

## **PARKING LOT LICENSE AGREEMENT**

**THIS PARKING LOT LICENSE AGREEMENT** ("License") is entered into this \_\_\_\_ day of November, 2017, by Pete's Fresh Market Oak Park Corporation, an Illinois Corporation (hereinafter referred to as "Licensee") and the Village of Oak Park, an Illinois home rule municipal corporation (hereinafter referred to as "Village").

**WHEREAS**, Village owns the property commonly known as Lot #112, located south of North Boulevard, north of the train tracks, between Cuyler Avenue and Ridgeland Avenue (hereinafter referred to as the "Property") and as depicted in Exhibit A and Exhibit B, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Licensee shall use the Property as a private parking lot pursuant to this License.

**NOW THEREFORE**, in consideration of the covenants and agreements stated herein, the parties agree that:

### **1.0 RECITALS INCORPORATED.**

1.1. The above recitals are incorporated herein as though fully set forth.

### **2.0 LICENSED PROPERTY.**

2.1. The Licensee will be entitled to use the Property for the limited purpose of Licensee's employee parking subject to the Village's overnight parking ban as set forth in the Oak Park Village Code.

2.2. The Licensee will provide signs which accurately reflect the limited parking.

2.5. The Licensee shall permit motorcycles, motor vehicles designed for the carrying of not more than ten (10) persons, and motor vehicles with a maximum load/weight of 8,000 pounds or less to park at the Property during Village permitted hours. Recreational vehicles and commercial vehicles as defined in the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*, shall not be permitted to park at the Property regardless of such vehicles maximum load/weight.

2.6. The Property shall be and remain the sole property of Village and Licensee shall have only the privilege of use of the part thereof provided in this License.

### **3.0 TERM OF LICENSE AND RESTORATION.**

3.1. The term of this License shall commence on January 1, 2018 at 12:01 a.m. ("Commencement Date") and end at 11:59 p.m. on December 31, 2022, unless terminated

earlier subject to the notice and termination provisions set forth in Section 8.0 and Section 13.0 below.

3.2. At the expiration of this License, all improvements at the Property shall remain the property of Village with the exception of signs by the Licensee. The Licensee shall remove at its expense all signs installed by the Licensee within thirty (30) days of the expiration or termination of this License.

#### **4.0 FEE.**

4.1. The Licensee shall pay to Village the initial annual fee of \$25,800 per year for Licensee's use of the Property. Payments shall be due on or before the first day of each year during the License term while this License is in effect, with the first payment due on or before January 1, 2018. All fees shall be paid in lawful money of the United States of America payable to the Village of Oak Park c/o Chief Financial Officer, 123 Madison Street, Oak Park, Illinois 60302. If Licensee fails to make a payment by the due date, this Agreement shall be subject to termination by the Village and said failure shall be considered a default of this Agreement. Further, if a payment is five (5) or more days overdue, such overdue amount shall bear interest at the lower of 18% per annum or the highest legal rate which may be paid in the State of Illinois.

4.2. Any holding over by the Licensee after the expiration of the term of this License, with the consent of the Village, shall be construed to be a month-to-month license, at the same prorated fee required to be paid by the Licensee for the period immediately prior to the expiration of the term of this License, and shall be subject to the terms and conditions set forth herein.

#### **5.0 UTILITY SERVICE AND OTHER COSTS.**

5.1. There are no utilities or real estate taxes or special assessments applicable to Licensee's use of the Property.

#### **6.0 LICENSEE'S MAINTENANCE.**

6.1. Licensee shall at all times be responsible for the maintenance and repair of the exterior of the Property of whatsoever kind or nature, including, but not limited to, grass and weed cutting and removal and snow and ice removal.

6.2. Licensee and the Village agree that the Property shall be delivered "as is."

6.3. The Licensee shall not, without the prior written consent of Village, make any alterations, improvements, or additions to the Property.

6.4. The Licensee shall at all times keep the Property in good order, condition and repair and clean, sanitary and safe condition (including, but not limited to, doing such things as

are necessary to cause the Property to comply with applicable laws, ordinances, rules, regulations and orders of governmental and public bodies and agencies). The Licensee shall be responsible for any and all damages due to the use of the Property during the term of this License.

