

Special Condition Lease Back

Between

The City of La Crosse

As LANDLORD,

And

Autosport Acquisitions, LLC

As TENANT

DATE: June 1st, 2021

UPDATED:

1. **Parties**

THIS LEASE AGREEMENT (hereinafter referred to as "Lease"), is entered into by the City of La Crosse, 400 La Crosse Street, La Crosse, Wisconsin (hereinafter referred to as "Landlord") and Autosport Acquisitions, LLC (hereinafter referred to as "Tenant").

2. **Intent of Lease Agreement**

Contemporaneously with the execution of this Lease, Landlord has closed on the purchase of: The real property and improvements located at 2349 South Avenue & 2000 West Avenue S, La Crosse.

3. **Premises**

The property and building altogether comprise the Premises. Ownership of the Premises will vest with City on the date of recording, on or about June 1, 2021.

4. **Term**

A. **Commencement Date**

The Lease shall commence on the date of execution by both parties which date shall be referred to as the Commencement Date.

B. **Termination Date**

The Lease shall terminate on 30 days prior written notice from Tenant to Landlord or July 1, 2021 whichever termination date is earlier.

C. **Free Rental Period**

The free rental period begins on the Commencement Date and continues for a minimum of 30 days or July 1, 2021, whichever is later. (Refer to item #8 for rental details.)

5. **Lease Conditions**

A. **Leased Premises**

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the Premises, upon the terms and conditions hereinafter set forth.

B. **Premises in "As-Is" condition**

Landlord and Tenant hereby acknowledge that Premises shall be leased to Tenant in an "as-is," "where is" condition. Tenant shall bear responsibility for any and all operational or other costs related in any way to Tenant's occupancy and use of the Premises during the term of this Lease.

Tenant hereby acknowledges and affirms that Landlord has not made, in this Lease or otherwise, any representation or warranty, whatsoever, either express or implied, with respect to title, status or condition of the Premises or any other combination thereof. Tenant further acknowledges and affirms that Tenant has made its own thorough investigations and inspections with respect to the title, status and condition of the Premises and has found the same to be satisfactory to Tenant in every respect; and that Tenant does hereby accept the Premises in an "as-is," "where is" condition.

C. Tenant Representation and Warrant

Tenant represents and warrants to Landlord that on the Commencement Date, the Premises are in compliance with all applicable laws, regulations and state, local and federal codes and shall remain so throughout the Lease Term.

6. Landlord's Warranty

Landlord disclaims any warranty regarding the condition of the Premises which, based upon Tenant's use of the Premises, occurred prior to the Term of this Lease. Further, during the Term of this Lease, Landlord disclaims any warranty regarding the Premises and the condition of the Premises relative to: compliance with any applicable local, state or federal law; the structural integrity of any existing improvements; the suitability for Tenant's purposes and use; or, the presence of hazardous materials.

7. Possession, Use and Occupancy

Landlord covenants and warrants that during the Term of this Lease, the Premises may be used by Tenant for its continuing current lawful uses consistent with all applicable laws.

8. Rent and Common Area Maintenance Fees

- A. Free rent period starts on the Commencement date and continues until July 1, 2021.
- B. Tenant shall pay to Landlord, as rent hereunder for the Lease Term the following:
 - For each month starting July 1, 2021; due by the 1st of the month, \$3,500.00 for rent.
- C. The rent shall be paid as follows:

These payments should be made payable to the **City of La Crosse** and shall be remitted to:

**City of La Crosse
Attn: Mr. Matt Gallager
400 La Crosse Street, La Crosse, WI 54601**

9. Common Area

- A. Landlord shall provide a paved parking area for the use in common by the customers and invitees of Tenant and Landlord. At all times, all of the existing parking spaces shall be available for Tenant's use. Tenant shall maintain the parking area and all of the other common areas and facilities and easement areas used from time to time for the operation and maintenance of the Premises, including, but not limited to, driveways, sidewalks, paved areas, parking area lighting standards and landscaped areas, if any, in good condition and repair including, without limitation, (a) keeping the parking lots, access roads and sidewalks of the Premises pothole free and free from snow, ice and storm water, (b) keeping the utility facilities located in or serving the common areas in good condition and repair, (c) keeping all common areas properly lighted, (d) maintaining all pylon and other signage erected for the benefit of the Premises in good repair, (e) maintaining all landscaping and trees located in the common area in good condition. Landlord shall also be responsible for the repair of all utility lines servicing the Premises to the point of entry to the Leased Premises.

