

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____ 2022, by and between **THE CITY OF MARQUETTE**, a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, Michigan 49855, hereinafter "LESSOR", and **MARQUETTE OUTDOORS, LLC**, a Michigan limited liability company, with a mailing address of 840 Pine Street, Hancock, Michigan 49930, hereinafter "LESSEE".

Recitals

- A. Lessor is the owner of the real property and beachfront located at 2145 Sugar Loaf Avenue (Tourist Park Beach) in the City of Marquette.
- B. Lessee desires to lease and Lessor is willing to lease to Lessee a section of beach as shown in Exhibit "A" located on Lessor's real property in accordance with the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises of the parties and other good and valuable consideration, the receipt of which is hereby acknowledged, it is agreed as follows:

1. **Leased Premises**

- 1.1 Lessor leases to Lessee approximately 60 square feet of space as shown in Exhibit "A", hereinafter "PREMISES".

2. **Term of Lease**

This lease shall run from July 25, 2022 through October 31, 2022; and May 1, 2023 through October 31, 2023. Prior to Lessee's first day of operations, Lessee will meet with City employees to discuss logistics for the use of the Premises.

3. **Rent**

The rent shall be one percent (1%) of Lessee's gross revenues from operations at the Premises. Lessee shall pay each rental payment on the first day of each month for the prior month's operations for each month of the lease term. Lessee shall provide Lessor with adequate verification of the rental amount due with each rental payment.

4. **Use of Premises**

- 4.1 Lessee shall use the Premises only for storage of kayaks and launching and retrieving kayaks from the sandy beach area.
- 4.2 Lessee shall not use the Premises for any purpose that would:
 - a) be deemed hazardous to the public or adjoining premises including, but not necessarily limited to, fire, and environmental type hazards;
 - b) constitute a violation of any public law or requirement;
 - c) cause damage or injury to the Premises, or any part of it (ordinary wear and tear excepted);
 - d) constitute a public or private nuisance;
 - e) interfere with other uses of the Premises; or

- f) permit refuse to accumulate in or around leasehold.
- g) prohibit or restrict public access across and through the Premises.

5. Use of Public Areas by Lessee

Lessee and its invitees shall have the right to use all public areas, subject however to all rules and regulations regarding these areas. Lessee and its invitees shall only use the designated parking area as shown on Exhibit A, or if the designated parking area is full Lessee and its invitees may use any legal parking space adjacent to the Premises. Lessee is permitted to display temporary signage in common areas in accordance with all City ordinances.

6. Non-exclusive Use of Premises

Lessee acknowledges that its use of the Premises is not exclusive and that Lessee and its invitees shall have the right in common with Lessor, its invitees, and others to use the Premises.

7. Maintenance and Repair

7.1 Lessee shall be solely responsible for the maintenance and repair of all of Lessee's tangible personal property located or used on the Premises and shall keep them in a safe condition and good repair.

7.2 Lessee shall be solely responsible for the construction of any structures necessary for Lessee's use of the Premises. Lessee shall not build any structure unless it meets all zoning requirements, and Lessee shall solely be responsible for all maintenance and repair of any such structure in order to keep it safe for public use and to prevent blight.

8. Insurance and Indemnity

8.1 Lessee shall not permit any activity on the Premises which would invalidate or be in conflict with Lessor's insurance policies covering the Premises.

8.2 Lessee shall not permit any activity on the Premises which would cause Lessor's rate for the insurance described herein to be increased.

8.3 Lessee at its sole expense shall be responsible for insuring its own tangible personal property, equipment, and fixtures from loss from fire and other casualty and shall at all times provide Lessor with a certificate evidencing such coverage.

8.4 Lessee at its sole expense shall maintain liability insurance protecting and insuring Lessee and Lessor from all claims for injury or damage to persons or property arising out of the use of the Premises by Lessee, its employees, agents, invitees, and licensees. The amount of the insurance shall be not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence for accident, bodily injury, or death and not less than One Hundred Thousand and 00/100 Dollars (\$100,000.00) for property damage. Lessee shall at all times provide Lessor with a current copy of said policies with proof of payment of premium thereon. The insurance policies shall bear endorsements to the effect that the insurer agrees to notify Lessor not less than thirty (30) days in advance of any modification or cancellation thereof. Lessor shall be named as an additional insured on all insurance policies required by this lease.

8.5 Lessee will indemnify and hold Lessor harmless from and against all loss, cost, expense and liability whatsoever (including Lessor's cost of defending against the foregoing, such cost to include attorneys' fees) resulting or occurring by reason of Lessee's use and occupancy of the Premises.

8.6 Lessee at its sole expense shall follow the safety guidelines regarding water sport outfitters as set forth in Exhibit B.

9. Assignment/Subletting

9.1 Lessee shall not assign or sublet the Premises or any part thereof without the express prior written consent of the Lessor.

9.2 Lessor may freely assign its rights and obligations under this Lease Agreement to any third party pursuant to a Purchase and Sale Agreement, Land Contract or similar instrument.

10. Use of Premises by Lessor

Lessor reserves for itself and its contractors and agents the right to enter the Premises at reasonable times for the purpose of inspecting, maintaining, installation, operation and repair services of the Premises or adjacent real property.