## **7.0 INDEMNIFICATION AND LIENS.**

7.1. The Licensee shall indemnify, hold harmless and defend Village, its officers, agents and employees from any and all claims, suits, losses, liabilities, actions, costs and fees, including reasonable attorneys' fees, of every nature or description arising from, growing out of, or connected with its use of the Property, or because of any negligent act or omission, neglect, or misconduct of the Licensee, its employees, agents, contractors or subcontractors. Such indemnification shall not be limited by reason of the enumeration of any insurance coverage herein provided.

7.2. The Village shall indemnify, hold harmless and defend the Licensee, its officers, agents, volunteers and employees from any and all claims, suits, losses, liabilities, actions, costs and fees, including reasonable attorneys' fees, of every nature or description arising from, growing out of, or connected with any negligent act or omission, neglect, or misconduct of Village, its employees, agents, contractors or subcontractors.

7.3. The Licensee shall keep the Property free and clear of any mechanic's and other liens arising out of or in connection with work or labor done, services performed, or materials furnished in connection with any maintenance or repair and in connection with any business of the Licensee conducted at the Property. The Licensee shall at all times promptly and fully pay and discharge all such liens or claims for liens and indemnify the Village and the Property against such liens and claims of liens, suits, or other proceedings relative to them. If the Licensee desires in good faith to contest any such lien or related matter, the Licensee shall notify the Village in writing of the Licensee's intention to do so and shall provide to Village a surety bond or other indemnity in a form satisfactory to Village against such lien or claim for lien and any cost, liability, or damage arising out of such contest.

7.4. The obligations set forth in this Section 7.0 shall survive the expiration or termination of this License.

## **8.0 TERMINATION.**

8.1. The Village or the Licensee may earlier terminate this License upon giving the Village sixty (60) days written notice of its intent to terminate the License. The Licensee shall fully vacate the Property within said sixty (60) days.

## **9.0     ACCEPTANCE OF PROPERTY BY THE LICENSEE.**

9.1. The taking of possession of the Property by the Licensee shall be conclusive evidence as against the Licensee that the Property is in good and satisfactory condition when possession of the same is taken, latent hidden defects excepted.

## **10.0     WAIVER.**

10.1. No waiver of any breach of any one or more of the conditions or covenants of this License by Licensee or by the Village shall be deemed to imply or constitute a waiver of any succeeding or other breach under this License. All of the remedies conferred on either Licensee or the Village in this License and by law shall be deemed cumulative and not exclusive of the other.

## **11.0     AMENDMENT OR MODIFICATION.**

11.1 Both parties acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except such as are expressed here, and that no amendment or modification of this License shall be valid or binding unless expressed in writing and executed by the parties in the same manner as the execution of this License.

## **12.0     QUIET POSSESSION.**

12.1 Village shall warrant and defend the Licensee in the enjoyment and peaceful possession of the Property during the term.

## **13.0     NOTICES.**

13.1. All notices required to be given under the terms of this License shall be given by certified or registered mail, by personal service or facsimile or electronic (email) transmission, addressed to the applicable party as follows:

For Licensee: Pete's Fresh Market Oak Park Corp.  
Stephanie Dremonas  
4333 S. Pulaski Rd.  
Chicago, IL 60632  
Facsimile: (773) 843-1400  
Email: [stephanie@petesfresh.com](mailto:stephanie@petesfresh.com)

For Village: Village Manager  
Village of Oak Park  
123 Madison Street  
Oak Park, Illinois 60302  
Facsimile: (708) 358-5101  
Email: [villagemanager@oak-park.us](mailto:villagemanager@oak-park.us)

13.2. Mailing of such notice as and when provided above shall be equivalent to personal notice and shall be deemed to have been given at the time of mailing. Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

13.3. Notice by facsimile or electronic transmission shall be effective as of date and time of facsimile or electronic transmission, provided that the notice transmitted shall be sent on business days during business hours (9:00 a.m. to 5:00 p.m. Chicago time). In the event facsimile or electronic notice is transmitted during non-business hours, the effective date and time of notice is the first hour of the first business day after transmission.

