

**AGREEMENT TO PROVIDE FOOD SERVICE
TROUP COUNTY JAIL**

THIS AGREEMENT, made as of the 12th day of April, 2019 by and between TROUP COUNTY, a political subdivision of the State of Georgia (hereinafter referred to as the "County"), and KIMBLE'S FOOD BY DESIGN, INC. d/b/a/ SKILLET KITCHEN a Georgia Corporation with its principal office being 100 Webster Street, LaGrange, Georgia 30241 (hereinafter referred to as "Kimble's").

WITNESSETH:

WHEREAS, the Troup County Sheriff ("Sheriff") provides food service to inmates in accordance with O.C.G.A. § 42-4-32; and

WHEREAS, the Troup County Board of Commissioners as the fiscal authority of Troup County, Georgia has budgeted funds for the Sheriff to provide such service; and

WHEREAS, Kimble's is in the business of providing food services for jails and similar institutions;

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein set forth, the County and Kimble's hereby agree as follows:

ARTICLE I. PURPOSE AND SCOPE OF WORK.

- A. Purpose. The County desires and Kimble's agrees to provide meals to inmates in the custody of the Troup County Sheriff under the terms and conditions stated herein. All such meals shall be nutritious, wholesome, palatable and meet all nutritional or other standards required by federal, state or local laws and regulations.
- B. Scope of Work. Kimble's shall provide all necessary services in accordance with the County's Request for Proposals for Food Service for Troup County Jail and Troup County Jail Annex issued on December 6, 2018 and addendums and Kimble's response thereto, which are incorporated in their entirety by reference as contract documents and attached hereto as Appendix I, and as may be further specified herein.
- C. Additional Work. If Kimble's is asked by the County to perform work beyond the scope of this Agreement for which payment is desired, Kimble's shall notify the Sheriff and county manager or his designee 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 Kimble's is to be paid. The County shall in no way be held liable for any such additional work which has not first been approved in writing by the County.

ARTICLE II. TERM AND TERMINATION.

- A. Term. The initial term of this Agreement shall be from May 23, 2019 until June 30, 2020. At the expiration of the initial term, the Agreement shall renew automatically in increments of twelve (12) month periods corresponding with County's fiscal year unless County does not have sufficient funds appropriated to make the Payments due under this Agreement for such fiscal year. In such event County may terminate this Agreement by giving Kimble's sixty (60) days prior written notice of its intent to terminate.
- B. Termination.
1. Termination for Cause. If a party defaults in the performance of any obligation under this Agreement, that party shall be provided written notice of its default by the other party, setting forth specifically the nature of the default. If the defaulting party fails to cure its default within thirty (30) days after receipt of the notice of default, then the non-defaulting party shall have the right to terminate this Agreement by giving the other party sixty (60) days notice.
 2. Termination for Convenience. This Agreement may be terminated by either party for any reason or no reason, whether or not extended beyond the initial term, by giving the other party written notice ninety (90) days in advance.

ARTICLE III. PRICE AND PAYMENT.

- A. Kimble's shall provide two (2) hot meals and one (1) cold meal per day for each inmate in the custody of the Troup County Sheriff unless fewer meals are requested by the Sheriff. The County agrees to pay Kimble's for all meals prepared and served by Kimble's under the terms and conditions of this Agreement at the rate of \$.984 per meal.

Kimble's shall submit weekly itemized invoices to the Sheriff for meals served hereunder. Invoices shall be reviewed and approved by the Sheriff or his designee, and the County shall remit payment within thirty (30) days of receipt and approval by the County Manager or his designee which approval shall not be unreasonably withheld, delayed or conditioned.

- B. Kimble's agrees to make reasonable use of USDA donated commodities when they are available, wholesome and appropriate for menu purposes at no additional charge to County and will notify the Sheriff or his designee of any commodities it is given before serving the same.
- C. Kimble's reserves the right to renegotiate price no more than once per year that this Agreement is in effect. Any proposed increase shall be based on the Consumer Price Index (Food Away from Home) and a minimum of 30-days written notice of any proposed price increase shall be given to the Sheriff and County. No price increase will be effective unless and until agreed upon in writing by the both the Sheriff and the Troup County Manager.