- B. Landlord's and Tenant's obligations with respect to payment of such expenses and costs shall survive the expiration of the term of this Lease. Tenant shall have no obligation to make (and Landlord shall not be responsible for any repairs which are necessitated by (i) fire or other casualty or condemnation, (ii) Landlord's failure to repair and maintain building of which the Premises are a part or (iii) the negligence of Landlord, its agents and employees, in so maintaining or repairing such building. Further, Tenant shall have no obligation to make or reimburse Landlord for repairs to the extent the cost thereof is reimbursed to the Landlord under Landlord's insurance policy.

10. Tenant Obligations Under Lease

A. Operational Expenditures, Services, and Taxes

During the Term of this Lease, Tenant shall be solely responsible for all expenses that are directly attributable to Tenant's use of the Premises and to Tenant for its operations conducted thereon. Tenant's responsibility for expenses includes, but is not be limited to the following:

Utilities and Services

Starting on the earlier of the Commencement Date or upon Tenant taking possession of the Premises, Tenant shall be solely responsible for all utility costs incurred while in possession of the Premises. Tenant shall be solely responsible to pay for all services incurred while in possession of the Premises, including but not limited to: water; sewer; steam; heat; gas; hot water; electricity; light; and, power. In addition, Tenant shall be solely responsible for any other services required during the Lease Term, at Tenant's sole cost and expense. Said other services may include, but are not limited to: heating; ventilation; air conditioning (HVAC); passenger elevator service; freight elevator service maintenance of all plumbing; refrigeration; light bulbs; light fixture ballasts; janitorial services; and, the removal of refuse from the Building and Premises. Upon surrender of the Premises, it shall be Tenant's responsibility to provide all required notices to utilities and service providers, and to remove Tenant's name from the services.

B. Repairs and Maintenance

Tenant shall not commit waste and shall comply with all state laws, regulations and local ordinances. Tenant shall keep the Premises in good working order and condition as needed and shall maintain the Premises in a safe and tenable condition.

- i. Should structural damage occur to portions of the Premises during the Term of this Lease, Landlord and Tenant, in consultation with the appropriate governmental building inspector, shall mutually determine what structural repairs are required. Tenant shall, with the concurrence of Landlord, arrange for the agreed upon structural repair and Landlord shall promptly pay for the repair of those structural damages that are not otherwise promptly paid by any other entity with legal responsibility. Structural portions of the Premises shall be deemed to include the foundations, floor (but not floor coverings), perimeter walls and the roof.
- ii. Should structural damage occur to portions of the leased Premises during the Term of this Lease, Tenant assigns to Landlord and Landlord shall receive any insurance payments or proceeds available to Tenant for the cost of repairs covered by insurance or paid by any other entity that may bear legal responsibility.

C. Taxes

For the duration of this Lease, personal property taxes shall be the responsibility of the Tenant. Tenant is responsible for filing personal property tax statements and paying its personal property tax bills when due. Tenant shall be responsible for all personal property tax assessments levied by the federal, state, or local governments during the Term of this Lease. Real Estate taxes for the term of this Lease (beginning on the Commencement Date) shall be paid by the Landlord as it applies to this parcel, previously owned by Conway Property Investments, LLC.

D. Tenant Alterations

Tenant covenants that it shall not make or cause to be made any structural alterations or capital improvements in, on or to the Premises without first obtaining Landlord's written consent. No Tenant structural alteration or capital improvement shall occur without the prior submission of drawings, plans and specifications to Landlord for Landlord's review and consent, which consent shall not be unreasonably withheld. For decorative work that does not affect any building system or structure, no Landlord consent shall be necessary. Any Tenant Alterations shall be at the Tenant's sole cost and expense.