#### **14.0 IMPAIRMENT OF VILLAGE'S TITLE.**

14.1. Nothing in this License and no action or inaction by the Village shall be deemed or construed to mean that the Village has granted to the Licensee any right, power, or permission to do any act or make any agreement which may create any right, title, interest, lien, charge, or other encumbrance upon the estate of the Village in the Property. Without limiting the generality of the foregoing, the Licensee shall not permit any portion of the Property to be used by any person or persons at any time during the term of this License in such a manner as might reasonably tend to impair Village's title or interest in the Property or in such manner as might reasonably make possible a claim of adverse use, adverse possession, prescription, dedication, or similar claim with respect to the Property. The Village may from time to time impose upon the Licensee such rules and regulations governing the use or possession of the Property and the Property as may be reasonably consistent with Village's protection against any such possible claim.

#### **15.0 EMINENT DOMAIN.**

15.1. If the entire Property is appropriated or taken under the power of eminent domain by any public or quasi-public authority, this License shall terminate as of the date of such taking. If a portion of the Property is so appropriated or taken and the remainder of the space is not suited for its intended purposes, the Licensee shall have the right to terminate this License as of the date of such taking by giving to the Village written notice of such termination within thirty (30) days after such taking. If there is such a partial taking and the Licensee does not elect to terminate this License, then the License shall continue in full force and effect as to the part not taken with a pro rata abatement of rent. If this License is terminated by reason of the total or partial taking of the Property by eminent domain, then in any such condemnation

proceedings, Licensee and the Village shall be free to make claim against the condemning or taking authority for the amount of any damage done to each of them respectively. If there is a partial taking and this License is not terminated, the Licensee shall have the right to make claim against the condemning or taking authority for the reduced value of the Property to the Licensee for the remainder of the License term.

#### **16.0 DAMAGE BY FIRE OR OTHER CASUALTY.**

16.1. If the Property is damaged by fire, the elements, or other casualty but is not rendered uninhabitable in whole or in part and such damage is not caused by the act or failure to act of the Licensee or the Licensee's agents, employees, or invitees, the Village shall, at its own expense, cause the damage to be repaired promptly and the rent shall not be abated. If by reason of such occurrence the Property is rendered uninhabitable to an extent that no longer makes the Property suited for its intended purposes or is rendered wholly uninhabitable, either Licensee or the Village may, at their respective options, terminate this License upon not less than sixty (60) days' written notice pursuant to Section 13.0 above given to the other party within sixty (60) days following the date of such damage or destruction.

#### **17.0 ASSIGNMENT OR SUBLETTING.**

17.1. The Licensee shall not assign or transfer this License without the prior written approval of the Village. This License shall not be subject to involuntary assignment, transfer, or sale or to assignment, transfer, or sale by operation of law in any manner whatsoever. Any such attempted involuntary assignment, transfer, or sale shall be void and shall, at the option of the Village, be an event of default under this License.

17.2. This License shall run with the Property and if Village shall sell, assign or transfer the Property to another party, this License shall automatically be assigned to the new party.

17.3. In the event that the Village sells, assigns, or transfers the Property to another party, the Licensee may at its option terminate this License.

#### **18.0 SURRENDER OF THE PROPERTY.**

18.1. At the expiration or termination of this License, the Licensee shall surrender the Property in the same condition as it existed on the Commencement Date, reasonable wear and tear and damage by unavoidable casualty excepted, including wear and tear due to the removal of the items, and deliver all keys for the Property and all keys or combinations for all locks, safes and (or) vaults left in the Property by the Licensee (if any), to the Village at Village's Notice Address set forth in Section 13.1 above. No receipt of money by Village from the Licensee after the termination or expiration of this License, after the service of any notice of default, after the commencement of any suit seeking possession of the Property, or after any final judgment of possession of the Property shall renew, reinstate, continue, or extend the term of this License or affect any such notice, demand, or suit.

## **19.0 SUBORDINATION.**

19.1. The Village may from time to time during the term of this License encumber by mortgage or other security instrument the title to the Property or Village's interest under this License. Upon request by Village, the Licensee shall execute such documents as are reasonably required in order to evidence the subordination of the interest of the Licensee in the Property to the lien of the mortgage or other security instrument on the title to the Property. However, the Licensee shall not be required to so subordinate its interest unless the holder of the mortgage or other security instrument agrees in writing with the Licensee that if the Licensee fully complies with all of its obligations under this License, the Licensee shall be allowed to remain in undisturbed possession of the Property during the License term.

