

ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (the “Agreement”) is made as of the ____ day of January, 2025 (“Effective Date”), by and between **MYGRAIN BREWING COMPANY LLC**, an Illinois limited liability company (“Seller”) and the **CITY OF JOLIET**, a municipal corporation (the “Purchaser”).

RECITALS

WHEREAS, Seller operated a brewery and restaurant located in Joliet, Illinois under the name of “MyGrain Brewing” (“Business”). The Business was operated in the historic Union Station in downtown Joliet, Illinois (“Premises”), which Premises are leased by Seller; and

WHEREAS, Seller desires to sell certain of the assets, properties, rights and interests in the Business (“Assets”) to Purchaser, all as set forth herein; and

WHEREAS, Purchaser desires to purchase the Assets so as to enable Purchaser to engage in, and carry on, the Business in and upon the Premises, for the purchase price and upon the terms and conditions as hereinafter set forth; and

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed and covenanted by the parties hereto, as follows:

Article 1

Purchase and Sale of the Assets; Closing; Covenant Not to Compete

1.1 Agreement to Purchase and Sell.

(a) At the Closing (as hereinafter defined), Seller shall sell, assign, transfer, convey and deliver to Purchaser, by Bill of Sale and other appropriate instruments of conveyance, and the Purchaser agrees to purchase from Seller, in reliance upon the representations, warranties and agreements set forth herein, free and clear of any and all liens, claims, options, security interests, liabilities, and other encumbrances whatsoever (collectively, the “Liens”) at the price and on the terms hereinafter set forth, the Assets, which shall consist of the following and which specifically exclude the Excluded Assets (as hereinafter defined): The assets owned by the Seller and located at the Premises as of the Closing Date (collectively referred to as the “Assets”).

(b) The Assets shall specifically exclude any and all cash, cash equivalents, bank accounts, accounts receivable, insurance claims, tax refunds, trade receivables, other receivables, other refunds, notes receivable, personal items, personal email addresses and all other assets not listed on Schedule 1.1(a) or otherwise listed on Schedule 1.1(b) as an Excluded Asset (collectively, the “Excluded Assets”). Prior to the Closing, Seller shall remove all Excluded Assets from the Premises.

1.2 **Purchase Price.** The purchase price for the Assets shall be Two Hundred Fifty Thousand Dollars and 00/100 (\$250,000.00). At Closing, Purchaser shall pay Seller Two Hundred

Fifty Thousand Dollars (\$250,000.00). Purchaser agrees to electronically issue payment to the seller's attorney's IOLTA fund for the benefit of the Seller. The payment shall be made electronically in accordance with the instructions provided by the seller's attorney.

1.3 Closing. The Closing of the transaction contemplated herein (the “Closing” or “Closing Date”) shall occur on or before January __, 2025. The Closing shall occur through the electronic transfer of documents between the Parties and their counsel. Purchaser shall be entitled to conduct a final walk-through of the Premises on the date of Closing to ascertain that all of the Assets remain at the Premises, and that the condition of the Premises and Assets are substantially the same as at Purchaser’s prior inspections. If there is any material and adverse change in the condition of the Premises or Assets, the Purchase Price will be reduced by the cost of repairs or replacement value of the asset, as the case may be.

1.4 Allocation of Asset Purchase Price. The Purchaser and Seller agree that the Asset Purchase Price shall be allocated entirely to furniture, fixtures and equipment, with such agreement to be consistent with Section 1060 of the Internal Revenue Code.

1.5 Lease Termination. The Closing is expressly conditioned upon Seller’s lease with Purchaser (“Lease”) being terminated with a full release of any and all of Seller’s liability under the Lease.

Article 2 Representations and Warranties of Seller

Seller hereby represents and warrants to Purchaser that (all of which representations and warranties shall be deemed to have been remade as of the Closing Date):

2.1 Corporate Organization; Ownership. Seller is a limited liability company duly organized and validly existing under the laws of the State of Illinois and is authorized to do business in, and is in good standing under the laws of, the State of Illinois, and has all requisite power and authority to enter into this Agreement and perform all of the duties and obligations required of it by, under or pursuant to this Agreement.

2.2 Duly Authorized. This Agreement has been fully authorized by all requisite action, and upon the execution and delivery of this Agreement by Seller, it will be legally binding upon Seller in accordance with its terms and conditions.