E. Obligations regarding Fixtures, Equipment and Personal Property

All equipment and personal property located within in the business known as Autosport Acquisitions, LLC are owned and maintained by the business. The Landlord has no rights of ownership regarding this personal property. Tenant shall maintain, repair or replace any fixtures, equipment and personal property deemed necessary by Tenant, at Tenant's expense for Tenant's use during the Term of this Lease.

F. Tenants Obligations upon vacating the Premises

Upon surrender of the Premise Tenant shall remove all Tenant-owned personal property. Tenant shall leave the Premises in a broom clean condition, free of all refuse, or Tenant shall bear the costs of cleaning or disposal, which reasonable cleaning or disposal costs may be assessed at the time of surrender.

G. Environmental Concerns

Tenant shall indemnify, defend, protect, and hold harmless Landlord, its officers, employees and agents, from and against any and all actual or potential claims, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, that arise out of or relate in any way to any use, storage, transfer, generation, spill, discharge, leakage, seepage, pumping, pouring, leaching, migration, dispersal, emission, emptying, injection, escape, dumping, disposal or release or threatened release of any hazardous materials resulting from Tenant's use occupancy and responsibilities arising under this Lease. This indemnification shall survive the completion of the work or activities under this Lease. If Tenant is responsible for any Ground Contamination first arising under this Lease, Tenant's responsibility regarding Ground Contamination shall survive the termination of this Lease Agreement.

H. No Assignment or Subletting

Tenant covenants that it will not assign this Lease or sublet all or any part of the Premises after the Commencement Date of this Lease. Any signage advertising "for rent or lease" shall be removed from the Premises, prior to transfer of title, from Conway Property Investments, LLC to the City of La Crosse.

11. Landlord's Entry

A. Landlord's Right to Enter

Tenant agrees that Landlord, its agents, employees and other authorized representatives, shall have the right to enter the Premises for the purpose of inspection, testing or analysis necessary in furtherance of the Highway Project for which the Premises were acquired. Landlord shall have said right to enter with a 24 hour notice, provided Landlord takes reasonable steps to avoid affecting Tenant's ability to conduct business on the Premises. Landlord shall provide reasonable notice of Landlord's intent to enter the Premises, so that Tenant may have a representative present at the time of such entry.

B. Emergency Entry

Should Landlord determine that there exists an emergency related to the safety of the traveling public using the surrounding highways or the safety of citizens located in proximity to the Premises, Landlord shall not be required to provide notice to the Tenant but shall be permitted onto the Premises at any time dictated by said emergency.

C. Landlord's Entry for Soil Boring/Surveying Work

Landlord reserves the right to enter the Premises to perform soil borings and survey work for the Highway Project for which the Premises were acquired. Landlord shall have the right to enter the Premise for soil borings and survey work. Landlord shall ensure that work is conducted in a reasonably prudent manner and in accordance with generally accepted highway design and construction standards and techniques. Landlord shall provide Tenant with five (5) days prior written notice of Landlord's intent to enter for soil boring and survey work and shall provide Tenant with a statement identifying that part of the Premises upon which Landlord shall perform the work.

D. Landlord's Best Efforts not to Interfere

Notwithstanding the foregoing, Landlord shall at all times use its best efforts to minimize any interference with Tenant's use and occupancy of the Premises. Best efforts will also be used to provide for all current entry/exit access points to remain open.

12. Indemnification and Insurance

A. Indemnification

Tenant covenants and agrees that it will protect and save and keep the Landlord forever harmless and indemnified against and from any penalty of damage or charges imposed for any violation of any laws or ordinances, occasioned by Tenant's neglect and that Tenant will at all times protect, indemnify and save and keep harmless the Landlord against and from any and all claims, loss, cost, damage or expense arising out of or from any accident or other occurrence on or within the Premises, where such accident or other occurrence causes injury to any person or property whomsoever or whatsoever and Tenant will protect, indemnify and save and keep harmless the Landlord against and from any and all claims and against and from any and all loss, cost, damage or expense arising out of any failure by Tenant to comply with any or all of the requirements and provisions of this Lease.

