

WINNEBAGO COUNTY PARKS DEPARTMENT SPONSORSHIP AGREEMENT

THIS AGREEMENT (the “Agreement”) is made and entered into as of this _____ day of _____, 20_____, by and between Winnebago County 112 Otter St., Oshkosh, Wisconsin, 54903 (hereinafter referred to as “Owner”), and Sponsor Vines & Rushes Winery, 410 County Road E, Ripon, WI 54971 (“Sponsor”), a corporation organized under the laws of the State of Wisconsin.

WHEREAS, Owner is the owner of a certain permanent facility or amenity within the Winnebago County Parks System (the “Site”), which facility or amenity is known as the Mascoutin Valley Recreation Trail (the “Attraction”) and/or has the exclusive right to promote and license the use of the Attraction for the benefit of others; and

WHEREAS, Sponsor has determined to provide financial and/or other support for the Attraction in exchange for certain access and promotional rights to be provided to Sponsor by Owner.

NOW, THEREFORE, in consideration of the mutual agreements and promises contained herein, the parties hereto agree as follows:

1.0 Official Status.

(a) Title of Attraction. The Attraction shall be known by the Attraction’s name or such other name as selected by Owner. As described in this Agreement, Owner and Sponsor shall refer to the Attraction by its full name.

(b) Improvements to Attraction–Expansions. To the extent the Attraction is expanded or improved during the Term of this Agreement, such expansions, improvements or other modifications shall be deemed to be part of the Attraction hereunder and shall not be licensed separately by Owner.

2.0 Advertising and Promotion.

(a) Grant. Subject to Owner’s rights of approval as described herein, Sponsor shall have the right to use the Owner’s Trademarks in advertising and promotional activities as it deems desirable during the Term of this Agreement.

(b) Sponsorship Rights. Owner shall use its best efforts to provide the following rights to Sponsor during the Term of this Agreement:

- (i) The right to use its resources to engage in trail improvements within an area determined by the Owner for the purpose of establishing and maintaining a shared use path ingress/egress route (“Access”) in compliance with Owner’s specifications, Exhibit A, located as per attached map, Exhibit B, going from the Attraction onto Sponsor’s property. Said improvements shall be performed in accordance with Owner’s directions and all costs associated with the building and maintenance of said improvement shall be borne by Sponsor. Maintenance of the Access shall be to the standard approved by Owner. Upon expiration or nonrenewal of this Agreement, and pending Owner’s request,

Sponsor shall remove all materials and appurtenances placed on the Attraction by the Sponsor

- (ii) the right to sell Products at Access completely within Sponsor's property;
- (iii) the right to have signs or banners at the following locations within a twenty foot radius of the Attraction: kiosk at parking area and at Access, such signs or banners to be provided by Sponsor and to be of a size and design chosen by Owner and placed in accordance with Owner's directions;
- (iv) the right to have 4 additional signs at locations specified by Owner and at a distance of at least 50 feet from other signage, such signs to be provided by Sponsor and approved by Owner;
- (v) the right to be named in all marketing pieces specific to the Attraction issued by Owner;
- (vi) the right to sell or give away promotional merchandise in connection with advertising or promoting the Attraction, but only in compliance with Paragraph 7 of this Agreement;
- (vii) the right to photographs and film and to use existing film clips (not to exceed 5 minutes in length) of the Attraction for purposes of advertising Sponsor's involvement with the Attraction, during the Term of this Agreement, subject to Owner's prior approval and subject to any individual rights (other than copyright) of persons shown in such films;
- (viii) the right to host one hospitality event per year during the Term of this Agreement on Sponsor's property near or adjacent to the Attraction, such event to be funded solely by Sponsor and arranged in conjunction with Owner. Sponsor shall at all times obey Owner's rules for use of the trail, including, but not limited to vehicle use on the trail without written permission from Owner;
- (ix) the right to have access to Owner's mailing list in a mutually agreeable physical format for Sponsor's use only during the Term and only for such mailings by Sponsor as are approved by Owner in writing, in advance;
- (x) the right to provide samples of and display Sponsor's Products, completely on Sponsor's property, adjacent to the Access and as described in Paragraph 5; and
- (xi) subject to Owner's standard terms and conditions, the right to advertise and promote Sponsor's Products and its Sponsorship hereunder, on the Web Site(s), if any, maintained by Owner, subject to Owner's approval of the content thereof.

