

LEASE AGREEMENT

BETWEEN

AND

CITY OF GLADSTONE, a Michigan
municipal corporation,
1100 Delta Ave
Gladstone, MI 49837

U.P. SNOPHLYERS, a domestic nonprofit
corporation
2425 Ludington St, Ste 100
Escanaba, MI 49837

party of the first part,

party of the second part,

Hereinafter referred to as "LESSOR".

hereinafter referred to as "LESSEE".

This LEASE entered into by and between the parties on the date set forth below.

§1. REAL PROPERTY:

The LESSOR, inconsideration of the covenants and agreements hereinafter mentioned to be kept and performed by the LESSEE, and upon the considerations and the terms hereinafter set forth, does hereby demise and lease unto the LESSEE certain vacant real estate situated in the County of Delta, State of Michigan, which is more particularly described as follows:

FROM THE SW CORNER OF NW1/4 OF SE1/4 OF SECTION 17 T.40N., R.22W. MEASURE N.01°21'34"E. ALONG THE WEST LINE OF SAID NW1/4 OF SE1/4 A DISTANCE OF 580.00 FEET, THENCE MEASURE S.88°38'26"E. A DISTANCE OF 30.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF 29TH STREET AND THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED, THENCE N.01°21'34"E. ALONG SAID EAST RIGHT-OF-WAY LINE AND PARALLEL WITH SAID WEST LINE A DISTANCE OF 200.00 FEET, THENCE S. 88°38'24"E. A DISTANCE OF 200.00 FEET THENCE S.01°21'34"W PARALLEL WITH SAID WEST LINE A DISTANCE OF 200.00 FEET, THENCE N.88°38'26"W. A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.92 OF AN ACRE

§2. TERM OF LEASE:

§2.1 Initial Term: The initial term of this LEASE shall be for twenty (20) years, effective as of **XXXXXX**. This LEASE may be continued for an additional twenty (20) year term, with the approval of the Gladstone City Commission, at the end of the initial term.

§3. RENTAL:

The LESSEE agrees to pay unto the LESSOR the sum of ONE DOLLAR (\$1.00) per year, in advance, during the initial term of the LEASE.

§4. TAXES AND ASSESSEMENTS:

§4.1 Personal and Real Property Taxes: The LESSEE shall pay, when due and owing, all personal and real property taxes assessed against the property, of whatever amount and whatever kind and nature the same may be and shall pay any and all special assessments against the property. The LESSEE shall tender to the LESSOR proof of payment of all taxes which become due and owing.

§4.2 Utilities: It shall be the responsibility of the LESSEE to pay all charges for gas, electricity, light, heat, power, water, sewer and telephone or other communication services used, rendered, or supplied upon or in connection with the leased property and shall indemnify the LESSOR against any liability or damage on such account.

§5. INSURANCE:

§5.1 Liability Insurance: The LESSEE shall, at its own expense, at all times during the term of this lease, maintain in force a policy or policies of insurance, written by one or more responsible insurance carriers, which will insure LESSOR against liability for injury to or death of persons or loss of damage to property occurring in or about the demised premises. The liability under such insurance shall not be less than \$1,000,000 for any person killed or injured; \$1,000,000 for any accident; and \$1,000,000 for property damage. A copy of the insurance policy or a certificate of coverage shall be provided by LESSEE to LESSOR.

§5.2 Workers' Compensation Insurance: LESSEE shall maintain and keep in force all employee's compensation insurance required under the laws of the State of Michigan, and such other insurance as may be necessary to protect LESSOR against any other liability to persons or property arising hereunder by operation of law, whether such law is now in force or is adopted subsequent to the execution hereof. A copy of the insurance policy or a certificate of coverage shall be provided by LESSEE to LESSOR.

§5.3 Insurance Proceeds: All insurance provided by LESSEE shall be carried in favor of LESSOR as a mortgagee insurance. If requested by LESSOR, any insurance against fire or other casualty shall provide that loss shall be payable to the holder under a standard mortgage clause. All insurance shall be written with responsible companies that LESSOR shall approve and the policies shall be held by LESSOR or, when appropriate, by the holder of any mortgage, in which case copies of the policy or certificates of insurance by be delivered by the LESSOR. All policies shall require thirty (3) days' written notice by registered mail to LESSOR of any cancellation or change affecting any interest of LESSOR.

§5.4 LESSEE'S Failure to Insure: Should LESSEE fail to keep in effect and pay for such insurance as it is in the section required to maintain, LESSOR may do so, in which event the insurance premium paid by the LESSOR shall be come due and payable forthwith and failure to pay same on demand shall constitute a breach of this LEASE.

§6. ALTERATIONS, CHANGES AND ADDITIONS:

No structural change, alteration or addition shall be made by LESSEE to the demised property without the prior written consent of the LESSOR, and any such change, alteration, or addition to or on the premises made with the aforesaid written consent of the LESSOR shall be at the LESSEE'S expense and shall remain for the benefit of and become the property of the LESSOR, unless proved in the written consent. If LESSOR changes the contract during the initial twenty (20) year period, LESSOR will pay LESSEE fair market value of any real improvements to the property. If LESSEE fails to meet the terms of this contract, LESSEE forfeits rights to all improvements made to the property.

