

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a home rule municipal corporation of the State of Colorado ("City"), and Bolder Enterprises, LLC, a Colorado limited liability company, whose address is 5300 Franklin St., Denver, CO 80216 ("Lessee"). The City and Lessee shall each be referred to as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the City and Rocking M. Cattle Co., an Idaho limited partnership entered into that certain Purchase and Sale Agreement dated FEB 12, 2016 ("PSA") for the City to purchase and Rocking M. Cattle Co. to sell the building and related property in which a certain premises exists as a separately demised unit ("Leased Premises"), and

WHEREAS, at the time of Closing of the transaction (as "Closing" is defined in the PSA, as amended), Lessee is desirous of continuing to lease the Leased Premises from the City.

WHEREAS, at the time of Closing, the City desires to shorten the term of the current lease by terminating the existing lease and entering into this new Lease.

WHEREAS, Lessee is willing to accept a payment from the City in order to shorten the term of the Lease.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter contained, the City and the Lessee agree as follows:

1. **CONTINGENCIES**: This Lease shall be contingent upon the City purchasing the Leased Premises from Rocking M. Cattle Co.
2. **TERMINATION OF PRIOR LEASE**. At the Closing, Lessee and Rocking M. Cattle Co., as landlord under the previous lease, shall execute and deliver to the Closing agent, three (3) copies of the Lease Termination Agreement in the form attached hereto as Exhibit A, and incorporated herein by this reference. Lessee shall deliver three (3) copies of this Lease Agreement to the Closing agent simultaneously with the Lease Termination Agreement.
3. **LEASED PREMISES**: Subject to the terms of this Lease, the City agrees to lease, demise, and let unto Lessee and the Lessee does hereby lease from the City those certain premises defined as the "Leased Premises" located at 5300 Franklin Street, Denver, Colorado 80216, as

Monthly Base Rent **\$1.00**
Total Contract Amount **\$4.00 (not including any extensions)**

If this Lease expires on a date that is not the last day of the month then the rent shall **not** be pro-rated.

In addition to the foregoing, at such time that the City Assessor assesses a Possessory Interest or other related tax to the Leased Premises, Lessee shall pay before delinquency any and all taxes, assessments, and other charges levied, assessed or imposed, and which become payable during the Term, upon Lessee's operations, occupancy, or conduct of business at the Leased Premises, resulting from Lessee's occupation or subletting of the Leased Premises, or upon Lessee's equipment, furniture, appliances, trade fixtures, and other personal property of any kind installed or located on the Leased Premises. Such taxes include any Possessory Interest taxes resulting from this Lease or a sublease of the Leased Premises.

6. **USE:** The Leased Premises are to be used and occupied by Lessee solely as meat and chicken processing, packing, distribution operation with ancillary office uses, and for no other purpose, unless the Director agrees in writing to another use, which consent shall not be unreasonably withheld. The Lessee shall use the Leased Premises in a careful, safe, and proper manner, and shall not use or permit the Leased Premises to be used for any purpose prohibited by the laws of the United States of America, the State of Colorado, or the Charter, ordinances or Executive Orders of the City and County of Denver. The Lessee shall not commit or suffer to be committed any waste or damage upon the Leased Premises or any nuisance to be created or maintained thereon. The Lessee shall also keep the Leased Premises free and clear from all trash, debris, and waste resulting from its use or the use by its employees, officers, agents, invitees and visitors.

7. **"AS IS" CONDITION:** Lessee acknowledges that it has occupied the Leased Premises as a Tenant the Leased Premises under a lease immediately preceding this Lease. Therefore, Lessee has operated and is familiar with the Leased Premises and its current condition. The Leased Premises are accepted by Lessee in an "AS IS, WHERE IS" condition, with all faults and defects. No additional work will be performed by the City and Lessee hereby accepts the Leased Premises in its as-is condition. The City does not make and disclaims any warranty or representation whatsoever, express or implied, and shall have no obligation or liability whatsoever, express or implied, as to the condition of or any other matter or circumstance affecting the Leased

which shall equal the square footage of the Premises and the denominator of which shall be the total rentable square footage of the building. Lessee shall pay its allocable share all utilities listed above. The Lessee shall be responsible for, and pay for all building's structural, mechanical, plumbing, and roof systems, janitorial service for the Premises, and HVAC system repairs and maintenance required to support Lessee business. Any items paid directly by the City shall be due within thirty (30) days of the date of the City's billing statement. All past due payments shall accrue interest at the rate of twelve (12%) per annum until paid. The City shall be responsible for arranging for, and paying all deposits, fees and charges associated with, (i) water, sewer, gas and electricity (ii) telephone and other communication services to the Leased Premises, and (iii) trash hauling and any other service provider providing services for the Leased Premises. Lessee shall pay prevailing wages, as set by the City's prevailing wage ordinance (§20-76, DRMC) for any services set forth in the prevailing wage ordinance which may include, but is not limited to such services as janitorial services, interior maintenance, interior cleaning, and any capital expenses including but not limited to building's structural, mechanical, plumbing, roof systems and HVAC system repairs and maintenance required to support Lessee business. The City will not be liable for any reason for any loss or damage resulting from an interruption of any of these services. City shall be entitled, but not obligated, to deduct any amounts due and owing, or delinquent Lessee payments from the \$258,000 payment described in paragraph 4 above.

