



Equipment Rental Agreement

This Equipment Rental Agreement (the “Agreement”) is made and entered into as of the date executed below by and between DeCrescente Distributing Company, Inc., with principal address at 211 North Main Street, Mechanicville, NY 12118 (“DeCrescente”) and [CUSTOMER NAME _____], with principal address at [ADDRESS _____] (the “Customer”).

WHEREAS, DeCrescente is the owner of a refrigerated trailer that is intended for the purpose of dispensing malt beverages (the “Equipment”); and

WHEREAS, DeCrescente is in the business of distributing malt beverages that are dispensed from the Equipment (the “Product”); and

WHEREAS, Customer desires to rent the Equipment for the purpose of serving Products sold by DeCrescente; and

WHEREAS, DeCrescente desires to rent its Equipment to Customer for the purpose of serving its Products; and

WHEREAS, DeCrescente and Customer mutually desire to enter into this Agreement and have agreed on terms and upon the covenants, conditions and provisions herein set forth.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DeCrescente and Customer hereby agree as follows:

1. **It is understood and agreed that the rental of the Equipment shall not alter or be construed to change the character of said Equipment to be other than property wholly owned by DeCrescente.**
2. The Equipment is further identified in Schedule A attached hereto. DeCrescente will deliver actual possession of the Equipment to the Customer, which is an item of property wholly owned by DeCrescente. DeCrescente will also take possession of the Equipment from the Customer upon conclusion of Customer’s use. DeCrescente will deliver the Equipment in proper working order and will provide any maintenance, necessary service and repairs to the Equipment at no charge to the Customer. Customer agrees that it will not remove the Equipment from the specific location where delivered by DeCrescente as set forth in Schedule B attached hereto. The Customer further acknowledges that only agents or employees of DeCrescente shall be permitted to move the Equipment.
3. As rent for use of the Equipment, Customer agrees to pay DeCrescente pursuant to the terms specified in Schedule C attached hereto.
4. Customer agrees that it will only use the Equipment to dispense malt beverages sold by DeCrescente.

5. The Equipment shall be rented by the Customer for the term as set forth in Schedule D attached hereto. This Agreement shall be effective upon delivery of the Equipment to Customer and shall terminate upon DeCrescente taking possession of the Equipment from Customer. However, as specified herein, certain provisions of this Agreement survive its termination. Notwithstanding the foregoing, DeCrescente shall, in its sole discretion, have the right to take immediate repossession of the Equipment from the Customer at any time based on 1) any breach of a term of this Agreement by Customer; 2) any misuse of, or damage to, the Equipment; or 3) in the event of a violation of any law, rule or regulation by Customer associated in any manner with the rental of the Equipment. Such retaking of possession by DeCrescente shall not affect its rights under this Agreement, and the Customer agrees to cooperate fully with DeCrescente in retaking possession of the Equipment.

6. Customer acknowledges that the sole function of the Equipment is to dispense malt beverages at social or charitable functions. Customer covenants and warrants that he or she is over the age of twenty-one (21) and that the Equipment will be used to dispense alcoholic beverages only to persons over the age of twenty-one (21) and who are legally qualified to consume alcoholic beverages at the time and place involved. Customer covenants and warrants that the Equipment will be used only in a lawful manner and that, at the time it takes possession of the Equipment, all necessary permits for its operation will have been secured from the New York State Liquor Authority (the "SLA"). The parties further agree that securing the necessary permits from the SLA is the sole responsibility of Customer and that DeCrescente has no obligation or responsibility to facilitate or assist Customer in securing such permits. Customer agrees to comply with all laws, rules and regulations associated with its permit. In furtherance of this compliance, Customer agrees that, if paying by check, the Product will be invoiced and paid for from an account that is under the same name as the legal entity holding the permit from the SLA. Therefore, Customer acknowledges that DeCrescente cannot accept payment for alcoholic beverages by check unless the legal entity holding the permit is also included on the check that is used for payment.

7. The parties agree that upon the delivery of the refrigerated trailer to the event location, the duties and obligations of DeCrescente to operate the equipment shall cease and the Customer shall assume the full responsibility for the management and operation of the Equipment until such time that DeCrescente retakes possession, subject to DeCrescente's agreement to provide all necessary repairs to the equipment as set forth in paragraph 2 herein.