2.3 Brokers. Seller has neither retained, nor used the services of, any individual or entity in such a manner as to entitle such individual or entity to any compensation for brokers’ fees, agents’ commissions, finders’ fees or the like with respect to this Agreement and the transactions contemplated hereby. Seller shall pay Broker in accordance with a separate agreement entered into between Seller and Broker.

2.4 Title to Assets. Seller holds and owns good and marketable title to all of the Assets, which shall be free and clear of all Liens as of the Closing. Any currently existing Liens shall be released prior to or contemporaneously with the Closing.

2.5 Contracts. There are no contracts currently in effect for the business that will be assigned to Purchaser at Closing.

2.6 Litigation. Seller does not have any knowledge of any action, suit, or proceeding pending or to the best of Seller's actual knowledge, threatened against or relating to Seller, the Assets, the Business or the Premises, in any court, before any administrative agency or other forum nor does Seller know, or have reasonable grounds to know, of any basis for any such suit, investigation or proceeding.

2.7 Survival. The representations, warranties, covenants and agreements of the Seller, whether in this Article 2 or elsewhere in this Agreement, shall survive the Closing for a period of ninety (90) days.

2.8 AS-IS; WHERE IS. PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT (A) PURCHASER SHALL ACCEPT THE ASSETS AND PREMISES IN "AS IS, WHERE IS CONDITION, WITH ALL FAULTS" AND PURCHASER EXPRESSLY ACKNOWLEDGES AND AGREES THAT SELLER HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY, PAST, PRESENT OR FUTURE, OF, AS TO OR CONCERNING THE ASSETS AND THE PHYSICAL CONDITION OF THE PREMISES, INCLUDING THE ENVIRONMENTAL CONDITION OF THE PREMISES (EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT AND EXCEPT WITH RESPECT TO BREACH OF WARRANTIES ELSEWHERE IN THIS AGREEMENT REGARDING SAME); (B) PURCHASER IS RELYING PRIMARILY UPON ITS OWN DUE DILIGENCE REVIEW IN CLOSING ON THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT; AND (C) SELLER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE CONDITION OF THE ASSETS, THE INVENTORY OR THE PREMISES (EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT AND EXCEPT WITH RESPECT TO BREACH OF WARRANTIES ELSEWHERE IN THIS AGREEMENT REGARDING SAME); AND SELLER SHALL HAVE NO LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES RELATED THERETO. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING.

Article 3 Representations and Warranties of Purchaser

Purchaser, jointly and severally, hereby represents and warrant to Seller that (all of which representations and warranties will be deemed to have been remade as of the Closing Date):

3.1 Duly Authorized. This Agreement is fully authorized by Purchaser, and upon the execution and delivery of this Agreement by Purchaser, it will be legally binding upon Purchaser in accordance with its terms and conditions.

3.2 Breach of Law. Neither the execution of this Agreement nor the consummation of the transactions provided for herein will conflict with, result in, or constitute a breach of, or

constitute a default under, any court order, law, regulation, rule, agreement or obligation to which Purchaser is subject.

3.3 Brokers. Purchaser has neither retained, nor used the services of, any individual or entity in such a manner as to entitle such individual or entity to any compensation for brokers' fees, agents' commissions, finders' fees or the like with respect to this Agreement and the transactions contemplated hereby.

3.4 No Violation. The execution, delivery and performance by Purchaser of this Agreement and the transactions contemplated hereby do not and will not conflict with or result in any violation of, or constitute a breach or default under, any term of the organization documents, operating agreement or other organizational documents of Purchaser, of any agreement, permit or other instrument to which Purchaser is a party or by which Purchaser or any of its affiliates is bound.

3.5 Survival. The representations, warranties, covenants, and agreements of the Purchaser shall survive the Closing for a period of one hundred eighty (180) days.

Article 4 Closing Documents

4.1 Seller's Closing Deliveries. On the Closing Date, Seller shall deliver to Purchaser the following, all in form reasonably satisfactory to Purchaser:

- (a) Bill of Sale duly executed by Seller and transferring, assigning and conveying to Purchaser, good unencumbered marketable title to the Assets.
- (b) Closing Statement mutually acceptable to Seller and Purchaser; and
- (c) Such other documents as reasonably requested by Purchaser to effectuate the Closing.

4.2 Purchaser's Closing Deliveries. On the Closing Date, Purchaser shall deliver to Seller the following:

- (a) Purchaser shall deliver to Seller by wire transfer of immediately available funds the amount of the Initial Payment; and
- (b) Such other documents reasonably requested by Seller to effectuate the Closing.

