

AGREEMENT TO PROVIDE FOOD SERVICE GASTON COUNTY DETENTION CENTER

THIS AGREEMENT, made as of the First day of _____, 2021 by and between GASTON COUNTY, a political subdivision of the State of North Carolina (hereinafter referred to as the "County"), and KIMBLE'S FOOD BY DESIGN, INC. d/b/a/ SKILLET KITCHEN (hereinafter referred to as "Contractor") (collectively the "Parties") shall constitute the terms and conditions under which the Contractor shall provide food service at the Gaston County Detention Center.

WITNESSETH:

That for and in consideration of the mutual covenants and agreements herein set forth, the County and the Contractor hereby agree as follows:

ARTICLE I. PAYMENT

Gaston County shall pay the Contractor for meals served and/or prepared.

The Contractor shall submit to the County an invoice for meals ordered or meals served, whichever is greater for the unit price for (3) meals per day, per County's requests. Payment shall be made within 30 days from the invoice date.

ARTICLE II. SCOPE OF WORK

The Contractor agrees to provide all necessary services in accordance with the County's **Request for Proposal that was issued on 2-22-2021**. The Contractor will provide (3) Three meals per day to the inmate population at Gaston County Detention Center. **The Contractor will provide 30 meals per day for each shift of officers working in the Detention Center at no additional cost to the county.** The Contractor will procure all food, cleaning chemicals and paper goods for the jail kitchen operation. The Contractor will employ sufficient staff to provide the necessary services. Background checks and drug testing will be conducted on all Contractor staff working on property owned by Gaston County.

ARTICLE III. GENERAL CONDITIONS

Accuracy of Work. The Contractor shall be responsible for the accuracy of the work and any error and/or omission made by the Contractor in any phase of the work under this agreement. Contractor's liability for any such error or omission shall not exceed the amount invoiced or to be invoiced for the work that is the subject of the error or omission.

Additional Work. If the Contractor is asked by the County to perform work beyond the scope of this Agreement for which payment is desired, Contractor shall notify the County in writing, state that the work is considered outside the scope of the work of this Agreement, give a proposed cost for the additional work, and obtain the approval in writing from the County prior to performing the additional work for which Contractor is to be paid. The County shall in no way be held liable for any work performed under this section which has not first been approved in writing by the County.

ARTICLE IV. AGREEMENT TIME

The term of this Agreement shall commence on or about the First of _____ 2021 and will continue for three (3) years thereafter. At the expiration of the original term, the Agreement shall renew automatically in increments of twelve (12) month periods unless one of the parties notifies the other 90 days prior to the expiration of the original term or any renewal term of their intention to terminate the Agreement. Notwithstanding anything to the contrary, the terms and conditions of this Agreement shall continue to apply as long as Kimble's continues to provide services hereunder to Customer after the expiration or termination of this Agreement.

Ownership of Documents. All documents, including drawings, estimates, specifications, and data are and remain the property of the County. The Contractor agrees that the County may reuse for its own purposes any and all plans, specifications, drawings, estimates, or any other data or documents described herein in its sole discretion without first obtaining permission of the Contractor and without any payment of any monies to the Contractor therefore. However, any reuse of the documents by the County on a different site shall be at its risk, and the Contractor shall have no liability where such documents are reused.

Records Retention. The Contractor agrees to maintain all invoices and records related to food preparation and operations onsite at the Jail for a period of three (3) years. The Contractor will maintain electronic copies of such information indefinitely.

Successors and Assigns. The County and the Contractor each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the County nor the Contractor shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other, which consent will not be unreasonably withheld, delayed or conditioned. Nothing herein shall be construed as creating any personal liability on the part of any officers or agents of the County or Contractor, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the parties to this Agreement.

Review and Acceptance. Work performed by the Contractor shall be subject to review and acceptance in stages as required by the County. Acceptance shall not relieve the Contractor of its professional obligation to correct, at its own expense, any errors in the work.

Pricing. Pricing indicated on attachment "A" Skillet Kitchen reserves the right to negotiate CPI and operational cost increases no more than once per year. All increases will be delivered to Gaston Sheriff's Office. A minimum of 30 days' notice will be given before such price increase is implemented. Sales tax is not charged to the County related to the services outline in this agreement.

