

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made this ____ day of March, 2019, between **BEECH STREET FACTORY, LP**, 341 Beech Street, Pottstown, Montgomery County, Pennsylvania (hereinafter referred to as "Landlord") and **THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN**, 100 E. High Street, Pottstown, Montgomery County, Pennsylvania (hereinafter referred to as "Tenant").

BACKGROUND

- A. Landlord is the owner of certain real property located at 341 Beech Street, Pottstown, Montgomery County, identified as tax parcel number 16076 048, and consisting of a mixed-use development, including residential apartments and non-residential space (the "Real Property").
- B. Landlord has offered to lease to Tenant a portion of its non-residential property, to be used as a police substation.
- C. The parties wish to confirm in writing, through this Lease, the specific terms and conditions of Tenant's lease of Landlord's property.

NOW, THEREFORE, in consideration of the mutual covenants and promises and other valuable consideration, the parties intending to be legally bound hereby agree as follows:

1. **Premises**. Tenant agrees to lease from Landlord a portion of the Real Property, consisting of approximately 81 square feet of office space and the non-exclusive use of the adjoining parking area for not more than three police vehicles, as more specifically depicted on Exhibit A (the "Premises") under and subject to terms and conditions contained below.
2. **Term and Rent**. Tenant hereby leases from Landlord the Premises for an initial term of three years commencing April 1, 2019, at a rental rate of One Dollar (\$1.00) per year (the "Initial Term").

3. **Renewal Option**. Provided that Tenant is not in default in performance of this Lease, this Lease shall automatically renew annually for one (1) year terms (each, a "Renewal Term", and together with the Initial Term, the "Term"). In the event that either Landlord or Tenant wishes to terminate this Lease, that party shall provide 90 days written notice.
4. **Use**. Tenant shall use and occupy the Premises as and for a police substation for its existing municipal police department, all uses being subject to zoning, ordinances, local laws, and any other restrictions contained herein. Tenant shall have the non-exclusive right to use the existing parking lot for up to and including three police vehicles
5. **Compliance with all Laws**. Tenant shall comply with all present and future laws, ordinances, requirements, and regulations of the federal, state, county and city governments or other legal or public authorities, boards, bureaus, or departments, including but not limited to, the Americans With Disabilities Act, and of insurance organizations insofar as they relate to the Premises, and Tenant shall indemnify and hold harmless Landlord of and from all fines, penalties, claims, suits, and costs of every kind and nature arising out of any violation of, or non-compliance with the same.
6. **Access**. Landlord or its agent shall have the right to enter any part of the Premises upon reasonable notice to Tenant to view and inspect the Premises, except for inspections related to health and safety which may be conducted without notice. Landlord shall also have the right upon twenty-four (24) hours' notice to enter the Premises at all reasonable hours during the Term of the Lease to show the Premises to prospective purchasers, and within three (3) months prior to the expiration of the Lease term then in effect, to show the Premises to prospective lessees.
7. **Utilities**. Landlord shall provide utilities such as heat, water, electricity to the Premises. Tenant shall be responsible for the costs of phone lines and internet connections.
8. **Alterations**. Tenant accepts the Premises in its "as-is" condition. Tenant shall not make any modifications to the Premises except as approved by Landlord in writing. However,

Tenant shall be permitted to make such modifications to allow for the installation of communication lines for computer capability which shall be at the sole cost and expense of Tenant.

9. **Care and Maintenance**. Tenant shall, during the Term of this Lease, at its sole cost and expense, take good care of and maintain the Premises in good order and repair, promptly making all necessary structural and non-structural repairs to the Premises and appurtenances thereto and replacements where deemed necessary by Landlord. Tenant shall not commit or suffer to be committed any waste upon or about the Premises, and Tenant shall indemnify and hold Landlord harmless from and against any liability or damage on such account by Tenant's failure to pay same. Landlord shall safely maintain the roof, exterior walls, windows, structural foundations and sewer and water systems of Premises.

