

TERMINATION AGREEMENT

THIS TERMINATION AGREEMENT (this "**Agreement**") is made and entered into as of the 4th day of June, 2019, by and between the City of Chicago, an Illinois municipal corporation ("**City**") by and through its Department of Planning and Development ("**DPD**"), and Keebler Company (also known as The Keebler Company), a Delaware corporation ("**Keebler**"), both acting on its own behalf and as successor in interest to Atlantic Financial Group, Ltd., a Texas limited partnership ("**AFG**") (all references herein to Keebler, "**Developer Party**" and "**Developer Parties**" shall, as required, include references to Keebler acting on its own behalf and as a successor in interest to AFG). The purpose of this Agreement is to terminate that certain Agreement entered into by and among the City, Keebler and AFG as of April 30, 2003 and recorded in land title records of Cook County, Illinois as document number 0314810118 on May 28, 2003 (the "**RDA**" or the **Keebler RDA**"; capitalized terms not otherwise defined in this Agreement having the meanings given them in the RDA) pursuant to the terms and conditions set forth herein.

RECITALS

A. AFG purchased the real property legally described on Exhibit A attached hereto and made a part hereof and commonly known as 750 E. 110th Street, 10839 South Langley Avenue and 10840-41 South Langley Avenue, all in Chicago, Illinois 60628 (collectively the "**Property**"). The Property is subject to the terms of the RDA. The Property and improvements thereon were originally to be owned by AFG and developed by Keebler pursuant to the Synthetic Lease.

B. Keebler originally obtained financing for development of the Facility through and pursuant to the Synthetic Lease pursuant to which AFG (i) took title to the Property and all improvements thereon; (ii) leased the Property and improvements to Keebler; and (iii) provided financing to Keebler for development of the Facility through a loan from SunTrust Bank (together with its successors and assigns in its capacity as lender under the Synthetic Lease, the "**Bank**"). Keebler made rent payments to AFG, which payments were intended to repay the loan from the Bank with interest.

C. Pursuant to the terms of the RDA, Keebler agreed, among other things, to (i) commence and complete the construction of new structures and the rehabilitation of existing structures, to result in an approximately 290,000 square foot manufacturing facility as completely set forth in the RDA (the "**Facility**") located on the Property and (ii) satisfy certain job creation and retention covenants, and covenants to remain in the City (each as described in the RDA) in connection with the construction and rehabilitation of the Facility; and the City agreed, among other things, to provide tax increment financing in an amount up to \$2,056,700 as described in the RDA (the "**City Funds**") to reimburse the Developer Parties for certain costs incurred pursuant to the RDA.

D. Keebler continues to operate the Facility on the Property.

E. Keebler has not made a written request for a Certificate of Completion as provided in Section 7.01 of the RDA and no City Funds have been disbursed to the Developer Parties.

F. Developer never submitted any continuing compliance reports, and the City has never disbursed any payments of City Funds to Developer.

G. On May 31, 2007, a warranty deed was issued and title to the Property was transferred from AFG to Keebler and/or entities related to Keebler as part of a transaction pursuant to which the Synthetic Lease was terminated including, without limitation, (i) the repayment of any amounts owed pursuant thereto, (ii) satisfaction by Keebler of any and all claims associated with the Synthetic Lease and (iii) the release of any related security interests associated with the Synthetic Lease.

H. Keebler represents warrants and covenants that (i) Keebler will indemnify the City against any claims that may arise from the Synthetic Lease; and (ii) that Keebler has all right power and authority to enter into this Agreement without any consent from AFG.

I. Keebler has previously sought renewal of a Class 6(b) tax incentive under the Cook County Real Property Assessment Classification Ordinance (the "**Class 6(b) Incentive**") it had previously received for the Property in return for maintaining certain RDA covenants. Because Developer no longer wishes to maintain the RDA covenants and wishes to be relieved of its obligations and responsibilities under the RDA, (i) Keebler has previously withdrawn its application (the "Application") for renewal of the Class 6(b) Incentive and now hereby affirms the withdrawal of the Application; and (ii) Developer agrees not to reapply for a renewed Class 6(b) Incentive relating to the Property, the Facility or the Project in the future.

J. Keebler now requests that the City agree to terminate the RDA.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the foregoing recitals, which are incorporated herein by this reference, and the mutual covenants and agreements herein set forth, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The Recitals set forth above are acknowledged by each of the parties hereto to be true and correct and are incorporated into this Agreement by this reference.