12. **INDEMNITY**: The Lessee shall defend, indemnify, and save harmless the City, its officers, agents and employees from any and all damages to property or injuries to or death of any person or persons, including property and employees or agents of the City, losses, damages, claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including without limitation Workers' Compensation claims, of or by anyone whomsoever, that the City may sustain or on account of injuries to the person or property of the City, its agents or employees or to injuries or death of any other person for any purpose whatsoever, where the injuries arise out of the areas of responsibility of Lessee, or are caused by the negligence or misconduct of the Lessee, the Lessee's agents, employees, subtenants, assignees, or of any other person entering upon the Leased Premises under express or implied invitation of the Lessee or where such injuries are the result of the violation of the provisions of this Lease by any of such persons. This indemnity shall survive the expiration or earlier termination of this Lease. This indemnity clause shall also cover the City's

consultant, and expert fees) arising during or after the Lease Term and arising as a result of those actions or inactions by Lessee. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if Lessee causes or permits the presence of any Hazardous Substance on the Leased Premises and that results in contamination, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the Leased Premises to the condition existing prior to the presence of any such Hazardous Substance on the premises. Lessee shall first obtain City's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, the State of Colorado, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste", "extremely hazardous waste", or a "hazardous substance" pursuant to state, federal, or local governmental law. "Hazardous Substance" includes but is not restricted to asbestos, polychlorobiphenyls ("PCBs"), and petroleum.

15. **HOLDING OVER:** If after the expiration of the Term and any extensions of the Term of this Lease, Lessee shall remain in possession of the Leased Premises or any part thereof, and continue to pay rent, without any express agreement as to such holding, then such holding over shall be deemed and taken to be a periodic tenancy from month-to-month, subject to all the terms and conditions of this Lease, except for the provisions relating to the period of Lessee's occupancy, and at a rent equivalent to \$12,000.00 per month, which amount shall be payable in advance on the first day of each calendar month thereafter. Such holding over may be terminated by City or Lessee upon ten (10) days' notice. In the event that Lessee fails to surrender the Leased Premises upon termination or expiration of this Lease, or such month-to-month tenancy, then Lessee shall indemnify City against all loss or liability resulting from any delay of Lessee in not surrendering the Leased Premises.

16. **REMEDIES UPON BREACH:** In the event of a breach of this Lease by Lessee, the City may have any one or more of the following described remedies, in addition to all of the rights and remedies provided at law or in equity:

- (a) The City may terminate this Lease and forthwith repossess the Leased Premises

as broad as insurance services office standard form CG 2026. Defense costs coverage shall include defense costs coverage for additional insureds outside the limits of insurance;

(d) Contractual liability coverage;

(e) Waiver of Subrogation and Rights of Recovery against the City, its officers, officials and employees for both Worker's Compensation and commercial general liability (per ISO form CG2404 or equivalent) coverage;

(f) The certificates evidencing the existence of the above policy or policies, all in such form as the City's Risk Administrator may require, are to be provided to the City prior to execution of this Lease. Each such policy or certificate shall contain a valid provision or endorsement stating "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to the City's Risk Administrator, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202, and sent by certified mail, return receipt requested."

(g) **LESSEE UNDERSTANDS AND ACKNOWLEDGES THAT THE CITY DOES NOT PROVIDE ANY INSURANCE COVERAGE FOR ANY PROPERTY OF THE LESSEE, ITS AGENTS, EMPLOYEES, INVITEES OR ASSIGNEES LOCATED IN THE LEASED PREMISES AND LESSEE ACKNOWLEDGES AND AGREES THAT THE LESSEE, ITS AGENTS, EMPLOYEES AND ASSIGNEES HAVE NO CLAIM, AND SPECIFICALLY WAIVE ANY AND ALL CLAIMS THEY MAY HAVE, AGAINST THE CITY FOR ANY DAMAGE OR LOSS OF PERSONAL PROPERTY AND BELONGINGS OF LESSEE, ITS AGENTS, EMPLOYEES, INVITEES OR ASSIGNEES IN THE LEASED PREMISES.**

19. **VENUE, GOVERNING LAW:** This Lease shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to the choice of law thereof, and the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal action relating to this Lease shall lie in the State District Court in and for the City and County of Denver, Colorado.