ARTICLE IV. OPERATIONAL RESPONSIBILITIES.

A. Responsibilities of Kimble's.

1. Food Products and Supplies. Kimble's shall provide a turn key kitchen operation and shall purchase, pay for, and supply all food products and inventory including paper goods, cleaning supplies, and chemicals for cleaning, for the dishwasher and dishwashing. The products purchased or provided by Kimble's for use in meal preparation shall remain its property.
2. Sanitation. Kimble's will be responsible for cleaning and housekeeping in the food preparation, service, and storage area, and will, on a continuing basis, maintain high standards of sanitation, in accordance with all applicable federal, state, and local laws and regulations.
3. Personnel. Kimble's shall provide expert administrative, dietetic, purchasing, equipment consulting (by recommending what equipment should be purchased by the County), personnel advice and supervision to meet all food related requirements, except for use of inmate workers as provided herein. Kimble's shall provide at a minimum the personnel and staff as set forth in Appendix I and shall provide such additional personnel as necessary to prepare and serve meals at the jail and to ensure that all shifts are covered. Kimble's will make reasonable efforts to inform Troup County residents of employment opportunities and shall place employment advertisements for open positions for personnel in one or more local Troup County newspapers. Kimble's 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 County. Kimble's 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. County retains the right to independently and thoroughly investigate any current or prospective employees assigned to the Jail or Jail Annex and to require any personnel assigned to pass a security clearance provided by the Sheriff and to submit to access control with respect to county property. No Kimble's employee will be permitted to work in the facilities without prior clearance from the Sheriff and County.
4. Equal Employment Opportunity. Kimble's agrees that it shall not discriminate against employees or applicants for employment, hire, tenure, terms, conditions, or privilege of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, national origin, physical or mental handicap where not relevant to the job, height, weight, age, marital status, or other criteria made illegal by State or Federal Law or County policy. In addition, Kimble's agrees to take affirmative steps to ensure that applicants are employed, and that employees are treated during employment without regard to the criteria listed above. Any breach of this provision may be regarded as material breach of this Agreement.

5. Health Examinations: Kimble's shall cause its employees assigned to duty on the Jail premises to submit to periodic health examinations at least as frequently and as stringently as required by applicable law, regulation and policy, and to submit satisfactory evidence of compliance with all applicable health laws, regulations and policies to County upon request.
6. Return of Equipment. Kimble's shall return to County at the expiration of this Agreement, the kitchen premises and all equipment furnished by County in the condition in which received, except for ordinary wear and tear, and except to the extent that said equipment may have been damaged or stolen by persons other than employees of Kimble's.
7. License Fees, Permits and Taxes. Kimble's shall secure and pay all Federal, State and local licenses, permits, and fees required for the preparation of the meals provided hereunder.
8. Security and Immigration Compliance. Kimble's certifies that it has complied with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act, O.C.G.A. § 13-10-90 et seq., by registering and verifying information for all new employees through E-Verify and agrees to execute the affidavit(s) required by Ga. Comp. R. & Regs. r. 300-10-1-.01 et seq. and shall provide any necessary documentation and affidavits required for verification of lawful presence in compliance with the requirements of O.C.G.A. § 50-36-1 et seq.
9. Quality Control. Kimble's shall provide to Sheriff and County in advance, a twenty-eight (28) day menu and daily menus for review annually. Such menus shall be followed without substantial deviation unless agreed to by Sheriff and County. At the end of each twenty-eight (28) day period, the twenty-eight (28) day menu shall roll over and be served again in the following twenty-eight (28) day period, unless this Agreement is terminated earlier. Kimble's will work closely with Sheriff, County and the jail inmate medical care provider to provide requested requirements for approved special diets for medical and/or legal reasons.
10. Emergency Services. In the event of power outage, emergency or damage to the premises that renders the Jail kitchen temporarily unsuitable or unhealthy for use, Kimble's shall utilize its kitchen facilities and resources located within Troup County, Georgia to fulfil its obligations under this Agreement.