8. On certain occasions, an employee of DeCrescente will remain with the Equipment for the sole and limited purpose of maintaining the equipment as necessary to serve the Product. The parties stipulate and agree that **1) employees of DeCrescente are expressly forbidden to dispense or serve alcoholic beverages to consumers; and 2) that Customer will not request or allow an employee of DeCrescente to dispense alcoholic beverages to consumers.**

9. Customer covenants and agrees to obtain liability insurance and to make DeCrescente an "additional insured" under such policy. The purpose of said policy shall be to protect DeCrescente and Customer from loss for property damage, bodily injuries or death received or sustained by any person or persons in any manner caused by, arising from, incident to, connected with, or growing out of the use of the Equipment by Customer. Said insurance policy shall be in the sum of at least three hundred thousand dollars (\$300,000) for property damage and at least one million dollars (\$1,000,000) for personal injury or death.

10. Customer further covenants and agrees to defend, indemnify, and hold DeCrescente harmless from or against any and all claims, demands, damages, actions or causes of action, together with any and all losses, costs, or expenses, including, but not limited to attorney fees and court costs in connection therewith and related thereto, asserted by any person or persons for property damage, bodily injuries or death received or sustained by any person or persons in any manner caused by, arising from, incident to, connected with, or growing out of the event

or function for which the Equipment is rented, unless the property damage, bodily injuries or death are caused in whole or in part by the intentional conduct, recklessness or negligence of DeCrescente or its employees or agents.

11. DeCrescente covenants and agrees to defend, indemnify, and hold Customer harmless from or against any and all claims, demands, damages, actions or causes of action, together with any and all losses, costs, or expenses, including, but not limited to attorney fees and court costs in connection therewith and related thereto, asserted by any person or persons for property damage, bodily injuries or death received or sustained by any person or persons in any manner caused by, arising from, incident to, connected with, or growing out of the negligence of DeCrescente or a defect or failure of the Equipment, unless the property damage, bodily injuries or death are caused in whole or in part by the intentional conduct, recklessness or negligence of the Customer or its employees or agents. This indemnification provision shall specifically exclude any incidental damages referenced in paragraph 12 below.

12. The Customer shall exercise all reasonable care so as to prevent damage to the Equipment and its components. Any damage to the Equipment caused by the Customer, or due to the Customer's negligence, misuse or breach of this Agreement, shall be repaired at the Customer's expense. This includes damage caused by tape or other adhesive used by the Customer to affix signs or banners to the Equipment, and shall cover DeCrescente's expense to have such tape or adhesive removed from the Equipment. The Customer shall promptly notify DeCrescente of any Equipment defects or malfunctions so that DeCrescente can make all necessary and proper repairs in a timely fashion. Notwithstanding the foregoing, DeCrescente shall not be liable for any incidental damages, including but not limited to, the loss of revenue or business interruption incurred by the Customer by reason of any downtime or malfunction of the Equipment. Customer expressly releases DeCrescente from such liability in entering into this Agreement.

13. The Customer hereby certifies that all information provided to DeCrescente is complete, accurate and truthful. The persons signing below certify, represent, and warrant that they have the full authority to sign this Agreement on behalf of the Customer, and thus fully bind the Customer for which they represent to all of the terms and conditions hereof.

14. This Agreement shall not be assignable by the Customer without the prior written consent of DeCrescente.

15. If any term or provision of this Agreement or its application shall to any extent be held invalid or unenforceable, the remainder of this Agreement, other than those provisions as to which it is held invalid or unenforceable, shall not be affected thereby, and each such remaining provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16. The failure of either party in any one or more instances to insist upon full performance of any of the terms, covenants or conditions of this Agreement shall not be deemed a waiver of such provisions. All waivers in order to be valid must be in writing and signed by an authorized officer of the party granting the waiver.

17. This Agreement is entered into and shall be governed by, and interpreted in accordance with, the laws of the State of New York, without reference to conflicts or choice of law.

18. The following paragraphs shall survive termination of this Agreement: 1, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19.

19. This Agreement contains the entire agreement between the parties and may not be modified unless mutually agreed to and set forth in writing.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the year and date stated below:

DeCrescente Distributing Company, Inc.



Authorized Representative

Date

Carmine DeCrescente III
Printed Name

VP Distributor Services
Title

Customer

Authorized Representative

Date

Printed Name

Title

Contact Phone Number

SLA Permit Number

File Number

Organization Name

Schedule A – Equipment

Schedule B – Location of Event

Schedule C – Rent

\$0.00

Schedule D – Event Date and Rental Term