

LEASE AGREEMENT

THIS LEASE AGREEMENT is dated as of _____, 2017 between the WHITESTOWN REDEVELOPMENT COMMISSION (“Landlord”) and MT PROPERTIES, LLC (“Tenant”) (the “Lease”).

WITNESSETH, in consideration of the mutual covenants and agreements set forth below, the parties agree as follows:

1. DESCRIPTION OF LAND. Landlord hereby leases and demises to Tenant and Tenant agrees to lease from Landlord that certain real estate together with the building and related improvements thereon located in Boone County, Indiana, subject to all easements, restrictions, and encumbrances of record, and more particularly described as follows:

Lots numbered Fifteen (15), Sixteen (16), and Seventeen (17) in Bucks Second Addition to the Town of Whitestown, Boone County, Indiana, as per plat thereof recorded in Plat Book 3, page 20, in the Office of the Recorder of Boone County, Indiana.

Common Address: 345 South Bowers Street, Whitestown, IN 46075

Parcel No. 018-00230-01 / 06-08-19-000-074.000-019 – Bucks 2nd Lot 15-17

(the “Leased Premises”)

2. TERM. The term of this Lease shall be for a period of one (1) year beginning _____, 2017 and ending _____, 2018, unless either party gives written notice of termination to the other at least thirty (30) days prior to such termination. This Lease shall further terminate in the event that the Tenant breaches or is in default of the Economic Development Agreement between the parties dated _____, 2016, or otherwise fails to construct or operate a restaurant, brewery, and/or microbrewery at the Leased Premises, in a commercially reasonable and workmanlike manner, for a period of at least ninety (90) days during any 180-day period.

Tenant hereby waives any and all notices to terminate the tenancy of the Leased Premises and agrees to quit and deliver up possession of the Leased Premises to Landlord without demand or notice at the end of the lease term stated above, in as good order and condition as when they were entered upon by the Tenant, ordinary wear excepted. If the Tenant fails to yield possession, the Tenant shall pay to the Landlord the sum of \$200.00 per day, as additional rent, for each day he remains in possession thereafter, in addition to any damages caused by the Tenant to the Landlord’s land or improvements, and said payments shall not entitle the Tenant to any interest of any kind or character in or on the Leased Premises.

3. RENT. Rent in the amount of \$1.00 per year, shall be paid by the Tenant to the Landlord.

4. DEFAULT. In the event Tenant fails to comply with any term of this Lease, then Tenant shall be in default. Landlord may serve written notice of default to Tenant by mail, and Tenant shall have ten (10) days after service of such notice to remedy and cure any default. Landlord may thereafter declare this Lease at an end and the rights and interests of Tenant forfeited. All payment made by the Tenant shall be retained by Landlord as damages by Landlord and the Tenant agrees to surrender up immediate possession of the Leased Premises to Landlord. Notwithstanding anything to the contrary, a notice to terminate shall not operate as an election of remedies by Landlord, and Landlord shall be entitled to all legal and equitable remedies for any breach or default by Tenant. Tenant shall be liable to Landlord for any court costs and reasonable attorneys' fees incurred by Landlord in enforcing any term of this Lease.

5. CONDITION OF PREMISES. Tenant has personally inspected the Leased Premises and accepts the same "AS IS" without representation or warranty by Landlord of any kind and with the understanding that Landlord shall have no responsibility with respect thereto except as expressly set forth herein.

6. MAINTENANCE. Tenant, at its sole cost and expense shall maintain the Leased Premises in good order and condition and in accordance with all applicable laws and regulations and this Lease. All maintenance work shall be performed by licensed contractors, previously approved in writing by Landlord.

7. MINERAL RIGHTS. Nothing in this Lease shall confer upon the Tenant any right to minerals underlying the Leased Premises. Such mineral rights are hereby reserved by the Landlord.

8. AFFIRMATIVE DUTIES AND OBLIGATIONS OF TENANT. Tenant agrees to perform and carry out the following duties:

(a) To operate the Leased Premises as a restaurant, brewery, and/or microbrewery, in a commercially reasonable and workmanlike manner.

(b) To keep the Leased Premises neat and orderly.

(c) To prevent all unnecessary waste, or loss, or damage to the Leased Premises.

(d) To comply with pollution control and environmental protection requirements, and to implement soil erosion control practices to comply with the soil loss standards mandated by the state and local soil conservation districts, if any, and to keep the Leased Premises free of any hazardous, toxic or damaging substances or pollutants located on or beneath the surface of the Leased Premises, including without limitations (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended, any regulations thereunder, (ii) any "hazardous substance" as defined by the comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder, and any pollutants or substances defined as hazardous or toxic by any federal, state or local law, statute, ordinance or regulations.

(e) To follow safety rules and abide by any restrictions with respect to the use and operation of the Leased Premises that may be contained within the Landlord or Tenant's insurance policies and contracts.

(f) To comply with any federal, state or local law, regulation or ordinance now or hereafter applicable to the Leased Premises, and to obtain all necessary permits, licenses, consents or other authorizations necessary for the Tenant's use of the Leased Premises, and to comply with all instructions of Landlord.

(g) To comply with all applicable deed restrictions on the Leased Premises.

9. NEGATIVE DUTIES AND OBLIGATIONS OF TENANT. Tenant agrees that unless the WRITTEN CONSENT OF LANDLORD IS FIRST OBTAINED, which consent shall be in the Landlord's sole discretion, Tenant will:

(a) Not discontinue the construction or operation of a restaurant, brewery, and/or microbrewery at the Leased Premises;

(b) Not assign this Lease to any person or persons or sublet any part of the Leased Premises;

(c) Not erect or permit to be erected any structure or building or to incur any expense for such purposes;

(d) Not permit, encourage, or invite other persons to use any part or all of the Leased Premises for any purpose or activity not directly related to its use for the construction and operation of a restaurant, brewery, and/or microbrewery at the Leased Premises;

(e) Not erect or permit to be erected any commercial advertising signs upon the Leased Premises; and

(f) Not allow to remain on the Leased premises any trash, rubbish or debris.