B. General Liability Insurance

Tenant shall, at its sole cost and expense, secure and maintain Commercial general liability insurance written on an International Organization for Standardization (ISO) approved form that is endorsed to name the City of La Crosse, its officers, agents and employees as additional insured's. Such policy of general liability insurance shall cover and insure any

liability which may arise out of or is alleged to have arisen out of Tenant's use and occupancy of the Premises or any portion of the Premises, which may include but not be limited to Tenant services and operations, improvements or installations, performance of any work or operations by Tenant or its contractors or subcontractors, or anyone directly or indirectly employed by Tenant.

The coverage required by such policy of general liability insurance shall be for an amount not less than \$5,000,000 combined single limit per occurrence for bodily injury, and not less than \$1,000,000 per occurrence for property damage. Tenant shall furnish to Landlord a certificate from the insurance carrier evidencing that said coverage is in full force and effect and providing that in the event of termination or material change in coverage, Landlord shall receive no less than thirty (30) days advance written notice thereof. In the event Tenant does not furnish Landlord a certificate of insurance within fifteen (15) days after commencement of this Lease, Landlord may place like insurance comparable to that which is required by this paragraph and that the cost of which shall be the sole responsibility of Tenant.

C. Worker's Compensation Insurance

Tenant shall maintain the required statutory coverage of Worker's Compensation insurance, and, upon Landlord's demand, shall make available for inspection all required certificate of insurance.

D. Employers Liability Insurance

Tenant shall maintain Employer Liability insurance in the amount of \$1,000,000 during the Term of this lease.

E. Fire and Casualty Insurance

For the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, add Landlord to its existing policy, insuring the Landlord's interest in the Premises against loss or damage due to fire and other casualty. Landlord shall be named as the sole insured beneficiary to the extent of Landlord's ownership interest in the insured real property. Within 14 days of execution of this Lease, Tenant shall furnish to Landlord, a certificate from Tenant's insurance carrier evidencing that said coverage is in full force and effect, and providing that in the event of termination or material change in coverage, Landlord shall receive no less than thirty (30) days advance written notice thereof. Tenant's failure to maintain the insurance coverage required under this Lease or to provide Landlord with the necessary certificates of insurance shall constitute a material breach of this Lease.

F. Waiver of Subrogation

Tenant shall look solely to Tenant's own insurer for indemnity against exposure for: general liability; property loss; fire and other casualty; business interruption; or, any other exposure related to Tenant's use and occupancy of the Premises before, during or after the Term of this Lease. Further, Tenant warrants that Tenant's insurance carriers and providers shall have no right of subrogation against Landlord.

13. Damage or Destruction

In the event the Premises is damaged by fire, explosion, windstorm or any other casualty, and the damage to the Premises shall be to such an extent that Tenant is precluded from carrying on its business, the rent shall be abated from the date the damage occurred and Tenant shall have the right to terminate this Lease early in accordance with those procedures outlined elsewhere in this Lease. In the event Tenant is able to carry on its business, rent shall be abated proportionately on the basis of the portion of the Premises that remains suitable for Tenant's use and occupancy.

14. No Nuisance

Tenant covenants and agrees to use its best efforts in the conduct of its business and to control its agents, employees, invitees and visitors in such a manner as not to create any nuisance of any kind on the Premises.

15. Liens and Encumbrances

The Tenant shall in no way encumber, or allow to be encumbered, the Landlord's title to the Premises. This prohibition includes but is not limited to encumbrances by mortgage, security, agreements, or, any other liens of any kind or nature, whether implied or expressed. If any action is commenced, the foreseeable result of which could include the encumbering of Landlord's title, Tenant must immediately act to secure discharge or obtain release of said encumbrance and convey same to Landlord. Tenant shall have the right, at any time and at its own expense, to instigate, defend, bond, contest, or appeal, on its behalf or Landlord's, any action involving any lien or liens placed upon, or in any other way affecting the Premises, its contents or any part thereof.

Upon Tenant's failure to comply in a timely manner, as specified, Landlord may take such action as may be reasonably necessary, at the Tenant's sole cost and expense, to defend, protect or remedy the encumbrance on Landlord's interests. Any costs incurred by the Landlord to cure and remove the encumbrance and protect the Landlord's title shall be paid by Tenant to Landlord upon demand, together with all interest allowed by law and charged at a rate equivalent to the average commercial bank rates found in the City of La Crosse at the time legal action commences.