(c) Right to Remove Name. Owner shall have the right, at any time and for any reason, to request in writing that Sponsor remove its name from any and/or all signage and other materials associated with the Attraction. Sponsor shall use its best efforts to comply with said request, but if Sponsor will incur any additional expenses in connection with such compliance, it will notify Owner in writing and obtain Owner's prior written approval. Owner will reimburse Sponsor for all such approved expenses. Sponsor shall notify Owner if time does not reasonably permit

compliance with Owner's request. Nothing herein shall relieve Sponsor of its obligations under Paragraph 3 of this Agreement.

3.0 Licensing Fee.

In consideration for the use of Owner's Trademarks and all other rights granted hereunder to Sponsor, Sponsor shall pay to Owner the total sum of \$ 2,100.00 per lease term calendar year payable as follows:

\$ 525.00 on or before March 30
\$ 525.00 on or before June 30
\$ 525.00 on or before September 30
\$ 525.00 on or before December 30

3.1 Sponsor's Contribution.

(a) In-Kind Contribution. In consideration for the use of Owner's Trademarks and all other rights granted hereunder to Sponsor, Sponsor shall provide Owner with the following products and/or services ("Products"), delivered to Owner on the dates and at the locations specified. In kind contributions shall be defined as a dollar for dollar trade for the amount of the Sponsorship Agreement regarding customary cost of goods and/or services to be supplied in leu of monetary contribution.

Products: to be determined as prizes for Owner's in-house fundraising efforts in support of the Green Lakes Greenways Inc. maintenance and upgrades of the Attraction; such products shall be non-alcoholic in nature

Delivery Date: to be determined prior to fundraisers

Location: 625 E Cty. Rd Y #500, Oshkosh WI 54901

(b) Delivery and Service. At Sponsor's expense, Sponsor shall deliver the Products to, and store such Products at, Owner's location. Sponsor agrees to provide service personnel on an "on call" basis to assist in the delivery, installation, repair, maintenance and removal of the Products, in a number mutually agreed upon between the parties. All of Sponsor's personnel shall be subject to Owner's security and personnel policies and practices.

(c) Sponsor Insurance. During the Term of this Agreement, Sponsor agrees to carry workers' compensation and employer's liability insurance, in such amounts as may be required by law, for any personnel Sponsor may utilize for the delivery, installation, maintenance, repair and removal of the Products. See Exhibit "A".

4.0 Exclusivity and Ambush Protection.

(a) Competitive Product Protection. During the Term of this Agreement, Owner represents and warrants that it will not enter into any other agreement with any other person or company to promote any product competitive to the Products hereunder as an Official Sponsor of the Attraction at the Site. Products promoted as event sponsors of Site lessees are not affected by this Agreement.

(b) Competitive Company Protection. During the Term of this Agreement, Owner represents and warrants that it will not enter into any other agreement with any other person or company to promote any competitive company to the sponsor company hereunder as an Official Sponsor of the Attraction at the Site. Companies promoted as event sponsors of Site lessees are not affected by this Agreement.

(c) Competitive/Antithetical Product Definition. For the purposes of this Agreement, competitive products shall include red and or white wines, ciders, and non-alcoholic wines, ciders, and winery tours, competitive companies shall include wineries within Winnebago County.

(d) Sampling. Sponsor shall have the right, but not the obligation, to supply Sponsor Products free of charge for sampling at Access and completely within Sponsor's property, subject to the rights of Site lessees.

(e) Product Display. Sponsor will have the right to display Sponsor's Products at Access at a mutually agreeable place completely on Sponsor's property though adjacent to the Attraction (the "Display"). Sponsor will be responsible for specific security for the Display and the Products during any times the Attraction is open to the public. Sponsor shall be solely responsible for any lighting or additional power required by the Display. In addition, Sponsor will provide any protection from the elements which Sponsor believes the Display and/or the Products may require. The Display shall be constructed at Sponsor's expense and shall conform to all zoning, building or other applicable state and local rules, regulations, ADA requirements and codes. The Display shall be of high caliber and shall reflect well on Owner and Sponsor.