Article 5 Indemnification

5.1 Indemnification by the Seller. Seller agrees to indemnify and hold harmless the Purchaser from and against any and all losses, demands, damages, claims, actions or causes of action, assessments, deficiencies, liabilities, suits, judgments, costs, attorneys' fees and expenses incurred (i) by reason of claims, obligations, debts, demands or liabilities existing or arising against

Seller or the Assets prior to the Closing Date of this transaction; (ii) by the failure of Seller to perform any obligation owing by Seller to Purchaser under this Agreement; or (iii) by reason of claims, obligations, debts, demands or liabilities existing or arising from any breach or non-fulfillment of any warranty, covenant, indemnity, omission of a material fact, or representation on the part of Seller under this Agreement.

Notwithstanding the foregoing, as a material inducement to Seller to execute, deliver and perform this Agreement, Purchaser agrees that Purchaser shall not have the right to assert a claim against Seller for Indemnification under this Paragraph 5.1 after the date which is ninety (90) days following the Closing.

5.2 Indemnification by the Purchaser. Purchaser agrees to indemnify and hold harmless Seller, its officers, directors, shareholders, professional advisors, agents, employees and representatives from and against any and all losses, demands, damages, claims, actions or causes of actions, assessments, deficiencies, liabilities, suits, judgments, costs, attorneys' fees and expenses arising out of Purchaser's use and operation of the Assets incurred by reason of claims, obligations, debts, demands or liabilities existing or arising against Purchaser, from and after the Closing Date, or arising from any breach or non-fulfillment of any warranty, covenant, indemnity or representation on the part of Purchaser under this Agreement or from any misrepresentation in or occasioned by any instrument furnished by Purchaser under this Agreement, or the failure of Purchaser to pay or perform any obligation owing by Purchaser to Seller under this Agreement.

5.3 Demand. Seller and Purchaser agree that promptly upon the receipt of any demand, assertion or claim by a third person or entity with respect to which the recipient is entitled to indemnification from the other party, the recipient shall so notify the other party in writing and such notification shall contain a statement of such information respecting the same as the recipient may then have; PROVIDED, HOWEVER:

(a) Each party reserves the right to contest and defend by all appropriate legal or other proceedings any such claims, assertions or demands which it may be called upon to pay under the provisions hereof, provided that notice of intention to so contest shall be delivered to the party indemnified within ten (10) days from the date the indemnifying party has been notified of the existence of such demand, assertion or claim, and no such contest shall result in any forfeiture, attachment or lien upon any property of the party indemnified and the indemnifying party shall pay all costs and expenses of such contest, including any and all reasonable attorneys' fees actually incurred; and

(b) Any contest may be prosecuted in the name of either party hereto as may be appropriate, but the party indemnified shall have the right to participate in such proceedings and be represented by its own attorneys at its own cost and expense or at the cost and expense of the indemnifying party if it fails to diligently prosecute such contest. In the event of any such contest, the indemnifying party shall not be obligated to make any payment to such third party with respect thereto until all remedies available to it shall have been exhausted.

(c) The failure of a party indemnified hereunder to notify the other party set forth above shall not relieve the indemnifying party of its obligations hereunder, provided the foregoing does

not constitute a waiver by the indemnifying party of its right to recover direct damages from such failure.

5.4 Survival. The respective representations, warranties and covenants of each of the parties hereto and the consummation of the transactions contemplated hereby, regardless of any investigations made by or on behalf of, or disclosure to, any party to whom such representations and warranties have been made shall survive the Closing for the periods of time set forth above.

5.5 Indemnification Cap. Notwithstanding anything to the contrary contained herein, Seller's liability under this Agreement shall be capped at Twenty-Five Thousand Dollars (\$25,000.00).

Article 6 Conditions Precedent to Closing and Post-Closing

6.1 Lease. Contemporaneously with the Closing, Buyer and Seller will execute a Termination of Lease for that certain Lease Agreement executed between the Parties on September 1, 2020 for the Premises as described in the Lease Agreement located at 50 East Jefferson Street.

6.2 Utilities. Buyer agrees to pay all utility bills related to Premises post-closing until the utilities related to the Premises are transferred into the Seller's name.

Article 7 Default

7.1 Purchaser's Default. If Purchaser shall (i) materially default in performing its obligations hereunder; and/or (ii) fail to consummate the transactions contemplated hereunder, Seller shall have the right, after failure of Purchaser to cure such default within five (5) days after written notice thereof by Seller to Purchaser, to seek specific performance of the Agreement or terminate this Agreement.