§7. PROTECTION AGAINST LIENS:

The LESSEE covenants and agrees to conduct its operations, business, and occupancy under the terms of this LEASE so that no enforceable lien, of any kind, shall attach or apply as against the property demised hereunder.

§8. LIMITATION OF LESSOR'S LIABILITY:

It is covenanted and agreed that all personal property in and upon said leased premises shall be at the risk of the LESSEE only, that the LESSOR shall not be liable for any damage, either to persons or property sustained by the LESSEE or any other persons on the said premises.

§9. PROVISIONS AGAINST ASSIGNMENT OR SUBLETTING:

This LEASE is not assignable without the written consent of the LESSOR, and any assignment of this LEASE or sublease of said premises, or any portion thereof, without the written consent of the LESSOR shall be void and shall constitute a material breach of the covenants to be performed.

§10. INDEMNITY:

LESSEE shall indemnify, defend and hold harmless LESSOR against all expenses, liabilities and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) a failure by LESSEE to perform any of the terms or conditions of this LEASE, (2) any personal injury or death or property damage happening on or about the demised premises, (3) failure to comply with any law or any governmental authority, or (4) any construction lien or security interest filed against the demised premises or equipment, materials or alterations of buildings or improvements thereon.

§11. DEFAULT:

Each of the following events shall constitute a default or breach of this LEASE by LESSEE:

(1) If LESSEE, or any successor or assignee of LESSEE while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of such act by answer or other, or shall make an assignment for the benefit of creditors.

(2) If voluntary proceedings under any bankruptcy law or insolvency act shall be instituted against LESSEE, or if a receiver or trustee shall be appointed for all or substantially all of the property of LESSEE, and such proceedings shall not be dismissed or the receivership or trusteeship vacated withing thirty (3) days after the institution or appointment.

(3) If LESSEE shall fail to pay LESSOR any rent or additional rent when the rent shall become due and shall not make the payment within fifteen (15) days.

(4) IF LESSEE shall fail to perform or comply with any of the conditions of this LEASE and if the nonperformance shall continue for a period of thirty (30) days after notice thereof by LESSOR to LESSEE or, if the performance cannot be reasonably had within the thirty (30) day period, LESSEE shall not in good faith have commenced performance within the thirty (30) day period and shall not diligently proceed to completion of performance.

(5) If LESSEE shall vacate or abandon the demised premises.

(6) If this LEASE hereunder shall be assisted or subleased in violation of the terms and conditions set forth herein.

§12. EFFECT OF DEFAULT:

In the event of any default hereunder, as set for in §11, the rights of LESSOR shall be as follows:

(1) LESSOR may re-enter the premises immediately and remove the property and personnel of LESSEE and store the property in a public warehouse of at a place selected by LESSOR, at the expense of LESSEE. After re-entry LESSOR may terminate the LEASE on giving thirty (30) days' written notice of termination to LESSEE. Without the notice, re-entry will not terminate LEASE. On termination, LESSOR may recover from LESSEE all damages resulting from the breach, including the cost of recovering the premises, damages proximately resulting from the breach, including the cost of recovering the premises, and the worth of the balance of this LEASE over the reasonable rental value of the premises for the remainder of the LEASE term, which shall be immediately due LESSOR from LESSEE.

(2) After re-entry, LESSOR may relet the premises or any part thereof for any term without terminating the LEASE, at the rent and on the terms as LESSOR may choose. LESSOR may make alterations and repairs to the premises. The duties and liabilities of the parties if the premises are relet as provided herein shall be as follows:

- (a) In addition to LESSEE'S liability to LESSOR for breach of the LEASE, LESSEE shall be liable for all expenses of the reletting, for the alterations and repairs made and for the difference between the rent received by LESSOR under the new lease agreement and the rent installments that are due for the same period under this LEASE.
- (b) LESSOR shall have the right, but shall not be required, to apply the rent received for reletting the premises (1) to reduce the indebtedness of LESSEE to LESSOR under the LEASE, not including indebtedness for rent, (2) to expenses of the reletting and alterations and repairs made, (3) to rent due under this LEASE, or (4) to payment of future rent under this LEASE as it becomes due.

If the LESSEE does not pay a rent installment promptly to LESSOR and the rent installment has been credited in advance of payment to the indebtedness of LESSEE other than rent or if rentals from the new LESSEE have been otherwise applied by LESSOR as provided for herein and during any rent installment period are less than the rent payable for the corresponding installment period under this LEASE, LESSEE shall pay LESSOR the deficiency, separately for each rent installment deficiency period and before the end of the breach on which LESSOR had based the re-entry and subsequently relet the premises.