5.0 Trademarks.

(a) Sponsor's Trademarks. Sponsor's trademarks, label designs, product identifications, artwork and other symbols and devices associated with Sponsor's Products ("Sponsor's Trademarks") are and shall remain Sponsor's property, and Sponsor shall take all steps reasonably necessary to protect such Sponsor's Trademarks through U.S. federal registrations and foreign registrations as it deems desirable and through reasonable prosecution of infringements.

(b) Sponsor's Authorization of Owner. Owner is hereby authorized to use Sponsor's Trademarks in advertising and promoting the Attraction during the Term of this Agreement, provided Sponsor shall have the right to approve all such uses in writing in advance.

(c) Uses for Benefit of Sponsor. The right to use Sponsor's Trademarks is non-exclusive, non-assignable and nontransferable. All uses by Owner of Sponsor's Trademarks shall inure solely to the benefit of Sponsor.

(d) Owner's Trademarks. Owner's trademarks, designs, artwork and other symbols and devices associated with the Attraction ("Owner's Trademarks") are and shall remain Owner's property

and Owner shall take all steps reasonably necessary to protect Owner's Trademarks through U.S. federal registrations and foreign registrations as it deems desirable and through reasonable prosecution of infringements.

(e) Owner's Authorization of Sponsor. Sponsor is hereby authorized to use Owner's Trademarks in advertising and promoting Sponsor's Products until 30 days after the Term of this Agreement expires, provided Owner shall have the right to approve all such uses in writing in advance.

(f) Sponsor's Submission for Approval. Sponsor shall submit materials to Owner in writing and if Owner does not approve or reject such materials in writing within 10 business days after receipt thereof, then Owner shall be deemed to have approved such materials.

(g) Uses for Benefit of Owner. The right to use Owner's Trademarks is non-exclusive, non-assignable and nontransferable. All uses by Sponsor of Owner's Trademarks shall inure solely to the benefit of Owner.

(h) Merchandise. Owner shall not manufacture or sell, or license the manufacture and/or sale, of any promotional or other merchandise which bears Sponsor's Trademarks without Sponsor's prior written consent. Sponsor shall have the right to manufacture and/or sell promotional or other merchandise which bears Owner's Trademarks only in accordance with Paragraph 7.

6.0 Merchandising.

(a) Sponsor's Attraction Related Merchandise.

(i) Merchandise. During the Term, Sponsor shall have the right to produce and sell Attraction Related Merchandise in connection with its advertising and promotion of the Products, provided such merchandise also bears Sponsor's Trademarks. Such merchandise shall be subject to Owner's written approval, which shall not be unreasonably withheld.

(ii) Third Party Agreements. In any agreement between Sponsor and any third party relating to the manufacture, distribution or promotion of Sponsor's Attraction Related Merchandise or otherwise relating to the Attraction, under which obligations or liabilities in excess of \$5,000.00 in the aggregate may be incurred, Sponsor agrees that such agreement will contain a clause substantially similar to the following:

[Third Party] will look solely to [Sponsor] for performance and for payment and satisfaction of any obligation or claim arising out of or in connection with this Agreement, and [Third Party] hereby covenants that it will not assert any claim against or look to Owner or any officer, director, employee or representative of Owner for satisfaction of any such obligation or claim.

(b) Sponsor Warranties on Attraction Related Merchandise. If Sponsor manufactures or causes to be manufactured its own Attraction Related Merchandise, Sponsor represents and warrants that such merchandise shall be free from defects and merchantable and fit for its particular purpose. Sponsor shall indemnify and hold harmless Owner and Owner's officers, directors, employees, representatives, agents, successors and assigns from any claims, damages, liabilities,

losses, government proceedings and costs and expenses, including reasonable attorneys' fees and costs of suit, arising out of the failure of this warranty.

