

## LEASE

This lease made this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of La Crosse , Wisconsin, a Wisconsin municipal corporation, "Lessor," with offices at 400 La Crosse Street, La Crosse, Wisconsin and City Brewing Company, LLC, a limited liability company, "Lessee," with offices located at 1106 South Third Street, La Crosse, Wisconsin.

Subject to the following terms and conditions, Lessor, does hereby lease parking spaces on certain land near Marco Drive on Isle La Plume, in the City of La Crosse, County of La Crosse, State of Wisconsin, shown as "Proposed Area" on the map marked as Exhibit "A" attached hereto.

### 1. TERM.

The term of this lease shall be for five terms of six (6) months as follows:

June 1, 2018 and ending November 1, 2018.  
 May 1, 2019 and ending November 1, 2019  
 May 1, 2020 and ending November 1, 2020.  
 May 1, 2021 and ending November 1, 2021.  
 May 1, 2022 and ending November 1, 2022.

### 2. RENT.

Lessee, its permitted successors and assigns, agrees to pay monthly rent due on or before the first day of each month with a yearly increase based on the rates listed below.

2018- \$750.00/month + Tax  
 2019- \$787.50/month + Tax  
 2020- \$826.88/month + Tax  
 2021- \$868.22/month + Tax  
 2022- \$950.91/month + Tax

### 3. USE OF PREMISES.

Said premises shall be used only for the purpose of parking trucks and trailers and no other purpose without the prior express written consent of Lessor. No building may be constructed on the leased premises excepting only temporary portable structures used in conjunction with truck staging which structures shall be subject to prior written approval from the Lessor's Board of Public Works in its sole and absolute discretion.

4. Lessee agrees it will not sublet said premises, nor any part thereof, nor assign the Lease without the express prior written consent of Lessor.

5. Lessee agrees to furnish Lessor with insurance as per the attached Exhibit B.

6. Lessee agrees to comply with all laws, ordinances, rules and regulations which may pertain or apply to the leased premises and the use thereof.

7. Holdover. Should Lessee remain in possession of any part of the leased premises after the expiration or other termination of this lease, without extending the term or executing a new lease, then such holding over shall be construed as a tenancy from month-to-

month, subject to all of the conditions, provisions and obligations of this lease insofar as the same are applicable to a month-to-month tenancy. Notwithstanding, rent for any holdover tenancy shall be calculated as three (3) times the rental value as the date of this lease and defined in Wis. Stat. § 704.27. Rental value shall be determined by the City Assessor, in his/her sole and absolute discretion.

7. Lessee shall be responsible for maintaining the leased premises in good condition and good and proper order and obtain any necessary permits or approvals for its intended use. Lessee further agrees that the premises shall be improved for the parking of trailers and tractors. Any improvements to the premises shall require prior approval from Lessor's Board of Public Works.

8. ENVIRONMENTAL LIABILITIES.

Except as otherwise expressly provided herein, Lessee, on behalf of itself, its representatives, successors and assigns expressly waives and releases any and all claims against the Lessor, its successors and assigns, and their respective officers and employees, which may arise during the lease term, for injuries or damage to Lessee's improvements or business activity on the leased premises caused by Environmental Cleanup activities on the property, including but not limited to demolition of buildings, interference with business, whether temporary or permanent, or loss of use of the lands leased herein, provided the City gives Lessee at least 45 days prior notice of the activity.

Lessee hereby agrees to indemnify and defend the Lessor, its officers and employees, against all costs, losses, penalties, liability, claims, actions and proceedings arising from injuries to persons (including death) or damages to property (including but not limited to the environment) that are caused by Lessee, its distributors and contractors, during the term of this lease.

"Environmental Cleanup" shall include all removal or response actions, remedial investigation, feasibility studies, remedial designs or remedial actions as those cognate terms are used in the enforcement of the Comprehensive Environmental Response, Compensation, Liability Act (CERCLA) sec. 144.442, Wis. Stats., or sec. 144.76, Wis. Stats. or any implementing regulations or guidance documents and the amendments or successor provisions thereto, including any continuation of the remedial investigation already commenced on the Property.

9. NONENCUMBRANCE OF LEASED PROPERTY.

Lessee shall not permit any mechanics or materialmen's lien to be filed against the leased premises or engage in any financing or other transaction creating a mortgage or other encumbrance or lien upon the leased premises whether by express agreement or operation of law, and shall not place upon the leased premises or suffer to be placed upon the leased premises, any lien or encumbrance. Any mortgage, encumbrance or lien shall be deemed a violation of this lease.

11. EMINENT DOMAIN.

If the whole or any part of the premises herein leased shall be taken under the power of eminent domain, then the terms of this lease shall cease as to the part so taken from the day of possession of that part taken for any public purpose, and from that date, Lessee shall have the

right to either cancel this lease or to continue to possession of the remainder of the premises under the terms provided for herein.

All damages awarded for any such taking shall belong to and be the property of Lessor; provided, however, that Lessor shall not be entitled to any portion of the award made for loss of improvements belonging to Lessee.

10. SIGNS.

Lessee shall not erect, install, operate nor cause nor permit to be erected, installed or operated in or upon the premises herein, any signs or similar advertising device without first obtaining the prior express written consent of Lessor. Lessor shall be responsible for marking spaces reserved for Lessee.