## **20.0 ESTOPPEL CERTIFICATES.**

20.1. Licensee and the Village shall upon the request of the other party and at the reasonable cost and expense to the party requesting the same, execute, acknowledge, and deliver to the other party a certificate evidencing the following: (a) whether this License is in full force and effect; (b) whether this License has been modified or amended in any respect and identifying all such modifications or amendments; and (c) whether there are any existing defaults under this License to the knowledge of the party executing the certificate and specifying the nature of such defaults.

## **21.0 VILLAGE'S RIGHT OF ENTRY.**

21.1. The Licensee shall permit the Village and its agents and employees to enter into and upon the Property at all reasonable times for the purpose of inspecting it, making repairs, gaining access to mechanical or utility rooms or installations, or any other reasonable purpose. If either Licensee or the Village fails to do any of the things required of it by this License and such failure continues for a period of ten (10) days or more after written notice from the other party specifying the nature of anything required to be done, the other party may, but shall not be required to, do or perform or cause to be done or performed such thing required of the defaulting party. The party performing such thing shall not be in any way responsible for any loss, inconvenience, annoyance, or damage resulting to the defaulting party from such performance by the other party on behalf of the defaulting party. The defaulting party shall repay to the other party on demand the entire reasonable expense, including reasonable compensation to the agents and employees of the other party, incurred by the other party in performing such thing. If payment is not made within ten (10) days of such demand, the amount due to the other party shall bear interest from the date of the demand until repaid at the rate of 10% per annum, other than payment of the fee by the Licensee pursuant to Section 4.1 above. Any act or thing done by the other party pursuant to the provisions of this paragraph shall not be construed as a waiver of any default by the defaulting party or as a waiver of any other right or remedy of the other party under this License or otherwise.

## **22.0 DEFAULT.**

22.1. The occurrence of any one or more of the following events shall constitute a default by the Licensee under this License:

22.1.1. If the Licensee fails to pay the rent or any other amounts due to the Village under this License when due and such default is not cured within ten (10) days after notice of such default is given by Village to the Licensee;

22.1.2. If any voluntary or involuntary petition or similar pleading under any section of any bankruptcy act is filed by or against the Licensee or the Licensee's guarantors or any voluntary or involuntary in any court is instituted to declare the Licensee or the Licensee's guarantors insolvent or unable to pay debts; or

22.1.3. If the Licensee makes any assignment of the Property for the benefit of creditors or if the Property is taken under a levy of execution or attachment in an action against Licensee.

22.2. If the Licensee fails to perform any of the other things required of the Licensee under this License and such default is not cured within thirty (30) days after notice of such default is given by Village to Licensee.

22.3. Upon such occurrence of any such event of default, the Licensee hereby authorizes and empowers the Village to:

22.3.1. Cancel and terminate this License and immediately reenter and take possession of the Property without the requirement of any previous notice of intention to reenter, and to remove all persons and their property therefrom using such force and assistance in effecting and perfecting such removal as the Village may deem reasonably necessary to recover full and exclusive possession of the Property; or

22.3.2. Reenter and take possession of the Property in the manner provided in Section 22.3.1 above without such reentry constituting a cancellation or termination of this License or a forfeiture of the rent to be paid or of the covenants, agreements, and conditions to be kept and performed by the Licensee for and during the remainder of the term of this License.

22.4. If the Village reenters and takes possession of the Property, Village may do any one or more of the following and the Licensee shall have the following obligations:

22.4.1. The Village shall have the right but not the obligation to divide or subdivide the Property in any manner it may reasonably determine and to License all or any portions of the Property for such periods of time, at such rentals, for such use and upon such terms, covenants, and conditions as it may reasonably elect, applying the net rentals from such

letting first to the payment of its expenses incurred in dispossession the Licensee, the costs and expenses of making any improvements to the Property as may be reasonably necessary to enable it to relet the same, and to the payment of any brokerage commissions or other necessary expenses incurred in connection with such reletting. The balance, if any, shall be applied by Village, from time to time, but in any event no less than once each month, on account of the payments due or payable by the Licensee under this License.