7.2 Seller's Default. If Seller shall materially default in performing its obligations hereunder, Purchaser shall have the right, after failure of Seller to cure such default within five (5) days after written notice thereof by Purchaser to Seller, to terminate this Agreement as Purchaser's sole and exclusive remedy.

Article 8 Miscellaneous

8.1 Notices. Any notice in respect to this Agreement or to any transaction or other matter arising out of or relating to this Agreement shall be in writing and served on the party to whom it is directed at the following addresses:

If to Seller: MYGRAIN BREWING COMPANY LLC
c/o Grzegorz Lesiak
lesiakg@gmail.com

with a copy to: Latimer LeVay Fyock LLC
55 W. Monroe Street, Suite 1100
Chicago, Illinois 60603
Attention: Caroline S. Smith, Esq.
E mail: csmith@llflegal.com

If to Purchaser: City of Joliet

with a copy to: _____

Any notice may be served personally or by registered or certified mail, postage prepaid, return receipt requested or by national overnight courier, or by e-mail transmission to a party's attorney (provided that a copy is also simultaneously e-mailed to the party). If sent by registered or certified mail, a notice shall be deemed to have been given as of the third business day following its deposit, properly addressed with postage fully prepaid, in the U.S. Mail. If sent by personal delivery, notice shall be deemed to have been given when delivered, and if by overnight courier, on the day following deposit with the courier. The address at which notice is to be given any party may be changed by giving notice to the other party as provided above. Any notices to a party must be simultaneously sent to that party's attorney, but a notice to a party's attorney (except as specifically set forth above) will be sufficient notice. Any notice by e-mail shall be deemed delivered on the date of delivery unless not delivered during the business day (between 9:00 am and 5:00 pm on a business day) in which case such notice shall be deemed received on the next business day.

8.2 Governing Law; Venue. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Illinois, without regard to its conflict of law principles. The Parties hereby agree that any claim or other action shall be brought exclusively in State of Federal Courts sitting in Chicago, Illinois and such courts shall have exclusive jurisdiction over any claims arising hereunder.

8.3 Time of the Essence. Time is of the essence of this Agreement and all provisions herein relating thereto shall be strictly construed.

8.4 Headings. The Section headings are inserted for convenience only and are in no way intended to interpret, define, or limit the scope or content of this Agreement or any provision thereof.

8.5 Entire Agreement. This Agreement, together with the Schedules attached hereto, constitutes the entire agreement of the parties and supersedes all prior agreements between the parties, whether oral or written, relative to the subject matter of this Agreement. Further, this Agreement may not be amended except by written instrument executed by Seller and Purchaser, and no terms hereof may be waived except by a written instrument executed by the party waiving compliance.

8.6 Expenses. Except as may be specifically provided for to the contrary herein, Seller and Purchaser shall each pay their respective costs and expenses, including attorneys' fees, incident to the carrying out of this Agreement, whether or not the transactions contemplated hereby are consummated.

8.7 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8.8 Successors and Assigns; Assignability; Beneficiaries. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, heirs, representatives and assigns, as the case may be; provided, however, Seller shall not assign or delegate this Agreement or any of the rights or obligations created hereunder without the prior written consent of the Purchaser; provided further, however, that the Purchaser may assign its rights under this Agreement to a corporation or limited liability company controlled by Purchaser or the members of Purchaser as long as Purchaser remains liable for its obligations hereunder. Except as expressly set forth above, this Agreement may be assigned by Purchaser only upon the express written consent of Seller. Except as expressly set forth herein, nothing in this Agreement shall confer upon any persons not a party to this Agreement, or the legal representatives of such persons, any rights or remedies of any nature or kind whatsoever under or by reason of this Agreement.

8.9 Attorneys' Fees. In the event any suit or other legal proceeding (including any arbitration proceedings agreed to by the parties) is brought for the enforcement of any of the provisions of this Agreement, the parties hereto agree that the prevailing party shall be entitled to recover from the other party upon final judgment on the merits reasonable attorneys' fees, including attorneys' fees for any appeal, and costs incurred in bringing such suit or proceeding.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, Seller and Purchaser have executed this Asset Purchase Agreement on the date first above written.

PURCHASER:

THE CITY OF JOLIET,
a municipal corporation

By: _____

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Name: _____

Its: _____

SELLER:

MYGRAIN BREWING COMPANY
LLC, an Illinois limited liability company.

By: _____

—

Name: Grzegorz Lesiak

Its: Manager