Termination of Agreement. If either party defaults in the performance of any obligation under this Agreement, then the non-defaulting party shall give the defaulting party written notice of its default, setting forth specifically the nature of the default. If the defaulting party fails to cure its default within ninety (90) days after receipt of the notice of default, then the non-defaulting party shall have the right to terminate this Agreement upon thirty (30) days written notice. If terminated by the County, the written notice shall be sent to the Contractor, addressed as follows:

Kimble's Food by Design
Kimble Carter, President
100 Webster St.
LaGrange, GA 30241

All notices sent to the above address shall be binding upon the Contractor unless said address is changed by the Contractor in writing to the County. If this Agreement is so terminated the Contractor shall be paid as provided herein before.

If terminated by the Contractor, the written notice shall be sent to the County at the following addresses:

Gaston County
Sheriff Alan Cloninger
425 Dr. Martin Luther King Jr. Way
Gastonia, North Carolina 28052

Business Services Administrator
Gwen Danner
425 Dr. Martin Luther King Jr. Way
Gastonia, North Carolina 28052

All notices sent to the above address shall be binding upon the County unless said address is changed by the County in writing to the Contractor. If this Agreement is so terminated, the County shall not be liable to Contractor for payments owed after the date of the notice of termination.

Indemnification Agreement. As between the County and the Contractor as the other party, the Contractor shall assume responsibility and liability for any damage, loss, or injury, including death, of any kind or nature whatsoever to person or property, including employees and property of the County, caused by or resulting from any negligent act of the Contractor or its subcontractors or any of their officers, agents, servants, or employees, arising from the performance of the work under this Agreement. The Contractor shall defend, indemnify, and hold harmless the County and all of its officers, agents, servants, or employees from and against any and all claims, loss, damage, charge, or expense to which they or any of them may be put or subjected by reason of any such damage, loss, or injury. The Contractor expressly agrees to defend against any claims brought or actions filed against the County, where such claim or action involves, in whole or in part, the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed.

As between the Contractor and the County as the other party, the County shall assume responsibility and liability for any damage, loss or injury, including death, of any kind or nature whatsoever to person or property, including employees and property of the Contractor, cause by or resulting from any negligent act of the County or its subcontractors or any of its officers, agents, servants or employees, arising from the performance of the work under this Agreement. The County shall defend, indemnify and hold harmless the Contractor and all of its officers, agents, servants or employees from and against any and all claims, loss, damage, charge or expense to which they or any of them may be put or subjected by reason of any such damage, loss, or injury. The County expressly agrees to defend against any claims brought or actions filed against the Contractor, where such claim or action involves, in whole or in part, the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed.

Insurance. The Contractor shall furnish the following along with the Agreement documents sent to the County for execution:

1. Certificates of Insurance in companies doing business in North Carolina and reasonably acceptable to the County covering:
 - a. Statutory Workers' Compensation Insurance, and to have all subcontractors likewise carry statutory Worker's Compensation Insurance, or proof that the Contractor or its subcontractors are not required to provide such coverage under State law; and
 - b. Comprehensive Liability Insurance as follows:
 - i. Comprehensive Liability Insurance covering all operations and automobiles:

<u>TYPE</u>	<u>COVERAGE FEATURES</u>	<u>LIMITS</u>
Automobile		\$1,000,000
Worker's Compensation		As required by law
Employer's Liability		\$1,000,000
Comprehensive General		\$2,000,000
Liability (including bodily injury & admin)		\$1,000,000
Aggregate		\$5,000,000

County named as additional insured only to the extent of Contractor's insurance coverage.

1. Certificates to contain policy number, policy limits, and policy expiration date of all policies issued in accordance with this Agreement;
 2. Certificates to contain the location and operations to which the insurance applies;
 3. Certificates to contain Contractor's protective coverage for any subcontractor's operations;
 4. Certificates to contain Contractor's contractual insurance coverage;
- ii. The Contractor shall be wholly responsible for securing certificates of insurance coverage as set forth above from all subcontractors who are engaged in this work.

North Carolina Law Governs. This Agreement shall be governed by and construed and enforced in accordance with the laws of North Carolina.

Venue. This Agreement shall be deemed to have been made and performed in Gaston County, North Carolina. For the purposes of venue, all suits or causes of action arising out of this Agreement shall be brought in the courts of Gaston County, North Carolina.