Landlord shall have the right to fully use and enjoy the Leased Premise except for such as may impair, impede, and reasonably interfere with the exercise by Tenant of the rights granted herein.

10. INSURANCE AND ASSUMPTION OF RISK. Upon delivery of possession hereunder, Tenant shall, at its sole cost and expense, keep in force adequate policies of commercial general liability insurance, in an amount not less than Two Million Dollars and 00/100 Cents (\$2,000,000.00) with such companies as the Landlord shall approve, and name Landlord as an additional named insured. Additionally, Tenant shall maintain workman's compensation insurance in accordance with statutory requirements. Tenant shall provide a certificate of insurance as to all insurance policies maintained by Tenant. Tenant shall provide updates of such certificate or certificates to Landlord annually. All insurance policies required of Tenant under this Lease shall contain an agreement by the insurer that the policy shall not terminate, be canceled or amended except upon thirty (30) days prior written notice to Landlord.

11. INSPECTION. The Landlord reserves the right personally or by agents, or employees, to enter upon the Leased Premises at any reasonable time for the purpose of inspecting the Leased Premises and improvements, monitoring the use of the Leased Premises and taking any action which the Landlord deems necessary for the preservation of the Leased Premises.

12. INDEMNIFICATION. Tenant shall at all times for the term and for such further time as Tenant shall occupy the Leased Premises or any part thereof, save Landlord harmless, and exonerate and indemnify Landlord from and against any and all claims, damages, liabilities or penalties asserted by or on behalf of any person, firm, corporation or public authority on account of nuisance or injury, death, damage or loss to person or property in or upon the Leased Premises arising out of the use or occupancy of the Leased Premises by Tenant or by any person claiming by, through or under Tenant (including, without limitation, all patrons, employees, contractors and customers of Tenant), or arising out of any delivery to or service supplied to the Leased Premises on behalf of Tenant, or on account of or based upon anything whatsoever done on the Leased Premises or property adjacent to the Leased Premises, except if the same were caused by the gross negligence or willful misconduct of Landlord, its agents, servants or employees. In respect of all of the foregoing, Tenant shall indemnify Landlord (and such others as are in privity of estate with Landlord) from and against all costs, expenses (including reasonable attorneys' fees), and liabilities incurred in or in connection with any such claim, action or proceeding brought thereon; and, in case of any action or proceeding brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord and at Tenant's expense, shall resist or defend such action or proceeding and employ counsel therefor reasonably satisfactory to Landlord. This section shall survive any expiration or termination of this Agreement.

13. SALE OF PREMISES. Transfer of the ownership of the Leased Premises during the term shall be subject to the provisions of this Lease.

14. NOTICES. Any notice required under this contract to be served upon Landlord or Tenant shall be personally delivered, or shall be mailed by certified mail, return receipt requested, to the parties at the address shown herein following their signatures, or at such other place as the parties may from time to time designate in writing.

15. MERGER. This Lease sets forth the entire agreement between the parties hereto, and fully supersedes any prior agreements or understanding between the parties pertaining to the subject matter hereof.

16. AMENDMENTS & ASSIGNMENT. This Lease may only be amended by a written agreement signed by both parties. Tenant further may not assign its interests, rights and responsibilities under this Lease without the prior written consent of the Landlord.

17. TIME IS THE ESSENCE AND EXTENSION OF LIABILITIES. Time is the essence of this Lease. All of the agreements contained herein shall be binding upon the heirs, executors, administrators and permitted assigns of Tenant and upon the successors and assigns of Landlord.

18. RECORDING. Tenant may record this Lease at its cost. Upon termination or completion of the Lease, Tenant shall record notice thereof at its cost and execute any documents requested by Landlord as may be necessary to clear title to the Leased Premises. In the event Tenant fails to immediately record notice of such termination, Landlord may unilaterally record such notice and charge shall be made to Tenant for such costs, as well as any other costs or expenses (including attorneys' fees) incurred by Landlord clearing the Lease from title.

19. SEVERABILITY. If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining terms hereof will not be affected, and in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision will be added as part of this Lease that is as similar to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

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LANDLORD

WHITESTOWN REDEVELOPMENT COMMISSION

Sarah Ford, President

Address: 6210 Veterans Drive
Whitestown, IN 46075

STATE OF INDIANA)
)SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State, personally appeared Sarah Ford, President of the Whitestown Redevelopment Commission, who acknowledged the execution of the foregoing Lease Agreement on behalf of the Whitestown Redevelopment Commission.

WITNESS my hand and Notarial Seal this ____ day of _____, 2017.

Notary Public

(Printed Signature)

My Commission Expires:_____

My County of Residence:_____

TENANT

MT PROPERTIES, LLC

Pete Mattingly, President

Address: 10711 East 200 South
Zionsville, IN 46077

STATE OF INDIANA)
)SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State, personally appeared Pete Mattingly, President of MT Properties, LLC, who acknowledged the execution of the foregoing Lease Agreement.

WITNESS my hand and Notarial Seal this ____ day of _____, 2017.

Notary Public

(Printed Signature)

My Commission Expires: _____

My County of Residence: _____

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Stephen C. Unger

This document prepared by Stephen C. Unger, Attorney At Law, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, IN 46204.

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