B. Responsibilities of Sheriff and County.

1. Facilities and Equipment. Sheriff and County agree to provide Kimble's with kitchen facilities that are sufficiently equipped and ready to use with adequate heat, lighting, ventilation and all other utilities, and to maintain the same in working order and in accordance with any applicable, state, federal or local laws, rules or regulations. Kimble's acknowledges that it has inspected such facilities and equipment prior to the

effective date of this Agreement and agrees that the same are acceptable in nature and condition to allow it to fulfil its responsibilities and duties pursuant to this Agreement.

2. Access to Facilities. Kimble's, its agents and employees be permitted reasonable access to the Jail kitchen facilities and other areas as necessary to perform and provide services under this Agreement. Such access may immediately be denied to any person should the Sheriff or his designee determine that such person poses a threat to the health and safety of any person or the security of the Troup County Jail or Jail Annex.
3. Inmate labor. The Sheriff will provide ten (10) inmate workers daily to assist in the limited preparation, service, and clean-up of meals. All such inmates' work and/or activities shall be directed, controlled, and supervised by employees and/or representatives of County and compensated by County, if so required. County shall be solely responsible for choosing which inmates shall be allowed to perform needed functions and for determining said inmates' suitability, disposition, reliability, level of security and safety relative to each function performed by said inmates. In no event or circumstance shall any such inmates be considered employees, agents or "borrowed servants" of Kimble's.

ARTICLE V. LIABILITY AND RISK MANAGEMENT.

A. Insurance. Kimble's shall furnish the following along with the Agreement documents sent to the County for execution:

1. Certificates of Insurance in companies doing business in Georgia and reasonably acceptable to the County covering:
2.
 - a. Statutory Workers' Compensation Insurance, and to have all subcontractors likewise carry statutory Worker's Compensation Insurance, or proof that Kimble's 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		\$500,000/\$500,000 CSL
Worker's Compensation		As required by law
Employer's Liability		\$100,000
Comprehensive General Liability	County named as additional insured to the extent of policy	\$1,000,000.00 per occurrence /\$2,000,000.00

(including bodily injury & admin) limits. County to be provided aggregate/\$5,000,000.00
a copy of the additional Umbrella
insured endorsement and
shall, upon request, a copy of
the liability insurance policy.

ii. Certificates of Insurance must be executed in accordance with the following provisions:

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 Kimble's protective coverage for any subcontractor's operations; and
4. Certificates to contain Kimble's contractual insurance coverage.

iii. Kimble's shall be wholly responsible for securing certificates of insurance coverage as set forth above from all subcontractors who are engaged in this work.

iv. If the coverage required by this Agreement changes, Kimble's will notify County in writing. Kimble's will also notify County, in writing, of any reduction in policy amounts or cancellation of insurance coverage if the new limits fall below the limits agreed to with the County.

B. Lawsuits against County. In the event that any lawsuit (whether frivolous or otherwise) is filed against Sheriff, County, or its/their elected officials, employees and agents based on or containing any allegations concerning Kimble's provision of food services to inmates and the performance of Kimble's employees, agents, subcontractors or assignees, the parties agree that Kimble's, its employees, agents, subcontractors, assignees or independent contractors, as the case may be, may be joined as parties defendant in any such lawsuit and shall be responsible for its/their own defense and any judgments rendered against them in a court of law.

C. Hold Harmless. Kimble's and its successors and assigns, agree to indemnify, defend and hold harmless County and Sheriff, and their agents, officers, deputies, employees, from any and all claims, actions, lawsuits, damages, judgments or liabilities of any kind

whatsoever arising out of the performance of this Agreement by Kimble's or arising out of the operation and maintenance of the inmate food services conducted by Kimble's, it being the express understanding of the parties hereto that Kimble's shall provide the actual food services as set forth herein. Kimble's indemnification and hold harmless obligations shall include, but not be limited to, the obligation to reimburse County for any insurance deductible expense incurred as the result of the defense of claims arising from Kimble's provision of food services pursuant to this Agreement. The County shall fully cooperate in the defense of such claim, but Kimble's shall retain sole control of the defense while the action is pending. Counsel retained by Kimble's shall be reasonably satisfactory to County. The indemnification, defense and hold harmless provisions of this section shall survive the termination of this Agreement and nothing in this Agreement shall constitute a waiver by the Sheriff, County, or its/their elected officials, employees and agents, of defense of governmental, qualified, or official immunity, where applicable, or any other defense recognized by law.