10. **Insurance**. Tenant, at Tenant's expense, shall maintain public liability insurance, including bodily injury and property damage on the Premises. Tenant shall also provide and maintain comprehensive general liability insurance with respect to occurrences arising on or about the Premises (covering personal injury, death and property damage), and such policies shall inure to Tenant with Landlord as an additional insured; and Tenant shall deliver to Landlord copies of all such policies or certificates of insurance as to said policies which shall be reasonably acceptable to Landlord. Landlord shall provide public liability insurance on the entire building and property housing the Premises.

11. **Damage or Destruction: Condemnation**

- a. General. If at any time during the Term hereof, the Premises or any part thereof shall be taken by condemnation or destroyed or damaged by fire or the elements or other casualty, this Lease, except as otherwise herein expressly provided, shall continue in effect, subject to the provisions of this Section, and Tenant shall continue to pay all rents as provided herein.

- b. Landlord Sole Negotiator. Landlord shall be the sole negotiator in any proceedings for obtaining proceeds, settlements, and awards relating to the Premises and each party shall cooperate with the other and shall sign all papers reasonably required, and take all other steps reasonably requested, by the other in order to obtain all such settlements and awards.
- c. Condemnation. The term "condemnation," as used herein, shall include any transfer or conveyance in lieu of condemnation to any entity possessed of the power of eminent domain, and shall include any temporary requisition of the use or occupancy of the Premises, or part thereof, by any governmental authority, civil or military. If the Premises or any part thereof shall be taken by condemnation and the Landlord shall elect by notice served on the Tenant to terminate this Lease, the Lease shall terminate upon the condemnor taking possession and Tenant shall be released of and from all further liability hereunder except with respect to the obligations accrued prior to such date. Tenant shall be entitled to make a separate claim for moving reimbursement and for its property, provided same does not diminish any award to the Landlord.
- d. Partial Damage to Premises. If the Premises shall be partially damaged by fire or other cause without the fault or negligence of Tenant, Tenant's employees, agents, visitors or licensees, the damages shall be repaired by and at the expense of Landlord, and the rent until such repairs can be made shall be apportioned according to the part of the Premises which is usable by the Tenant. No penalty shall accrue for reasonable delay on account of labor troubles or any other cause beyond Landlord's control.
- e. Total Damage to Premises. If the Premises are totally damaged or rendered wholly untenable by fire or other causes and Landlord shall decide not to rebuild the same or, if the building shall be so damaged that Landlord shall

decide to demolish it or to rebuild it, then, in any such event, Landlord may within ninety (90) days of such fire or other causes 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, the same as if such day were the day of the expiration of the term, and Tenant shall vacate and surrender the Premises to Landlord.

12. **Subordination /Estoppel**. The right of Tenant under the Lease shall be subject and subordinate to the lien of any mortgage or other current or subsequent encumbrance on the fee ownership, and Tenant shall execute within ten (10) days of demand any Subordination Agreement or Estoppel or other document required by Landlord's mortgagee. In case of the failure of Tenant to execute said papers on demand, Landlord is hereby authorized as the attorney and agent of Tenant to execute such releases, instruments or other documents and in such event Tenant hereby confirms and ratifies any such instruments so executed by virtue of this power of attorney.
13. **Assignment and Subletting**. Tenant shall not sublet the Premises, nor any part thereof, nor assign, or otherwise dispose of this Lease or any interest therein, or any part thereof, without Landlord's prior written consent. Tenant may not mortgage, pledge, or otherwise encumber its leasehold estate hereunder, without Landlord's prior written consent, and any attempt to mortgage, pledge or otherwise encumber such estate shall be null and void and of no force and effect.
14. **Notices**. Any and all notices, offers to purchase, documents, tenders and deliveries required to be given or made hereunder shall be addressed to the parties at the addresses set forth on page 1 of this Lease or at such other address as either party may direct in writing. All notices shall be given by personal delivery or by depositing the same in the United States Post Office, properly addressed to Tenant or Landlord, as the case may be, at the addresses shown above until written notice is given of the change of any

such address and thereafter to such changed address, postage fully prepaid, for delivery by registered or certified mail.

