ORD 16-005

AN ORDINANCE TO AUTHORIZE AND APPROVE A LEASE AGREEMENT BETWEEN THE CITY OF WILMINGTON AND BOTTLING GROUP, LLC FOR A PORTION OF 3505 GOVERNOR PRINTZ BOULEVARD FOR USE AS EASTLAWN PARK

#0169

Sponsor:

Council Member Owens

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into leases of real estate to the City for a period of more than one year if approved by City Council by ordinance; and

WHEREAS, 3505 Governor Printz Boulevard (the "Property") is owned by Bottling Group, LLC ("PepsiCo"); and

WHEREAS, PepsiCo has allowed the City to informally use a portion of the Property for Eastlawn Park for years (the "Premises"); and

WHEREAS, the City would like to enter into a formal lease agreement with PepsiCo regarding the Premises to maintain Eastlawn Park thereon (the "Agreement"), a copy of which, in substantial form, is attached hereto and incorporated by reference herein as Exhibit "A"; and

WHEREAS, the term of the Agreement is for a period of fifty (50) years at an estimated price of Twelve Dollars per year ($12.00), with perpetual ten-year renewal periods thereafter on the same terms and conditions, subject to PepsiCo's right of termination; and

WHEREAS, it is the recommendation of the Department of Parks and Recreation that City Council authorize the City to enter into the Agreement; and

WHEREAS, City Council deems it necessary and appropriate to authorize the City to enter into the Agreement.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. The Agreement (being a Lease Agreement between the City of Wilmington and Bottling Group, LLC), a copy of which, in substantial form, is attached hereto as Exhibit "A," for the period of fifty (50) years with perpetual ten-year renewal periods thereafter, at an estimated price of Twelve Dollars ($12.00) per year, is hereby approved, and the Mayor, or his designee, is hereby authorized to execute as many copies of the Agreement, as well as to take all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... February 5, 2026
Second Reading..... February 5, 2026
Third Reading.....

Passed by City Council,

_____
President of City Council

ATTEST:_____
City Clerk

Approved as to form this 5th
day of February, 2026.

Elizabeth D. Power
Senior Assistant City Solicitor

Approved this ____ day of _____, 2026.

_____
Mayor

SYNOPSIS: This Ordinance authorizes the City to enter into a fifty-year lease agreement with Bottling Group, LLC ("PepsiCo") for a portion of 3505 Governor Printz Boulevard for use as Eastlawn Park. After the initial term of fifty (50) years, the lease will perpetually renew for ten-year periods. The lease is subject to PepsiCo's right of termination.

FISCAL IMPACT STATEMENT: The Office of Management and Budget has reviewed and analyzed the Ordinance and the lease agreement attached as Exhibit "A" that authorizes the City to enter into a lease agreement with PepsiCo for a portion of 3505 Governor Printz Boulevard for use as Eastlawn Park. This Ordinance formalizes what has been for many years an informal arrangement between PepsiCo and the City to use a portion of 3505 Governor Printz Boulevard for Eastlawn Park. The fiscal impact of the lease agreement is that there will be a cost to the City consisting of a $12.00 annual lease payment paid in advance to PepsiCo by the first day of each year for as long as the lease is in force and effect.

W0131117

EXHIBIT A

Tax Parcel No: 06-148.00-005

Prepared by and Return to:
Elizabeth D. Power, Esquire
City of Wilmington Law Department
800 North French Street, 9th Floor
Wilmington, DE 19801

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is entered into this ____ day of _____, 2026 (the "Effective Date") by and between **BOTTLING GROUP, LLC**, a Delaware limited liability company with an address of c/o PepsiCo Global Real Estate, 700 Anderson Hill Road, Purchase, NY 01577 ("Landlord"), and the **CITY OF WILMINGTON**, a municipal corporation of the State of Delaware with an address of 800 North French Street, Wilmington, DE 19801 ("Tenant").

BACKGROUND:

WHEREAS, Landlord owns approximately 10.21 acres of improvements and land located at 3505 Governor Printz Blvd, Wilmington, Delaware 19802 (being Tax Parcel No. 06-148.00-005) (the "Property");

WHEREAS, Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, a portion of the Property consisting of the basketball court and the immediately surrounding area that includes the playground and the picnic tables, the depiction of which is set forth on Exhibit A attached hereto and made a part hereof (the "Premises"), in accordance with the terms and conditions of this Lease.