(3) After re-entry, LESSOR may procure the appointment of a receiver to take possession and collect rents and profits of the business of LESSEE, and, if necessary to collect the rents and profits. The receiver may carry on the business of LESSEE and take possession of the personal property used in the business of LESSEE, including inventory, trade fixtures and furnishings, and use them in the business without compensating LESSEE. Proceedings for appointment of a receiver by LESSOR, or the appointment of a receiver and the conduct of the business of LESSEE by the receiver, shall not terminate and forfeit this LEASE unless LESSOR has given written notice of termination to LESSEE as provided herein.

§13. CONDENMATION:

If the whole of the leased property, or such portion thereof as will make the leased property unsuitable for the purposes herein leased, is condemned for any public use or purpose by any legally constituted authority, then in either of such events this LEASE shall cease from the time when possession is taken by such public authority and rental shall be apportioned between the LESSOR and the LESSEE as of the date of the surrender of possession. Any award made in any condemnation proceeding for the taking of any part or all of the demised premises shall be the sole property of and be paid to the LESSOR.

§14. WAIVER:

Lessee further covenants that no waiver of or assent by the LESSOR or any breach of the LESSEE'S covenants shall be construed or deemed to be a waiver of any other or further breach of the same, or any other covenant whatsoever.

§15. SURRENDER OF PREMISES:

Said LESSEE further covenants and agrees that upon the expiration of said term or upon the termination of the LEASE for any cause as aforesaid, it will at once, peacefully surrender and deliver up the whole of the above premises together with all improvements thereon to the LESSOR, their agents, and assigns.

§16. QUIET ENJOYMENT:

The LESSEE covenants and agrees to rent the premises under the terms and conditions contained in this instrument and does covenant and promise to pay unto the LESSOR the rents in accordance with the terms hereof, and otherwise to perform, fully the covenants, conditions, and provisions which under the terms of this agreement are to be performed by the LESSEE.

The LESSOR does covenant that the LESSEE, on paying the installments of rents and performing the conditions and covenants aforesaid, shall and may peacefully and quietly have, hold, and enjoy the said demised premises for the terms and renewals aforesaid, for the purposes herein expressed. LESSOR covenants that it will not rent, let, or lease, any part or portions of the building, part of which is embraced in this LEASE, to businesses, trades or occupations which would unreasonably or unnecessarily hamper or interfere with the legitimate use of the LESSEE.

§17. HOLDING OVER:

In the event that LESSEE holds over after expiration of this LEASE and any renewal term contained herein without a written agreement between the parties to extend or otherwise renegotiate the leasehold, the term of this LEASE shall continue in effect on a month-to-month basis.

§18. CUMULATIVE REMEDIES:

Remedies, rights, and benefits of this LEASE are cumulative and shall not be exclusive of any other remedy, right or benefit contained herein or any remedy, right or benefit allow by law.

§19. STATEMENT OF INTENT:

The parties intend that this LEASE shall be in fact, and shall be interpreted as, a net-net-lease, under which any and all expenses and costs involving maintenance, use, condition or occupancy of the said premises or property leased hereunder shall be borne and discharged by LESSEE. It is the further interpretation of the parties that the LESSOR shall have no obligation in respect thereto. Future construction in connection with said property, and which shall be of a nature requiring the borrowing of funds, shall at the sole option of LESSEE and shall be borne by the LESSEE.

§20. NOTICES:

Any notice given under the provisions of this contract shall be in writing and signed by the person giving such notice and sent Certified Mail, Return Receipt Requested, delivered the addressee only; and placed in the United States mail receptacle with necessary postage prepaid. Any notice sent to the LESSEE hereunder shall be mailed to the address shown at the caption of this LEASE or such other address as the LESSEE shall indicated to LESSOR in writing from time to time. Any notice sent to the LESSOR shall be mailed to the address shown at the caption of this LEASE or such other address as the LESSOR shall indicate to LESSEE in writing from time to time.

§21. SEVERABILITY:

If an arbitrator or any court of competent jurisdiction determines that any provision of this Agreement is void or unenforceable, such provision(s) shall be severed, and the remainder of this Agreement shall remain in full force and effect.

§22. APPLICABLE LAW:

This LEASE shall be governed and constructed in accordance with the laws of the State of Michigan.

§23. RESTATEMENT:

This LEASE represents the agreement between the parties hereto and supersedes any prior written agreements covering the same subject matter.

§24. MODIFICATION:

No modification of this LEASE shall be effective unless such medication or alteration is by mutual written consent of the parties hereto.

IN WITNESS WHEREOF, LESSOR has hereunto set their hand and seal this ____ day of _____, 2023.

WITNESSES:

LESSOR:

City of Gladstone, a municipal corporation

By: _____

Kim Berry, City Clerk

By: _____

John Thompson, Mayor

IN WITNESS WHEREOF, LESSEE has hereunto set their hand and seal this ____ day of _____, 2023.

WITNESSES:

LESSEE:

U.P. Snophylers, a domestic nonprofit
corporation

By: _____
Keith Lynch, President

By: _____
Gary Stevenson, Treasurer