Waiver. No oral statement or prior written matter shall have any force or effect. No waiver by either party of any breach by the other of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or any other covenant, agreement or obligation, nor shall any forbearance by either party to seek a remedy for any breach by the other be deemed a waiver by either party of its rights or remedies with respect to such breach. The remedies provided in the Lease shall be cumulative and shall not in any way abridge, modify or preclude any other rights or remedies to which Landlord may be entitled either at law or in equity. **Eve**

nts of Defaults; Remedies. The following events are referred to collectively as "**Events of Default**" or individually as an "**Event of Default**" in this Lease:

- a. Tenant fails to pay within fifteen (15) days after it is due the Rent, or any part thereof;
- b. Tenant defaults in the performance of any covenant or condition of this Lease and fails to commence to cure the default within five (5) days after written notice thereof by Landlord and complete the cure of the default with fifteen (15) days after written notice thereof by Landlord; or
- c. Tenant files a voluntary petition of bankruptcy or is adjudicated as bankrupt or insolvent or seeks any similar relief under any bankruptcy or insolvency statute, or if Tenant is involuntarily placed in bankruptcy and such petition is not dismissed within 30 days of filing.
- d. If Tenant ceases operation in or vacates or abandons the Premises.

If any one or more Events of Default occur, then Landlord has the right, at its election:

- a. To give Tenant written notice of Landlord's intention to terminate this Lease on the earliest date permitted by law or on any later date specified in such notice, in

which case Tenant's right to possession of the Premises will cease and this Lease will be terminated, except as to Tenant's liability, as if the expiration of the term fixed in such notice were the end of the Term; or

- b. Upon notice to Tenant and through summary proceedings or other legal process, to reenter and take possession of the Premises or any part of the Premises, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, using such force for such purposes as may be necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Rent or other amounts payable under this Lease or as a result of any preceding breach of covenants or conditions; or
- c. Without further demand or notice, to cure any Event of Default and to charge Tenant for the cost of affecting such cure, provided that Landlord will have no obligation to cure any such Event of Default of Tenant.

17. **Mechanic's Lien.** Tenant will not permit any mechanic's, laborers' or material person's liens or any other liens or charges to stand against said Premises for any labor or material furnished or claimed to have been furnished to Tenant in connection with any work of any character performed or claimed to have been performed on said Premises by or at the direction or sufferance of Tenant. Landlord shall have the right, after giving Tenant not less than five (5) days' notice of Landlord's intention to do so, to cause the same to be discharged, and all amounts paid by Landlord to effect any such discharge, together with interest thereon at the rate of six percent (6%) per annum, shall be payable by Tenant to Landlord on demand. **Severability** . The sections of the Lease are intended to be severable. If any section or provision of the Lease shall be held to be unenforceable by any court of competent jurisdiction the Lease shall be construed as though such section had not been included in it. If any section or provision of the Lease

shall be subject to two constructions, one of which would render such section or provision invalid, then such section shall be given the construction which would render it valid.

Attorneys' Fees. In the event that at any time during the term of this Lease either Landlord or Tenant shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default hereunder, the unsuccessful party to such action or proceeding agrees to reimburse the successful party for the reasonable expenses of attorneys' fees and disbursements incurred therein by the successful party.

Entire Agreement. This Lease constitutes the entire agreement between Tenant and Landlord relating to the Premises and supersedes any other agreement, whether written or oral, that may have been entered into by the parties.

Amendment. None of the covenants, terms, agreements, and conditions of the Lease shall in any manner be altered, waived, changed, or abandoned, nor shall the term hereof or any part thereof be surrendered except by written instrument, signed, sealed, acknowledged and delivered by Tenant and every member of Landlord.

Counterparts. This Lease may be executed in several counterparts, each of which shall be an original and all of which when taken together will constitute one agreement between the parties. In the event the parties hereto execute this Lease and exchange it in the form of a facsimile or internet transmission such versions shall constitute and be deemed effective as originals in all respects.

Governing Law. This Lease shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties have executed this Lease the day and year first above written.

LANDLORD:

BEECH STREET FACTORY, LP

BY: _____

Signatory

Benjamin P. Lockwood, Authorized

TENANT:

**THE BURGESS AND TOWN COUNCIL
OF THE BOROUGH OF POTTSTOWN**

BY: _____
Dan Weand, President

ATTEST: _____

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EXHIBIT A
PREMISES