2. Termination. The City and Keebler shall, and hereby do, terminate and cancel the RDA effective as of the date the Closing Conditions described in Section 3 below are satisfied (the "**Termination Date**"). On the Termination Date, the RDA shall be deemed to have expired by lapse of time as if the Termination Date was the termination date or expiration date set forth in such agreement, including the expiration of the "Term of the Agreement" (as defined in the RDA), and on the Termination Date the City and Developer Parties shall and hereby do absolutely release each other from and with respect to all claims, demands, covenants, obligations and liabilities of whatsoever nature now or hereafter existing, whether now known or unknown, from, with respect to or arising solely out of the RDA, subject only to Paragraph 11 of this Agreement.

3. Closing Conditions. The effectiveness of this Agreement is subject to the covenants and agreements contained herein, and the satisfaction of the following conditions (collectively, the "**Closing Conditions**"):

(a) Agreement. The execution of this Agreement by the City and the Developer Parties; and

(b) Release of Redevelopment Agreement. The simultaneous execution of the Release of Redevelopment Agreement of even date herewith and substantially in the form attached hereto as Exhibit B (the "Release") by the City and acknowledgement and acceptance by Keebler and the recording of the Release.

4. Headings. The headings of the sections or the subsections in this Agreement are for convenience only and shall not be relevant for purposes of interpretation of the provisions of this Agreement.

5. Entire Agreement; Amendment; No Waiver. This Agreement is made up of the body of the agreement and the exhibits and schedules attached hereto, if any, all of which are hereby incorporated by reference into the body hereof. There are no other agreements between the parties with respect to the matters covered by this Agreement, and any prior agreements with respect to such matters are superseded, except to the extent any provision of this Agreement provides otherwise. This Agreement may not be altered, amended, changed, terminated, or modified in any material respect without the express, written consent of the parties hereto. No waiver by any party hereto of any breach or default hereunder shall be deemed a waiver of any other or subsequent breach or default.

6. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois (without regard to Illinois law regarding choice of law).

7. Binding Effect/Counterparts/Authority. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors, personal representatives and assigns. This Agreement may be executed by the parties signing different counterparts of this Agreement, which counterparts together shall constitute the Agreement of the parties. Each party hereto represents and warrants that its undersigned representative has full authority and capacity to execute this Agreement on that party's behalf.

8. Interpretation of Termination Agreement. In the event of any conflict between the RDA or the Release and this Agreement, the terms of this Agreement shall control.

9. Time. Time is of the essence in the performance of the respective obligations of the parties contained in this Agreement.

10. Recording and Filing. Upon the full execution and delivery of this Agreement and the Release the Developer Parties shall cause the Release to be recorded and filed against the Property legally described in Exhibit A hereto in the conveyance and real property records of the county in which the Property is located. The Developer Parties shall pay all fees and charges incurred in connection with any such recording.

11. No Business Relationship with City Elected Officials. Pursuant to Section 2-156-030(b) of the Municipal Code of Chicago, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion of any City Council committee hearing or in any City Council meeting or to vote

on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or any person acting at the direction of such official, with respect to the Release or this Agreement or in connection with the transactions contemplated hereby and thereby, shall be grounds for termination of the Release and this Agreement and the transactions contemplated hereby and thereby. The Developer Parties hereby represent and warrant that, to the best of their knowledge after due inquiry, no violation of Section 2-156-030(b) has occurred with respect to the Release or this Agreement or the transactions contemplated thereby.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

KEEBLER COMPANY,
a Delaware corporation

By: Todd W. Haigh
Print Name:

Its: Todd W. Haigh SB
VP & SECRETARY

CITY OF CHICAGO

By: Eleanor Gorski
Eleanor Gorski
Acting Commissioner
Department of Planning and Development

Michigan

STATE OF ILLINOIS)
Kalamazoo ss
COUNTY OF COOK)

I, Mary Ann Ryan, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Todd W. Haigh, personally known to me to be the VP + Secretary of Keebler Company, a Delaware corporation ("Keebler"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of Keebler, as his/her free and voluntary act and as the free and voluntary act of Keebler, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 4th day of June, 2019.

Mary Ann Ryan
Notary Public

My Commission Expires 5/21/2025

(SEAL)

MARY ANN RYAN
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF KALAMAZOO
MY COMMISSION EXPIRES MAY 21, 2025
ACTING IN Calhoun COUNTY, MI