20. **ASSIGNMENT AND RIGHT TO SUBLEASE:** The Lessee shall not assign or transfer its rights under this Lease, or sublet the Leased Premises without first obtaining the written consent of the Director, whose consent may be withheld in the Director's sole and absolute discretion.

or by certified mail, return receipt requested:

To the City:	Director of Real Estate 201 W. Colfax Ave., Dept. 1010 Denver, CO 80204
With copies to:	Denver City Attorney's Office 201 W. Colfax, Department 1207 Denver, Colorado 80202
To Lessee:	Bolder Natural Meats, LLC 5300 Franklin St. Denver, Colorado 80216

Either party hereto may designate in writing from time to time the address of substitute or supplementary persons to receive such notices. The effective date of service of any such notice shall be the date such notice is deposited in the mail or hand-delivered to the Party.

28. **ENTIRE AGREEMENT:** The parties acknowledge and agree that the provisions contained herein and Exhibits hereto constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect.

29. **WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event shall any performance hereunder constitute or be construed to be a waiver by any party of or any breach of covenant or condition or of any default which may then exist. The rendering of any such performance when any breach or default exists shall in no way impair or prejudice any right or remedy available with respect to such breach or default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Lease shall be deemed or taken to be a waiver of any other default or breach.

30. **NO PERSONAL LIABILITY:** No elected official, director, officer, agent or employee of the City, nor any director, officer, employee or personal representative of Lessee shall be charged personally or held contractually liable by or to the other party under any term or provision of this Lease or because of any breach thereof or because of its or their execution, approval or attempted execution of this Lease.

31. **CONFLICT OF INTEREST BY CITY OFFICER:** Lessee represents that to the best of its information and belief, no officer or employee of the City is either directly or indirectly

IN WITNESS WHEREOF, the parties have executed and affixed their seals, if any, at Denver, Colorado as of:_____.

ATTEST:

CITY AND COUNTY OF DENVER

By: _____
Debra Johnson,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By: _____
Michael B. Hancock, Mayor

APPROVED AS TO FORM:
Denver City Attorney

REGISTERED AND COUNTERSIGNED:

By: _____
Assistant City Attorney

By: _____
Chief Financial Officer

By: _____
Timothy O'Brien, Auditor

"CITY"

Contract Control Number: _____

Lessee's Name: Bolder Natural Meats, LLC,
a Colorado limited liability company

By: 

Name: Chad Anderson
(please print)

Date: 8/31/2016

Exhibit A

Form of Termination of Lease

THIS LEASE TERMINATION AGREEMENT ("Agreement") is entered into as of the _____ day of _____, 20____, by and between Rocking M. Cattle Co., an Idaho limited partnership (hereinafter referred to as the "Landlord"), and Bolder Natural Meats, LLC, a Colorado limited liability company, successor in interest to Bolder Enterprises, LLC, a Colorado limited liability company (hereinafter referred to as the "Tenant").

RECITALS

WHEREAS, Landlord and Tenant entered into that certain Industrial Building Lease dated March 1, 2012, as amended by that certain First Amendment to Industrial Building Lease dated January 28, 2012 (subsequently referred to as January 28, 2013), as further amended by that certain Second Amendment to Industrial Building Lease dated January 31, 2013, as further amended by that certain Third Amendment to Industrial Building Lease dated November 18, 2014 (collectively, the "Lease"), with respect to the premises described hereafter comprising of approximately 25,880 square feet, more or less, of real property located at 5340 Franklin Street, Denver, CO ("Premises"); and,

WHEREAS, Tenant desires to terminate the Lease in order to be relieved of all liability for future rentals thereunder, and Landlord has agreed to terminate the Lease and release Tenant in accordance with the terms thereof.

WHEREAS, simultaneously herewith, Tenant will enter into a new lease agreement with the City and County of Denver who has purchased the property containing the Premises from Landlord.

AGREEMENT

NOW THEREFORE, in consideration of the Recitals and the covenants for the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The parties hereto hereby acknowledge, confirm and agree that the foregoing recitals are true.
2. Effective as of _____, 20____ ("Termination Date"), the Tenant hereby surrenders the Lease and the Premises leased to Tenant, and all rights thereunder, with the intent that the unexpired residue of the Term of the Lease and any renewals shall be merged and extinguished in the reversion to the Landlord; and the Tenant hereby releases, as of the Termination Date, all of its right, title and interest in, and in respect of, the Lease and the Premises. Tenant covenants, agrees and represents that it shall have no further right to possession of the Premises from and after the Termination Date.
3. The Tenant covenants and agrees that it has good right, full power and authority to enter into this Agreement and surrender the Lease and the Premises in the manner aforesaid, and that, as of the Termination Date, it had not and, as of the date hereof, it has not executed any other instruments, deeds, or other documents pursuant to which the Lease and the

LANDLORD:

a _____

By: _____

Name: _____

Title: _____

TENANT:

Bolder Natural Meats, LLC,
a Colorado limited liability company

By: _____

Name: _____

Title: _____