate taxes, common area maintenance and the Landlord's insurance premium.

b) The Tenant further agrees it shall be responsible for the payment of the following services and utilities: electric, gas, oil, heat and air conditioning. All other utilities shall be the responsibility of the Landlord. The Landlord shall also be responsible for refuse and snow removal. The Landlord shall not be responsible for the disruption of any such service. All such utility costs shall commence immediately upon Landlord's delivery of possession of the premises to the Tenant.

5. **Use.** The Tenant covenants and agrees to use the Demised Premises as a substation for the Department of Police Service and agrees not to use, nor permit the Premises to be used for any other purpose without the prior written consent of the Landlord.

6. **Quiet Enjoyment.** The Landlord warrants and represents that it has full authority to execute this Lease for the term aforesaid, and covenants that upon the Tenant's paying the base rent, and performing the covenants to be observed and performed on the Tenant's part, the Tenant may peacefully and quietly have, hold and enjoy the Demised Premises, subject, nevertheless, to the terms and conditions of this Lease. This covenant shall bind Landlord only so long as Landlord is the owner of the Premises.

7. **Maintenance.** The Tenant shall be responsible for all maintenance and repair of the interior of the Demised Premises after the initial fit-up. The Landlord shall remain responsible for all structural repairs. The Tenant shall be responsible for any damage to the Demised Premises caused by the Tenant except for ordinary wear and tear.

8. **Waste and Nuisance.** Tenant shall not suffer, permit or commit any waste, or allow, suffer or permit any odors, vapors, steam, water, vibration, noises or undesirable effects to emanate from the premises into other portions of the building or otherwise allow, suffer or permit the Premises or any use thereof, to constitute a nuisance or interfere unreasonably with the safety, comfort or enjoyment of the building by Landlord or other occupants or their customers.

9. **Default.** The Tenant shall, without any previous demand therefore, pay to the Landlord the reserved rent at the times and in the manner above provided. In the event of non-payment of said rent, or any installment thereof, at the times and in the manner above provided, and if the same shall remain in default for ten (10) days after becoming due, or in the event the Tenant is in default of any other provisions of this Lease, the Landlord shall send written notice to the Tenant, stating that the Tenant is in default, and afford the Tenant an additional period of twenty (20) days to cure such default. In the event such default is of such a nature that it cannot be cured within such twenty (20) day period, no Tenant default shall be deemed to have occurred, provided, however, that the Tenant shall have commenced action to remedy such default within said twenty (20) day period and shall diligently proceed with remedying the same. In the event such default is not cured, the Landlord may terminate this Lease.

In the case of any such default, or dispossession by the Summary Process proceedings, or otherwise, the reserved rent shall become due thereupon, and be paid up to the time Landlord relets the Premises. In the event Landlord lets the Premises for an amount less than the rent reserved herein, the Tenant shall be liable for the difference until the expiration of the term in which this Lease is terminated, together with such expenses as the Landlord may incur for legal expenses, brokerage fees and/or putting the Demised Premises in good order, or preparing the same for re-rental.

10. **Mechanic's Liens.** In the event that any Mechanic's Lien is filed against the Premises as a result of the actions of the Tenant, the Landlord shall give thirty (30) days notice to the Tenant, in writing, to cause any such liens to be removed. In the event that the Tenant fails to remove any such lien within thirty (30) days after notice, the Landlord may terminate this Lease, and the Tenant shall forthwith reimburse the Landlord for the total expense incurred by the Landlord in discharging the said lien, as additional rent hereunder.

11. **Liability of Landlord.** The Landlord shall not be responsible for any loss of or damage to property or injury to persons occurring in or about the Demised Premises by reason of any existing or future condition, defect, matter or thing in said Demised Premises under the exclusive control of the Tenant, and for which the Landlord is not otherwise responsible for correcting under the terms of this Lease, or for the acts, omissions or negligence of other persons or tenants in said Demised Premises.

12. **Insurance.** The Landlord shall insure, at its sole cost and expense, the building on the

Demised Premises against the risk of fire and/or other casualty and all other liability.

13. **Subordination, Attornment; Non-Disturbance Agreement and Tenant Certificate.**

a) **Subordination.** There are currently no mortgages on the Demised Premises.