11. Covenant of Quiet Enjoyment

Lessor warrants and represents that it has full authority to execute this lease for the above term. Lessor covenants that upon Lessee paying the rents and performing its covenants and duties prescribed herein, Lessee may, except as otherwise described herein, have the non-exclusive and reasonable right to have, hold and enjoy the Premises.

12. Lessor's Right to Perform Lessee's Obligation

If Lessee defaults in the observance or performance of any term or covenant of this lease, Lessor may, without thereby waiving the default, remedy the default at Lessee's expense. If, in connection therewith, Lessor makes any expenditure or incurs any obligation for the payment of money or in instituting, prosecuting, or defending any action or proceeding commenced before or during the term of this lease, or after the expiration or termination of this lease including, but not necessarily limited to, legal expenses and attorneys' fees, Lessee shall pay to Lessor on demand the sums paid or obligations incurred together with legal fees and costs.

13. Default by Lessee

13.1 If the Lessee fails to perform any obligation under this agreement within 30 days after receiving written notice of the default from the Lessor; the Lessor may terminate this lease.

13.2 In addition to the Lessor's other rights and remedies as stated in this lease, and without waiving any of those rights, if the Lessor deems necessary any repairs that the Lessee is required to make or if the Lessee defaults in the performance of any of its obligations under this lease, the Lessor may make repairs or cure defaults and shall not be responsible to the Lessee for any loss or damage that is caused by that action. The Lessee shall immediately pay to the Lessor, on demand, the Lessor's costs for curing any defaults, as additional rent under this lease.

13.3 The rights and remedies of Lessor shall be cumulative as more particularly provided by law or in equity pursuant to the laws of the State of Michigan.

14. Surrender of Leasehold Upon Termination of Lease

If upon termination of the lease, Lessee has failed to remove its kayak rack, Lessor reserves the right to deem it abandoned and shall have the legal right to dispose of same, and costs incurred in disposing of same shall be the financial responsibility of Lessee.

15. Miscellaneous


- 15.1 This agreement shall be binding on the parties and inure to the benefit of the Lessor and Lessee and their respective successors and assigns.
- 15.2 This agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
- 15.3 This agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated herein.
- 15.4 Any modification of this agreement or additional obligations assumed by either party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.
- 15.5 Waiver by Lessor of any breach of any covenant of duty of Lessee under this lease is not a waiver of a breach of any other covenant of duty of Lessee or any subsequent breach of the same covenant or duty.
- 15.6 The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.
- 15.7 All notices to be given under this lease shall be in writing and mailed, postage prepaid, or by certified or registered mail, return receipt requested, or delivered personally or by courier delivery, or sent by telecopy (immediately followed by one of the preceding methods) to Lessor's address and Lessee's address as above stated or any other place that Lessor or Lessee may designate in a written notice given to the other parties. Notices shall be deemed served on the earlier of receipt or three (3) working days after the date of mailing.

The parties have set their hands on the day and year first above written

CITY OF MARQUETTE

MARQUETTE OUTDOORS, LLC

Jennifer A. Smith, Mayor



By: Nicolas Tuma
Its:

Kyle Whitney, City Clerk

Approved as to Substance:

Karen M. Kovacs, City Manager

Approved as to Form:

Suzanne C. Larsen, City Attorney



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

07/26/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER VAST 300 South Front Street Marquette MI 49855	CONTACT NAME: IBU IBU PHONE (A/C, No, Ext): (906) 228-7500 E-MAIL ADDRESS: katrinam@vastsolution.com	FAX (A/C, No): (906) 228-5385
	INSURER(S) AFFORDING COVERAGE	
INSURED Marquette Outdoors, LLC 840 Pine Street Hancock MI 49930	INSURER A: West Bend Specialty	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: 22-23 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		NEWGLBINDER	07/26/2022	07/26/2023	EACH OCCURRENCE	\$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence)						\$ 100,000	
							MED EXP (Any one person)	\$ excluded
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE	OTHER
							E.L EACH ACCIDENT	\$
							E.L DISEASE - EA EMPLOYEE	\$
							E.L DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is listed as an additional insured on the General Liability.

CERTIFICATE HOLDER**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

City of Marquette
300 W Baraga Ave

Marquette

MI 49855

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INSURANCE BINDER

DATE (MM/DD/YYYY)

7/26/2022

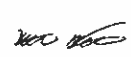
THIS BINDER IS A TEMPORARY INSURANCE CONTRACT, SUBJECT TO THE CONDITIONS SHOWN ON PAGE 2 OF THIS FORM.