7.0 Warranties.

(a) Owner Warranties. Owner represents and warrants that:

- (i) it has the full right and legal authority to enter into and fully perform this Agreement in accordance with its terms without violating the rights of any other person;
- (ii) Owner's Trademarks do not infringe the trademarks or trade names or other rights of any other person;
- (iii) it has all government licenses, permits or other authorizations necessary to operate the Attraction as contemplated under this Agreement; and
- (iv) it will comply with all applicable laws, regulations, ADA requirements and ordinances pertaining to the promotion and conduct of the Attraction.

(b) Sponsor Warranties. Sponsor represents and warrants that:

- (i) it has the full right and legal authority to enter into and fully perform this Agreement in accordance with its terms without violating the rights of any other person;
- (ii) Sponsor's Trademarks do not infringe the trademarks or trade names of any other person;
- (iii) it has all government licenses, permits or other authorizations necessary to conduct its business; and
- (iv) all Products furnished by Sponsor shall be of high quality and shall be free from product defects and shall be merchantable and suited for their intended purpose.

7.1 Good Will.

In addition to any rights or remedies available to Owner, if Sponsor shall be charged with the commission of any act which is a criminal offense involving moral turpitude under federal, state or local laws, or which poses a health hazard to employees or the visiting public (or to any animals on display as part of the Attraction) or should Sponsor commit any act which would reasonably and objectively bring Owner or its products into disrepute, contempt, scandal or ridicule at any time during the Term of this Agreement, then Owner shall be entitled:

- (a) To terminate this Agreement after giving Sponsor ten (10) days' notice to cure such offense, act or failure to perform. If Sponsor fails to cure such offense, act or failure to perform within such ten (10) day period, Owner shall no longer be obligated to any terms stated in the Agreement; and
- (b) To receive any and all funds owed by Sponsor up to and including the date of infraction by Sponsor of the Agreement.

8.0 Indemnities.

(a) Mutual Indemnities. Each party will indemnify, defend and hold harmless the other, its parent, subsidiary and affiliated corporations and their respective directors, officers, employees, agents, successors and assigns, from and against any and all claims, damages, liabilities, losses, government proceedings and costs and expenses, including reasonable attorneys' fees and costs of suit, arising out of any alleged or actual breach of this Agreement or the inaccuracy of any warranty or representation made by the other or any act or omission by the other in the performance of this Agreement or the purposes hereof. Sponsor shall obtain and maintain any insurance policy or certificate required hereunder by Owner.

(b) Additional Sponsor Product Indemnity. Sponsor will indemnify Owner as described in subparagraph (a) for any and all property damage or personal injury, including death or other cause of action of any kind arising out of or in connection with the sale, distribution, use or misuse of Sponsor's Products, regardless of Sponsor's lack of negligence in connection therewith.

(c) Notices of Claims. Each party will give the other prompt written notice of any claim or suit possibly coming within the purview of any indemnity set forth in this Agreement. Upon the written request of an indemnity, the indemnitor will assume the defense of any such claim, demand, action or proceeding. The indemnitee shall also have the right to provide its own defense at its own expense, provided the indemnitee shall not settle any claim without the indemnitor's consent unless it is willing to release the indemnitor from its obligation of indemnity hereunder. Termination of this Agreement shall not affect the continuing obligations of each of the parties under this Paragraph and Paragraph 10.

9.0 Insurance.

Each party hereunder shall obtain and maintain at its own expense, during the Term of this Agreement and for a period of 7 years following the Term, a standard Comprehensive General Liability Policy written by a United States insurance company in the face amount of \$1,000,000.00, which policy shall (i) specifically cover such party's contractual liabilities, (ii) provide standard product liability protection and (iii) list the other as a named insured. Such insurance shall be in a form reasonably acceptable to counsel for the other and shall require the insurer to give the other at least thirty (30) days' prior written notice of any modification or cancellation. Each party shall provide the other with such evidence of coverage as may be reasonably acceptable to the other within thirty (30) days following the execution of this Agreement.