The Tenant hereby agrees to subordinate this Lease to any mortgage, deed of trust, or any method of financing or refinancing, placed against the Demised Premises, and to all renewals, modifications, replacements, consolidations and extensions thereof, provided, however, such subordination is contingent upon the Tenant Receiving a Non-Disturbance Agreement from such Lender. The Tenant shall, at the request of such Lender, shall deliver such a subordination agreement without charge acknowledging such subordination.

b) **Attornment.** In the event of a sale or transfer or assignment of Landlord's interest in the Premises, or in the event any proceedings are brought for the foreclosure of or for the exercise of any power of sale under any mortgage constituting a lien upon the premises, Tenant shall attorn to and recognize such transferee, purchaser or mortgagee as Landlord under this Lease, provided, however, such attornment is contingent upon the Tenant receiving a Non-Disturbance Agreement from such transferee, or purchaser or assignee of the Landlord's interest. Tenant, however, shall at the request of the party to whom it has attorned, execute, acknowledge and deliver, without charge, from time to time, instruments acknowledging such attornment.

c) **Tenant's Certificate.** Tenant shall, without charge, at any time and from time to time, within ten (10) days after request by Landlord, certify by written instrument duly executed, acknowledged and delivered to any mortgagee, assignee of any mortgagee or purchaser or

any proposed mortgagee, proposed assignee of any mortgage or proposed purchaser or any other person, firm or corporation specified by Landlord:

- i) That this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications);
- ii) Whether or not to the Tenant's knowledge there are then existing any set offs or defenses against the enforcement of any of the terms, covenants or conditions of the Lease on the part of the Tenant to be performed or complied with;
- iii) The date to which rental or other charges hereunder have been paid.

14. **Damage by Fire or Other Cause.** If the Demised Premises shall be partially damaged by fire or other cause, without the fault or neglect of Tenant, Tenant's servants, employees, agents, visitors or licenses, the damage shall be repaired by and at the expense of the Landlord, and the fixed minimum rent until such repairs shall be made, shall be apportioned according to the part of the Demised Premises which is usable by Tenant. But if such partial damage is due to the fault of Tenant, Tenant's servants, employees, agents, visitors or licenses, without prejudice to any other rights or remedies of the Landlord, the damage shall be repaired by Landlord, but there shall be no apportionment or abatement of rent. If the Demised Premises are totally or substantially damaged, or are rendered wholly or substantially untenable, by fire or other cause, and if Landlord shall decide not to restore or not to rebuild the same, then or in any of such events, Landlord may within ninety

(90) days after such fire or other cause, give Tenant a notice in writing of such decision, and thereupon the term of this Lease shall expire by lapse of time upon the third day after such notice is given, and the Tenant shall vacate the Demised Premises and surrender same to Landlord. No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the building, except for the rent abatement provided thereabove.

Notwithstanding the above, the Tenant shall have the option to terminate this Lease immediately if the Demised Premises are damaged by fire or other cause to such an extent that the carrying on of the business to which the substation is typically devoted cannot reasonably proceed.

15. **Eminent Domain.** If the property or any part thereof wherein the Demised Premises are located shall be taken under any power of eminent domain or condemnation, this Lease, at the option of the Landlord shall forthwith terminate, and the Tenant shall have no claim or interest in or to any award of damages for such taking. The Tenant shall not be entitled to any apportionment of any such award.

16. **Surrender of Premises.** Upon the expiration or other termination of the term of this Lease, the Tenant shall quit and surrender the Demised Premises in good order and condition, ordinary wear and tear excepted, and shall remove all its property therefrom. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the terms of this Lease.

17. **The Delivery Date; Tenant's Work.** The Landlord shall deliver possession of the

premises to the Tenant on or before September 1, 2021. The Demised Premises shall be delivered to the Tenant in its “as-is” condition. The Landlord shall supply the heating, ventilation and air conditioning system, which shall be in operational condition upon delivery of the possession. The Tenant shall be responsible for alterations to the Demised Premises by the Police Department and/or City of New Haven after execution of this Lease and completion of the agreed fit-up by Landlord. The Tenant shall, however, submit to the Landlord for review and approval, plans prior to the commencement of construction but such approval shall not be unreasonably withheld, delayed or conditioned.

18. **320 Whalley Avenue.** The property contiguous to the Demised Premises is 320 Whalley Avenue and is owned by Minore’s Meats, Inc. The ownership of Minore’s Meats, Inc. and the Landlord herein are common. The Landlord shall keep the façade of Minore’s Meats, Inc. at 320 Whalley Avenue in good repair for the duration of the term of this Lease.

19. **Observation of Law Ordinances and Regulations.** The Tenant shall observe and comply with all laws, ordinances and regulations of the Federal, State and municipal authorities applicable to the Demised Premises and to the business to be conducted by the Tenant thereon.

20. **Condition of Premises.** The Tenant has examined the Demised Premises and, subject to the other Paragraphs of this Lease regarding Landlord’s responsibilities and duties, accepts them in their present condition and without any representations on the part of the Landlord or any agent of the Landlord. The Tenant shall quit and surrender the Premises at the end of the demised term in good condition as the reasonable use thereof will permit. At the time the Tenant surrenders



possession of the subject premises to the Landlord, the Tenant shall restore the Premises to reasonable condition.