22.4.2. Village may, from time to time, bring such actions or proceedings for the recovery of any deficits remaining unpaid or to enforce any other covenant or condition contained in this License as it may deem advisable without being obligated to wait until the end of the term of this License or for a final determination of the Licensee's account. The commencement or maintenance of one or more actions shall not bar Village from bringing other or subsequent actions for further accruals or defaults under and pursuant to the provisions of this License.

22.4.3. Any balance remaining after full payment and liquidation of all amounts due to the Village shall be paid to Licensee at the end of the term of this License, with the right reserved to the Village at any time to give notice in writing to the Licensee of its election to cancel and terminate this License and all of Licensee's rights and obligations under it. Upon the giving of such notice and the simultaneous payment by the Village to the Licensee of any credit balances in the Licensee's favor that may at the time be owing to the Licensee shall constitute a final and effective cancellation and termination of this License and the obligations on the part of either party under it.

22.5. The occurrence of any one or more of the following events shall constitute a default by the Village under this License:

22.5.1. If the Village fails to pay any amounts due from the Licensee under this License when due and such default is not cured within ten (10) days after notice of such default is given by the Licensee to the Village.

22.5.2. If the Village fails to perform any of the other things required of the Village under this License and such default is not cured within thirty (30) days after notice of such default is given by the Licensee to the Village.

22.5.3. Upon such occurrence of any such event of default, the Licensee may cancel and terminate this License by written notice to the Village.

## **23.0 CHOICE OF LAW.**

23.1. The laws of the State of Illinois shall apply to the interpretation of this License.

**24.0 LITIGATION EXPENSES.**

24.1. If either the Village or Licensee takes legal action to enforce the provisions of this License, the prevailing party shall be entitled to be reimbursed for its costs and reasonable attorney's fees.

**25.0 ENTIRE AGREEMENT.**

25.1. This License constitutes the entire agreement and there are no representations, conditions, warranties or collateral agreements, express or implied, statutory or otherwise, with respect to this agreement other than as contained herein.

25.2. This License may not be modified, omitted or changed in any way except by written agreement duly signed by persons authorized to sign agreements on behalf of Licensee and the Village.

**26.0 VENUE.**

26.1. Venue for any action taken by either Licensee or Village, whether in law or in equity, to enforce the terms of this License shall be in the Circuit Court of Cook County, Illinois.

**27.0 SEVERABILITY.**

27.1. If any of the provisions of this License shall be deemed illegal, invalid, unconstitutional or unenforceable by any court of law having competent jurisdiction, such decisions shall not invalidate or negate the other remaining provisions of this License.

**28.0 SECTION HEADINGS AND TITLES.**

28.1. The section headings and titles provided in this License are for convenience only and shall not be deemed a part of this License.

**29.0 BINDING AUTHORITY.**

30.1. The individuals executing this License on behalf of Licensee and the Village represent that they have the legal power, right, and actual authority to bind their respective parties to the terms and conditions of this License.

**30.0 EFFECTIVE DATE.**

30.1. The effective date of this Agreement as reflected above shall be the last date it is executed by one of the parties as set forth below.

**31.0 COUNTERPARTS; FACSIMILE OR PDF SIGNATURES.**

31.1. This Agreement shall be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement.

31.2. A facsimile or pdf/email copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

**IN WITNESS WHEREOF**, the Parties hereto have caused this License Agreement to be to be signed by their duly authorized representatives on the dates set forth below and acknowledge they have read and understand this Agreement and intend to be bound by its terms.

**VILLAGE OF OAK PARK**

**PETE'S FRESH MARKET OAK PARK CORPORATION**

\_\_\_\_\_  
By: Cara Pavlicek  
Its: Village Manager

\_\_\_\_\_  
By:  
Its:

Date: \_\_\_\_\_, 2017

Date: \_\_\_\_\_, 2017

**ATTEST**

**ATTEST**

\_\_\_\_\_  
By: Vicki Scaman  
Its: Village Clerk

\_\_\_\_\_  
By:  
Its:

Date: \_\_\_\_\_, 2017

Date: \_\_\_\_\_, 2017