NOW THEREFORE, in consideration of the covenants set forth in this Lease, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, Landlord and Tenant agree as follows:

1. Background. The provisions of the section entitled "Background" above are incorporated into and made a substantive part of this Lease.

2. Agreement to Lease; Term. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for an initial term of fifty (50) years (the "Initial Term") commencing on the Effective Date (the "Commencement Date"). Tenant agrees to accept the Premises in its "as-is" condition without representation or warranty from Landlord. **EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TENANT HEREBY ACCEPTS THE PREMISES IN THEIR CURRENT "AS IS, WHERE IS, WITH ALL FAULTS" CONDITION AND LANDLORD HEREBY DISCLAIMS, AND TENANT WAIVES THE BENEFIT OF, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING (WITHOUT LIMITATION) THE IMPLIED WARRANTIES OF HABITABILITY AND FITNESS OR SUITABILITY FOR**

A PARTICULAR PURPOSE. The Initial Term shall automatically renew for additional terms of ten (10) years each (each such renewal term, together with the Initial Term, is referred to herein as, the "Term"), subject to Landlord's termination right set forth in Section 25 herein, Tenant's right of first offer to purchase the Premises set forth in Section 26 herein, and Landlord's intent to subdivide the Property and grant and convey the Premises to Tenant set forth in Section 29 herein.

3. Use. The Premises shall be used by Tenant solely for the purposes of (i) an outdoor basketball court, playground, and picnic tables and (ii) related recreational, educational, and community programming consistent with public park purposes, including, but not limited to, installation and maintenance of basketball standards, striping, fencing, benches, lighting, signage, and safety equipment, together with incidental events and activities customary for municipal parks and playgrounds (collectively, the "Tenant's Use"). Tenant shall be solely responsible for obtaining, at Tenant's sole cost and expense, all licenses, permits and approvals necessary under applicable law for the Tenant's Use at the Premises. Tenant, at Tenant's sole cost and expense, shall promptly comply with all laws and regulations of any governmental authority regarding the Tenant's Use. Tenant shall pay all fines, penalties, costs, and expenses imposed upon Landlord for Tenant's failure to comply with any applicable governmental rules, regulations, or laws regarding the Tenant's Use. For the avoidance of doubt and without limiting any other restriction as set forth in this Lease, Tenant shall not be permitted to use any of the parking lots for Property access, ingress, or egress, or any of the building facilities on the Property during the Term; however, Tenant shall be permitted to access the Premises via the pedestrian paths and walkways leading from Church and Locust Streets and Landlord will work with Tenant regarding temporary use of the parking lots or other areas of the Property if needed to perform the Improvement Work (as defined herein), if any. Tenant shall (i) use and maintain the Premises and conduct its business thereon in a safe, careful, reputable and lawful manner, in accordance with all legal requirements; (ii) comply with all covenants that encumber the Property and all laws, rules, regulations, orders, ordinances, directions, and requirements of any governmental instrumentality, authority, or body (including, without limitation, the township, county, state or federal governments, any agency, subdivision, or department of any of the foregoing or any other quasi-governmental agency, or any fire insurance rating organization) that has jurisdiction over the Property or the use or operation thereof, now in force or which may hereafter be in force, including, without limitation, those which shall impose upon Landlord or Tenant any duty with respect to, or triggered by a change in the use or occupation of, or any improvement or alteration to, the Premises, or any special accommodation required for Tenant's employees, including, without limitation, environmental laws and the Americans With Disabilities Act of 1990 (42 U.S.C. § 1201 et seq.), as amended and supplemented from time to time; and (iii) monitor, secure, or police the Premises as necessary to prevent any damages, losses, or injuries. Tenant shall not do or permit anything to be done in or about the Premises that shall in any way cause a nuisance, obstruct, or interfere with the rights of other neighbors or occupants of the Property or injure or annoy them. Tenant shall not use the Premises, nor allow the Premises to be used, for any purpose or in any manner that would (i) invalidate any policy of insurance now or hereafter carried by Landlord on the Property, or (ii) increase the rate of premiums payable on any such insurance policy unless Tenant reimburses Landlord for any increase in premium charged. Landlord shall not be liable to Tenant or to any other person for, and Tenant hereby releases each of Landlord, its manager and submanager, and each of their respective direct and indirect members, managers, shareholders, partners, agents, employees and contractors, from any and all liability for any injury to Tenant or its employees, agents, or contractors in or about the Property, including, but not limited to, the Premises, except for any liability for any

injury caused by the gross negligence or willful misconduct of Landlord or its manager and submanager, or any of their respective direct and indirect members, managers, shareholders, partners, agents, employees and contractors.