Modification. This Agreement may be modified or amended by the County to reduce the scope of work or project description upon seven (7) days written notice; the written notice shall be sent to the Contractor addressed as follows:

**Kimble's Food by Design
Kimble Carter, President**

100 Webster St.
LaGrange, GA 30241

All notices sent to the Contractor address shall be binding upon the Contractor unless said address is changed by the Contractor in writing to the County.

County Representative. The County may designate a representative through whom the Contractor will contact the County. In the event of such designation, said representative shall be consulted and his/her written recommendation obtained before any request for extra work is presented to the Gaston County Sheriff's Office. Payments to the Contractor shall be made only upon itemized bill submitted to and approved by said representative, which approval shall not be unreasonably withheld, delayed, or conditioned.

Contractor's Status. The relationship between the County and the Contractor shall be that of owner and independent contractor, and all employees of Contractor assigned to the County's facility shall be strictly employees or agents of Contractor, and in no event shall employees of Contractor be considered agents or employees of the County. Contractor shall assign to duty at the County's facility only employees that are reasonably qualified to perform the services required under this Agreement, and that are acceptable to the Sheriff. Contractor agrees that it will conduct appropriate background checks on all employees assigned to the County facilities and warrants that all such employees will be suitable for the position to which they have been assigned.

Sole Agreement. This Agreement constitutes the sole agreement between the Parties. No representations oral or written not incorporated herein shall be binding on the Parties. No amendment or modifications of this Agreement shall be enforceable unless approved by action of the County and Contractor.

Controlling Provisions. In the event of a conflict between the County's Request and the Contractor's response, the provisions of this Agreement shall control over any conflicting provisions contained in the Contractor's response.

ARTICLE V. INFORMATION TECHNOLOGY SECURITY

In connection with the services being provided hereunder, Contractor may need to operate certain information technology systems not owned by the County (non client systems) which may need to interface with or connect to the County networks, internet access, or information technology systems (County systems). Contractor shall be responsible for all non county systems, and the County shall be solely responsible for County systems, including taking the necessary security and privacy protections as are reasonable under the circumstances. If the Contractor serves as the services provider hereunder, then the Contractor will be responsible for complying with all applicable laws, regulations and payment card industry data security standards related to the protection of cardholder data (data protection rules). If non County systems interface with or connect to County systems, then the County agrees to implement forthwith upon request from the Contractor at its own expense, the changes to the County systems that the Contractor reasonably requests and believes are necessary and prudent to ensure Contractor's compliance with the Data Card Protection Rules. Each party shall indemnify, defend and hold harmless the other party from all claims, liabilities, damages and costs (including reasonable attorney's fees) to the extent caused by the indemnifying party's failure to comply with its obligations in this Article.

ARTICLE VI. GASTON COUNTY RESPONSIBILITIES

Equipment

The County agrees to provide, in good working order equipment necessary for the preparation of the meals for inmates and staff. Contractor is responsible for the cleaning and care of such equipment. The county will be responsible for all maintenance of the kitchen equipment. The County will provide trays for food service and related utensils as well as equipment to facilitate moving the prepared meals around the facility.

Inmate Labor to Assist in Kitchen Operations

The county agrees to provide a minimum of ten worker inmates per shift to assist the vendor's staff in kitchen operation.

ARTICLE VII ATTACHMENTS TO AGREEMENT

Attachment A Pricing

Gaston NC

ADP	with Inmate Labor
300-350	\$2.2503
351-400	\$2.0827
401-450	\$1.9597
451-500	\$1.8640
501-550	\$1.7874
551-600	\$1.7247
601+	\$1.6724

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in two counterparts, each to be considered as an original by their authorized representative, the day and date hereinabove written.

<u>KIMBLES:</u> Kimble's Food by Design By: _____ Name: _____ Title: _____ Date: _____ <u>Kimble's Notice Address:</u> Kimble's Food by Design P.O. Box 1227 LaGrange Georgia, 30241 Phone – 706-884-5527	<u>CUSTOMER:</u> Gaston County NC By: _____ Name: _____ Title: _____ Date: _____ <u>Gaston County's Notice Address:</u> Gaston County Sheriff's Office 425 Dr. Martin Luther King Jr. Way Gastonia, North Carolina 28052 Phone – (704) 869-6800
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