Notwithstanding anything to the contrary herein, Kimble's will not be required to indemnify and hold harmless County and Sheriff, and their agents, officers, deputies, employees, when any such claims, causes of action, suits, proceedings, costs, expenses, damages, demands, losses, or liabilities were caused in whole by County and/or Sheriff or their agents, officers, deputies, employees, or persons under their supervision.

ARTICLE VI. MISCELLANEOUS.

- A. Assignment. This Agreement and the rights and obligations of the Parties hereto shall bind and inure to the benefit of any successor or successors of either party by reorganization, merger or consolidation or otherwise and any assignee of all or substantially all of its business assets and properties. Neither this Agreement nor any rights or benefits hereunder may be assigned by either party unless the assigning Party is selling or disposing of all or substantially all of its business assets. Nothing herein shall be construed as creating any personal liability on the part of any officers or agents of the County or Kimble's, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the parties to this Agreement.
- B. Relationship of Parties. The parties to this Agreement are independent contractors. This Agreement shall not be construed as creating between the parties an employee-employer relationship, partnership, joint venture or any other form of legal association which per se would impose liability upon one party for the actions or failures to act of the other party. No act or failure to act by any party shall be construed to make or render the other party to this Agreement its partner, joint venture, employee, employer, principal, agent or associate.
- C. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Georgia.

- D. Venue. This Agreement shall be deemed to have been made and performed in Troup County, Georgia. For the purposes of venue, all suits or causes of action arising out of this Agreement shall be brought in the Superior Court of Troup County, Georgia.
- E. Modification. This Agreement may be modified or amended by the County to reduce the scope of work or project description upon thirty (30) days written notice. All notices sent to the Kimble's address shall be binding upon the Kimble's unless said address is changed by Kimble's in writing to the County.
- F. Entire 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 Board of Commissioners of Troup County.
- G. Controlling Provisions. In the event of a conflict between the County's Request for Proposals and Kimble's responses thereto, the provisions of the County's RFP shall govern. The provisions of this Agreement shall control over any conflicting provisions contained in the RFP or Kimble's response.
- H. Paragraph Headings. The paragraph headings used in this Agreement are descriptive only and shall have no legal force or effect whatsoever.
- I. No Waiver. No failure or delay in the exercise of the rights detailed in this Agreement by either Party shall constitute a waiver or basis for estoppel.
- J. Notices. Unless otherwise provided herein, all notice or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have given if delivered personally in hand or sent by certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party(s) at the following address or to any other person at any other address as may be designated in writing by the parties:

(a) County:

Troup County Sheriff
130 Sam Walker Drive
LaGrange, GA 30241

with copy to:

Troup County Manager
100 Ridley Avenue
LaGrange, GA 30240

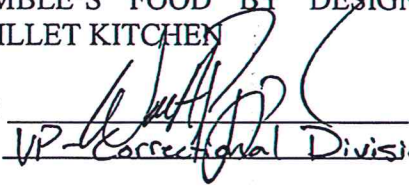
(b) Kimble's:

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

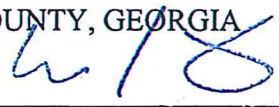
Notices shall be effective upon receipt regardless of the form used and all notices sent to the above address shall be binding upon the parties unless said address is changed in writing.

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.

KIMBLE'S FOOD BY DESIGN d/b/a
SKILLET KITCHEN

By: 
Its: VP - Correctional Division

TROUP COUNTY, GEORGIA

By: 
Eric Mosley, Troup County Manager

Acknowledged and Approved by:


James Woodruff, Troup County Sheriff