AGENCY VAST 300 South Front Street Marquette MI 49855 PHONE (A/C, No, Ext): (906) 228-7500 FAX (A/C, No): (906) 228-5385 CODE: SUB CODE: AGENCY CUSTOMER ID: 00044383 INSURED AND MAILING ADDRESS Marquette Outdoors, LLC 840 Pine Street Hancock MI 49930		COMPANY West Bend Specialty BINDER # B2272607921		
DATE EFFECTIVE 7/26/2022 12:01		TIME <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	DATE EXPIRATION 8/25/2022	TIME <input checked="" type="checkbox"/> 12:01 AM <input type="checkbox"/> NOON
THIS BINDER IS ISSUED TO EXTEND COVERAGE IN THE ABOVE NAMED COMPANY PER EXPIRING POLICY #: NEWGLBINDER		DESCRIPTION OF OPERATIONS / VEHICLES / PROPERTY (Including Location)		

COVERAGES**LIMITS**

TYPE OF INSURANCE	COVERAGE / FORMS	DEDUCTIBLE	COINS %	AMOUNT
PROPERTY CAUSES OF LOSS <input type="checkbox"/> BASIC <input type="checkbox"/> BROAD <input type="checkbox"/> SPEC				
GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	\$500/claim deductible property damage deductible \$2,500/occurrence property damage deductible RETRO DATE FOR CLAIMS MADE:			EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES \$ 100,000 MED EXP (Any one person) \$ excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
VEHICLE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$ MEDICAL PAYMENTS \$ PERSONAL INJURY PROT \$ UNINSURED MOTORIST \$
VEHICLE PHYSICAL DAMAGE DED <input type="checkbox"/> COLLISION <input type="checkbox"/> OTHER THAN COL	<input type="checkbox"/> ALL VEHICLES <input type="checkbox"/> SCHEDULED VEHICLES			ACTUAL CASH VALUE STATED AMOUNT \$
GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EACH ACCIDENT \$ AGGREGATE \$
EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM	RETRO DATE FOR CLAIMS MADE:			EACH OCCURRENCE \$ AGGREGATE \$ SELF-INSURED RETENTION \$
WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY				PER STATUTE E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
SPECIAL CONDITIONS / OTHER COVERAGES				FEES \$ TAXES \$ ESTIMATED TOTAL PREMIUM \$

NAME & ADDRESS

City of Marquette 300 W Baraga Ave Marquette, MI 49855	<input type="checkbox"/> MORTGAGEE <input type="checkbox"/> LOSS PAYEE	<input checked="" type="checkbox"/> ADDITIONAL INSURED
LOAN #:		
AUTHORIZED REPRESENTATIVE IBU IBU/IBU 		

CONDITIONS

This Company binds the kind(s) of insurance stipulated on page 1 of this form. The Insurance is subject to the terms, conditions and limitations of the policy(ies) in current use by the Company.

This binder may be cancelled by the Insured by surrender of this binder or by written notice to the Company stating when cancellation will be effective. This binder may be cancelled by the Company by notice to the Insured in accordance with the policy conditions. This binder is cancelled when replaced by a policy. If this binder is not replaced by a policy, the Company is entitled to charge a premium for the binder according to the Rules and Rates in use by the Company.

Applicable in Arizona

Binders are effective for no more than ninety (90) days.

Applicable in California

When this form is used to provide insurance in the amount of one million dollars (\$1,000,000) or more, the title of the form is changed from "Insurance Binder" to "Cover Note".

Applicable in Colorado

With respect to binders issued to renters of residential premises, home owners, condo unit owners and mobile home owners, the insurer has thirty (30) business days, commencing from the effective date of coverage, to evaluate the issuance of the insurance policy.

Applicable in Delaware

The mortgagee or Obligee of any mortgage or other instrument given for the purpose of creating a lien on real property shall accept as evidence of insurance a written binder issued by an authorized insurer or its agent if the binder includes or is accompanied by: the name and address of the borrower; the name and address of the lender as loss payee; a description of the insured real property; a provision that the binder may not be canceled within the term of the binder unless the lender and the insured borrower receive written notice of the cancellation at least ten (10) days prior to the cancellation; except in the case of a renewal of a policy subsequent to the closing of the loan, a paid receipt of the full amount of the applicable premium, and the amount of insurance coverage.

Chapter 21 Title 25 Paragraph 2119

Applicable in Florida

Except for Auto Insurance coverage, no notice of cancellation or nonrenewal of a binder is required unless the duration of the binder exceeds 60 days. For auto insurance, the insurer must give 5 days prior notice, unless the binder is replaced by a policy or another binder in the same company.

Applicable in Maryland

The insurer has 45 business days, commencing from the effective date of coverage to confirm eligibility for coverage under the insurance policy.

Applicable in Michigan

The policy may be cancelled at any time at the request of the insured.

Applicable in Nevada

Any person who refuses to accept a binder which provides coverage of less than \$1,000,000.00 when proof is required: (A) Shall be fined not more than \$500.00, and (B) is liable to the party presenting the binder as proof of insurance for actual damages sustained therefrom.

Applicable in Oklahoma

All policies shall expire at 12:01 a.m. standard time on the expiration date stated in the policy.

Applicable in Oregon

Binders are effective for no more than ninety (90) days. A binder extension or renewal beyond such 90 days would require the written approval by the Director of the Department of Consumer and Business Services.

Applicable in the Virgin Islands

This binder is effective for only ninety (90) days. Within thirty (30) days of receipt of this binder, you should request an insurance policy or certificate (if applicable) from your agent and/or insurance company.