10.0 Food and Beverage Service.

(a) Warranty. Owner represents and warrants that it will cause all food and beverage vendors to represent and warrant, as a condition of their participation at the Attraction, that they will comply with all food service, sanitation and other regulations applicable to their services at the Site. Each will be required to show Owner evidence of adequate comprehensive liability insurance, with limits acceptable to Sponsor, governing their preparation, distribution and sale of food and beverage products.

(b) Alcohol. If alcohol is served at Access by Sponsor, Sponsor will use its best efforts, or will cause its lessees to use their best efforts, to comply with all applicable laws and regulations, including Site regulations, regarding the service of alcohol to intoxicated or under-age persons, to encourage the safe use of alcohol, and to prevent the consumption of alcoholic beverages not purchased at Access or from within Sponsor's property.

11.0 Term and Termination.

(a) Term. This Agreement shall become effective on the date first above written and shall expire on December 30, 2024, unless terminated earlier or renewed pursuant to the terms hereof (the "Term").

(b) Termination by Owner. Without prejudice to any other rights or remedies that Owner may have, Owner may terminate this Agreement immediately by delivery of notice to Sponsor at any time if any of the following events shall occur:

(i) Sponsor shall fail to comply with Paragraph 3 hereof in any respect and fail to cure the same within 10 days of receipt of notice of such failure;

(ii) Sponsor shall (1) make an assignment for the benefit of creditors, (2) be adjudicated bankrupt, (3) file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization, arrangement, readjustment of its debts or for any other relief under Title 11 of the United States Code or any successor or other federal or state insolvency law ("Bankruptcy Law"), (4) have filed against it an involuntary petition in bankruptcy or seeking reorganization, arrangement, readjustment of its debts or for any other relief under any Bankruptcy Law, which petition is not discharged within thirty (30) days or (5) shall apply for or permit the appointment of a receiver or trustee for its assets;

(iii) Sponsor shall default under any provision of this Agreement and shall have failed to cure such default within thirty (30) days after it received written notice of such default from Owner; or

(iv) any of the representations or warranties made by Sponsor in this Agreement shall prove to be untrue or inaccurate in any material respect.

12.0 Miscellaneous.

(a) No Joint Venture or Partnership. This Agreement shall not be deemed to create a joint venture, partnership, principal-agent, employer-employee or similar relationship between Owner and Sponsor.

(b) Invalidity. The determination that any provision of this Agreement is invalid or unenforceable shall not invalidate this Agreement, all of said provisions being inserted conditionally on their being considered legally valid, and this Agreement shall be construed and performed in all respects as if such invalid or unenforceable provision(s) were omitted.

(c) Notices. All notices required or permitted to be made under this Agreement shall be in writing and shall be deemed to have been duly given when delivered or sent by prepaid certified or registered mail or telex:

If to Owner, to: Robert A. Way
Winnebago County Parks Director/Exposition Manager
625 E. County. Rd. Y, Suite #500
Oshkosh WI 54901

If to Sponsor, to: Ryan Prellwitz
Vines & Rushes Winery
410 County Road E
Ripon WI 54971

or such other address as either party may designate in writing to the other party for this purpose.

(d) Governing Law and Consent to Jurisdiction. This Agreement is subject to and shall be construed in accordance with the laws of the State of Wisconsin, except for choice of law provisions. Sponsor and Owner both consent to jurisdiction in the state and federal courts located in Wisconsin and hereby waive personal service.

(e) Commissions. Sponsor and Owner shall each be responsible for its own sales agency, sponsorship agency, advertising agency or other commissions or brokers' fees which either is or may become obligated to pay as a result of or attendant to this Agreement.

(f) Non-Assignment. Neither party shall assign this Agreement without the prior written approval of the other party, except that Sponsor may assign this Agreement to any entity which acquires substantially all of its assets.

(g) Complete Agreement. This Agreement represents the entire agreement between the parties and supersedes all other agreements, if any, express or implied, whether written or oral. Owner has made and makes no representations of any kind except those specifically set forth herein.

(h) Binding Agreement. This Agreement shall be binding upon the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

Owner

By: _____

Title: _____

Sponsor

By: _____

Title: _____