16. Quiet Enjoyment

Subject to the provisions of this Lease, as long as Tenant remains in good standing and not in material breach or default of this Lease, Tenant shall peaceably and quietly hold and enjoy the Premises for its use against Landlord and all persons claiming by, through or under Landlord, for the Term hereof. Landlord shall use its best efforts to ensure that the actions of Landlord or Landlord's contractors or subcontractors do not unreasonably interfere with Tenant's use and quiet enjoyment of the Premises.

17. Successors and Assigns

Landlord's transfer of this Lease, whether voluntary or involuntary, shall not release Tenant from any of its obligations hereunder. Any acceptance of this Lease by any other person or entity, whether voluntary or involuntary, shall include acceptance of all of Tenant's obligations under this Lease. This Lease and each of its covenants and conditions shall be binding and shall inure to the benefit of the parties hereto and their respective successors, legal representatives and

assigns. No third party, other than such successors and assigns, shall be entitled to enforce any term, covenant, or condition of this Lease or have any rights hereunder.

18. Termination

A. Default; Termination by Landlord

All rights and remedies of Landlord herein enumerated shall be cumulative, and none shall exclude any other right or remedy allowed by law, or found elsewhere in this agreement. It is agreed that Tenant shall be in default of this Lease if:

- i. Tenant fails, neglects or refuses to pay any installment of rent at the time and in the amount as herein provided, or to pay any other monies agreed by Tenant to be paid promptly when and as the same shall become due and payable under the terms hereof, and Tenant further fails, neglects or refuses to pay within Thirty (30) days after written notice by Landlord;
- ii. Tenant fails to surrender the Premises upon receipt of 30 days written notice to vacate;
- iii. There is commenced any voluntary or involuntary proceeding in any court or tribunal that is instituted to declare Tenant insolvent or unable to pay Tenant's debts, and, upon (30) days after written notice is given to Tenant by Landlord, the same is not dismissed or discharged;
- iv. Tenant shall fail, neglect or refuse to keep and perform any of the other covenants, conditions, stipulations, or agreements herein contained and covenanted and agreed to be kept and performed by Tenant, and in the event any such default shall continue for a period of more than thirty (30) days after notice thereof in writing is given by Landlord to Tenant, provided, however, that if the cause for giving such notice involves the making of repairs or other matters reasonably requiring a longer period of time than the period of such notice, Tenant shall be deemed to have complied with such notice, so long as it has commenced to comply with said notice within the period set forth in the notice and is diligently prosecuting compliance in accordance with said notice, or has taken proper steps or proceedings, under the circumstances, to prevent the seizure, destruction, alteration, or other interference with the Premises, or the title thereto, by reason of non-compliance with the requirements of any law or ordinance or with the rules, regulations or directions of any governmental authority, as the case may be.
- v. Tenant makes any sublet or assignment of this Lease, or there occurs any levy of execution or attachment in any action against Tenant, whether such sublet, assignment, levy or attachment is done for the benefit of creditors or otherwise, and such sublet, assignment, levy or attachment is not removed, dismissed, and discharged from the Premises or from the title to the Premises, within thirty (30) days after written notice thereof is given to Tenant by Landlord; or,
- vi. Tenant submits this Lease or any Memorandum of Lease for recording in the office of the Register of Deeds.

In the event of any such default the Tenant does hereby authorize and fully empower Landlord or Landlord's agent to cancel or annul this Lease at once and to re-enter and take possession of the Premises immediately. Any remaining credit balance of rent paid shall be returned to Tenant on a prorated basis.

B. Early Termination by Tenant

In the event that Tenant anticipates an early termination or early surrender of the Premises to Landlord, which shall include the full satisfaction of all obligations set forth in this Lease, Tenant shall advise Landlord by email or in writing at least thirty (30) days in advance of such anticipated date to:

City of La Crosse
Attn: Mr. Matt Gallager
400 La Crosse Street, La Crosse, WI 54601

Upon notice in writing from Tenant that Tenant has fully vacated Premises, and Tenant has no further claims to any personal property left behind, Landlord and Tenant shall, in writing, declare an adjusted Termination Date ("Early Termination Date").