21. **Assignment and Subletting.** This Lease shall not be assigned by the Tenant without the prior written consent of Landlord.

22. **Signs.** Tenant may not erect any additional signs without the Landlord's prior written consent. The cost of any such sign shall be the responsibility of the Tenant.

23. **Brokers Commissions.** Tenant covenants, warrants and represents to Landlord that there was and is no Broker, Finder or similar person entitled to a commission fee or other compensation with respect to the consummation of this Lease and that no conversations or prior negotiations were had by Tenant or by anyone acting on behalf of Tenant with any Broker concerning the renting of the premises.

24. **Governing Law.** The interpretation, validity, performance, and enforcement of this Lease shall be governed by the laws of the State of Connecticut.

25. **Partial Invalidity.** If any provision of this Lease or application thereof to any person or circumstance shall to any extent be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

26. **Successors and Assigns.** Except as otherwise expressly provided, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representatives,

successors and assigns. Each provision to be performed by Tenant shall be construed to be both a covenant and a condition, and if there shall be more than one tenant, they shall all be bound jointly and severally by these provisions.

27. **Entire Agreement, Etc.** This Lease and Exhibits, Riders and/or Addenda, if any, attached, set forth the entire agreement between the parties. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon the Landlord or Tenant unless reduced to writing and signed. Submission of this Lease for examination does not constitute an option for the Demised Premises, and become effective as a lease only upon execution and delivery thereof by Landlord to Tenant. If any provision contained in a rider or addenda is inconsistent with any other provision of this Lease, the provision contained in said rider or addenda shall supersede said other provision.

28. **Captions.** The captions, numbers, and index appearing herein are inserted only as a matter of convenience, and are not intended to define, limit, construe or describe the scope or intent of any paragraph, nor in any way affect this Lease.

29. **Notice.** Any notice, request, demand or communication permitted or required to be given by the terms and provisions of this Lease, or by any law or governmental regulation, either by Landlord to Tenant or by Tenant to Landlord, shall be in writing. Any such notice required hereunder shall be deemed duly given if mailed in any post office by registered or certified mail addressed to the following:

To Landlord: F and K, LLC, c/o Minore's Meats, Inc.

320 Whalley Avenue  
New Haven, CT 06515  
Attn: Pasquale Minore

To Tenant: City of New Haven  
Department of Police Service  
1 Union Avenue  
New Haven, CT 06519  
Attn: Alissa Ebbson

30. **Binding Effect.** All the terms, covenants, provisions and conditions of this Lease shall bind, apply to and run in favor of the Landlord and Tenant, and their respective successors in interest.

30. **Notice of Lease.** This Lease shall not be recorded upon the Land Records of the Town of New Haven. A Notice of Lease, however, may be recorded at the request of Tenant.

31. **Amendment.** This instrument may be amended only by an instrument in writing, signed by the party to be charged.

**IN WITNESS WHEREOF**, the parties hereto have caused this instrument to be executed at \_\_\_\_\_, Connecticut, this day and year first above written.

**In the Presence of:**

**F AND K, LLC**

\_\_\_\_\_

**BY:** \_\_\_\_\_  
**PASQUALE MINORE**  
**Managing Member**

**(LANDLORD)**

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**CITY OF NEW HAVEN**

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**BY:** \_\_\_\_\_

**JUSTIN ELICKER**

**Mayor**

**(TENANT)**

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**STATE OF CONNECTICUT)**

**) ss: New Haven**

**Date:** \_\_\_\_\_

**COUNTY OF NEW HAVEN)**

Personally appeared Pasquale Minore, Managing Member of F and K, LLC, signer and sealer of the foregoing instrument, and acknowledged by the same to be his free act and deed as such managing member of F and K, LLC, before me.

\_\_\_\_\_  
LAWRENCE J. GREENBERG  
COMMISS. OF THE SUP. COURT

**STATE OF CONNECTICUT)**

**) ss: \_\_\_\_\_**

**Date:** \_\_\_\_\_

**COUNTY OF NEW HAVEN)**

Personally appeared, Justin Elicker, Mayor of the City of New Haven, signer and sealer of the foregoing instrument, and acknowledged the same to be her free act and deed as such Mayor, before me.

\_\_\_\_\_  
NOTARY PUBLIC/  
COMMISS. OF THE SUP. COURT

Approved as to Form and Correctness

\_\_\_\_\_  
Roderick Williams  
Deputy Corporation Counsel  
City of New Haven  
165 Church Street-4th Floor

New Haven, CT 06510