11. TERMINATION.

If Lessee shall fail to comply with any of the terms or conditions of this lease or any notice given under it or shall become insolvent or shall make an assignment for the benefit of creditors or if any of the leased property be attached and attachment not properly released, or if execution be issued against it or if a petition be filed by or against Lessee to have it adjudicated bankrupt, or if a Trustee or Receiver should be created or appointed to take charge of its assets, or if it shall desert or abandon the premises for a period of thirty (30) days, then at or anytime afterwards, Lessor may, at its option, enter into the premises and remove any and all of Lessor's personalty and improvements or provide reasonable notice to Lessor to remove the same and obtain possession of said leased premises, in which event this lease shall be considered terminated. The Board of Public Works may terminate this Lease within thirty (30) days advance written notice to Lessee for any reason. If this right to terminate is exercised, the Lessor will make a good faith effort to provide alternative parking spaces for Lessee.

12. WAIVER AND NON-WAIVER.

Any waiver or any breach of the covenants contained herein to be kept and performed by Lessee shall not be considered as a continuing waiver and shall not operate to bar or prevent Lessor from declaring a forfeiture of any succeeding breach either the same condition or covenant or otherwise.

13. SUCCESSORS IN INTEREST.

All terms, covenants and conditions contained herein shall continue, and bind all successors in interest of Lessee.

14. APPLICABLE LAW.

This lease shall be deemed to have been made in and shall be construed in accordance with the laws of the State of Wisconsin.

15. AUTHORITY TO SIGN.

Each person signing this lease represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this lease. Each party represents that entry into this lease is not in contravention of any agreement or undertaking to which the Party is bound.

16. EXECUTION.

Lessee shall sign, execute and deliver this Lease to the City on or before forty-five (45) days of its approval by the Board of Public Works. Failure to do so shall render the approval of the Lease null and void unless otherwise executed.

IN WITNESS WHEREOF the parties have hereto on the day and year first above written executed this lease.

WITNESS:

CITY BREWING COMPANY, LLC

*Larry R. Stinebaugh*

*[Signature]*, VP CFO  
*GREGORY J. IVIDA*

WITNESS:

CITY OF LA CROSSE:

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Tim Kabat, Mayor

Teri Lehrke, City Clerk

EXHIBIT A



La Crosse County, City of La Crosse, La Crosse County, Ayres Associates, WROC

## EXHIBIT B: INSURANCE

INSURANCE. Unless otherwise specified in this Agreement, Lessee shall, at its sole expense, maintain in effect at all times during the Agreement, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

- a. *Worker's Compensation and Employers Liability Insurance.* Lessee shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the laws of the State of Wisconsin. Lessee shall provide statutory coverage for work related injuries and employer's liability insurance with limits of at least for employers liability of one hundred thousand dollars (\$100,000.00) per each accident, one hundred thousand dollars (\$100,000.00) per each employee and five hundred thousand dollars (\$500,000.00) total policy limit.
- b. *Commercial General Liability and Automobile Liability Insurance.* Lessee shall provide and maintain the following commercial general liability and automobile liability insurance:
  - i. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as the following:
    1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001).
    2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).
  - ii. Lessee shall maintain limits no less than the following:
    1. General Liability. Two million dollars (\$2,000,000.00) per occurrence (\$3,000,000.00 general aggregate if applicable) for bodily injury, personal injury and property damage.
    2. Automobile Liability. Two million dollars (\$2,000,000.00) for bodily injury and property damage per occurrence covering all vehicles to be used in relationship to the Agreement.
    3. Umbrella Liability. Five million dollars (\$5,000,000.00) following form excess of the primary General Liability, Automobile Liability and Employers Liability Coverage. Coverage is to duplicate the requirements as set forth herein.
- c. *Professional Liability Insurance.* When Lessee renders professional services to the Lessor under the Agreement, Lessee shall provide and maintain one million dollars (\$1,000,000.00) of professional liability insurance. If such policy is a "claims made" policy, all renewals thereof during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to Lessee's work performed under the Agreement.
- d. *Required Provisions.* The general liability, umbrella liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- i. Lessor, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of Lessee; products and completed operations of Lessee; premises occupied or used by Lessee; and vehicles owned, leased, hired or borrowed by Lessee. The coverage shall contain no special limitations on the scope of protection afforded to Lessor, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of Lessor.
  - ii. For any claims related to this Agreement, Lessee's insurance shall be primary insurance with respect to Lessor, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by Lessor, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance.
  - iii. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to Lessor, its elected and appointed officers, employees or authorized representatives or volunteers.
  - iv. Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - v. Each insurance policy required by this Agreement shall state, or be endorsed so as to the state, that coverage shall not be canceled by the insurance carrier or the Lessee, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to Lessor.
  - vi. Such liability insurance shall indemnify Lessor, its elected and appointed officials, officers, employees or authorized representatives or volunteers against loss from liability imposed by law upon, or assumed under contract by, Lessee for damages on account of such bodily injury, (including death), property damage personal injury, completed operations, and products liability.
  - vii. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations. The automobile liability policy shall cover all owned, non-owned, and hired vehicles.
  - viii. All of the insurance shall be provided on policy forms and through companies satisfactory to Lessor and shall have a minimum AM Best's rating of A- VIII.
- e. *Deductibles and Self-Insured Retentions.* Any deductible or self-insured retention must be declared to and approved by Lessor. At the option of Lessor, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.
- f. *Evidences of Insurance.* Prior to execution of the Agreement, Lessee shall file with Lessor a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the

insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

- g. *Sub-Leases.* In the event that Lessee utilizes other lessees (sub-lessees) as part of this Agreement, it shall be the Lessee's responsibility to require and confirm that each sub-lessee meets the minimum insurance requirements specified above.
- h. *Amendments.* Lessor may amend its requirements for insurance upon sixty (60) days written notice. Lessee shall procure updated insurance to comply with the new requirements of Lessor. Lessee may appeal any requirement to amend the insurance coverage to Lessor who may, in its sole discretion, mutually agree to waive such changes.

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