19. Damages Due to Holdover

In the event Tenant shall remain in possession of the Premises after the Termination Date, Tenant shall be liable for damages due to holdover in the amount of Five Thousand Dollars (\$5,000.00) per day for each day that Tenant holds over in the Premises. Damages shall be assessed as of 12:00 AM on the 31st day following prior written notice to vacate from Landlord or July 1, 2021 whichever is earlier and shall accrue at 12:00 AM on each and every day thereafter. No proration of damages for partial days in possession shall occur. This remedy is not exclusive of any other right, remedy or benefit available to Landlord hereunder, at law, or in equity. Tenant agrees to promptly pay damages due to holdover for each day damages are assessed within 24 hours of each hold over day.

20. Prohibition Against Leases and Signage

Tenant warrants and represents to Landlord that, on the Commencement Date, there are no other outstanding, undisclosed leases, or agreements to lease that pertain to the Premises. Tenant acknowledges and agrees that, during the Lease Term, Tenant is prohibited from entering into any lease or agreement for the location, erection, construction or maintenance of any structure or improvement of any kind, anywhere on or within the Premises.

21. Notices

All notices provided to be given under this Lease shall be email and or in writing. With writing delivered by certified or registered mail with a copy to Tenant's Legal Representative, and deemed to be given upon receipt or rejection, at the following addresses:

Landlord:

City of La Crosse
Attn: Mr. Matt Gallager
400 La Crosse Street, La Crosse, WI 54601
Office: 608-789-7505

Or at such other address as Landlord may from time to time designate to Tenant in writing.

Tenant:

Autosport Acquisitions, LLC
2349 South Avenue & 2000 West Avenue S
La Crosse, WI 54601
Phone: (757) 630-0482

Or at such other address that Tenant may from time to time designate to Landlord in writing.

Tenant's Legal Representative:

Legal counsel name and address not provided at the time of this Lease

22. Applicable Law

This Lease and the rights and obligations of the parties hereto shall be construed and enforced in accordance with the laws of the State of Wisconsin.

23. No Recording of Lease

Both Landlord and Tenant agree that neither the Lease nor any Memorandum of Lease shall be recorded.

24. Remedies Cumulative

All rights and remedies of Landlord under this Lease shall be cumulative and none shall exclude any other rights or other remedies allowed by law.

25. Severability

If any Term, covenant, condition or provision of this Lease, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Terms, covenants, conditions, or provisions of this Lease or the application thereof to any person or circumstance shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

26. Paragraph Headings

The paragraph headings contained herein are solely for convenience and shall in no way define, increase, limit, or describe the scope or intent of any provision of this Lease.

27. Force Majeure Defined

For purposes of this Lease, Force Majeure shall mean those Acts of God accidents, fire or other casualty, earthquake, flood, war, riot, intervention by civil or military authorities of government, delays in the receipt of necessary governmental approvals from local, state and/or federal agencies which delays, individually or cumulatively, have the effect of delaying the ability of Tenant to relocate to a relocation site. Further, Force Majeure shall also mean insurrection or

other civil commotion, material shortages, strikes, boycotts or labor disputes, soil conditions that are unforeseen and not reasonably foreseeable or discoverable through due diligent inspections prior to the effective date of this Lease, or any other or similar or like event or occurrence beyond the reasonable control of Tenant that causes Tenant to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder.

A. Surrender of Premises Not Excused by Force Majeure

The surrender of Premises by Tenant to Landlord according to the Terms and conditions of this Lease shall not be excused by force Majeure.

28. Landlord/Tenant

Nothing contained herein or in any other instrument or agreement between Landlord and Tenant shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between Landlord and Tenant.

29. Entire Agreement

This Lease contains the entire agreement between the parties hereto and all previous negotiations leading thereto regarding this Lease and it may be modified only by an agreement in writing signed by Landlord and Tenant.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date and year first above written:

Landlord: City of La Crosse

BY: _____

TITLE: _____

Date signed by Landlord: _____

Tenant: Autosport Acquisitions, LLC

BY: _____

TITLE: _____

Date signed by Tenant: _____

Approve, but do not sign. Tenant must sign first

Scott D