4. Rent. Commencing on the Commencement Date and continuing until the expiration or earlier termination of this Lease pursuant to the terms hereof, Tenant shall pay to Landlord rent ("Rent") in the amount of TWELVE DOLLARS ($12.00) per year. Tenant shall pay Rent in advance, without demand, upon the Commencement Date for the Initial Term and upon the first (1st) day of each year in a renewal term (prorated on a monthly basis for any partial years). All Rent shall be paid without deduction, offset, or counterclaim. All sums payable hereunder by Tenant shall be paid to Landlord at the notice address detailed below or at such other place or places as Landlord may hereafter from time to time designate in writing.

5. Maintenance, Utilities, Taxes. Tenant shall maintain the Premises at Tenant's sole cost and expense throughout the Term in substantially the same condition as it is on the Effective Date, reasonable wear and tear excepted. If applicable, Tenant shall contract for all utility services necessary for the Tenant's Use and shall pay all such utility costs directly to the relevant utility provider in full and on time throughout the Term. Landlord shall be responsible to pay for all real property taxes, fees, and assessments levied on the Property throughout the Term.

6. Improvement Work. At any time during the Term, Tenant shall have the right, but is not obligated to, install, replace, and/or upgrade any (i) utilities, including, but not limited to, sewer, water, and gas, (ii) lighting, striping, hoops, and other materials for the basketball court, (iii) playground equipment, (iv) picnic tables, and (v) incidental areas surrounding the basketball court, playground, and picnic tables necessary for the Tenant's Use at the Premises (collectively, the "Improvement Work"). If commenced, the Improvement Work shall be completed in a reasonably prompt and diligent manner, subject to delays caused by acts of God, pandemic, epidemic, labor strikes, unavailability of materials, and other delays not within the reasonable control of Tenant. Tenant shall pay all costs of the Improvement Work to the applicable contractor in full and when due in accordance with written invoices received by Tenant for completed work. Tenant shall remove, at Tenant's sole cost and expense, any mechanic's lien recorded against the Premises in connection with the Improvement Work within fifteen (15) business days after Tenant receives written notice thereof. Promptly after the completion of the Improvement Work, Tenant shall make its best efforts to deliver to Landlord a waiver of mechanic's liens from Tenant's general contractor and any subcontractor performing more than $10,000 of work to the Premises.

7. Termination and Holdover. At the expiration or termination of this Lease, Tenant agrees to vacate the Premises, remove all of the Improvement Work (if requested by Landlord) and Tenant's personal property, and leave the Premises in substantially the same condition as it is on the Effective Date, reasonable wear and tear excepted and the Improvement Work excepted if Landlord chooses to allow the Improvement Work to remain. If Tenant leaves any personal property on the Premises, Landlord shall have the right to remove and dispose of such personal property at Tenant's sole cost and expense, payable upon written demand. If Tenant remains in possession of Premises after expiration or termination of this Lease, without any express written agreement of the parties, Tenant shall become a tenant at sufferance and there shall be no renewal of this Lease by operation of law.

8. Tenant's Property; Insurance. Landlord and Tenant agree that Tenant's personal property in, upon, or about the Premises, and the use and occupancy by Tenant shall be at Tenant's sole risk. Landlord shall not be responsible to Tenant for damage to or destruction of any personal property of Tenant in, upon, or about the Premises, except for damage or destruction caused by Landlord's gross negligence or willful misconduct. Tenant agrees to procure and maintain policies of comprehensive general liability insurance with minimum limits of $2,000,000 on account of bodily injuries to or death of one person, and $4,000,000 on account of bodily injuries to or death of more than one person as the result of any accident or occurrence and $300,000.00 on account of damage to property and worker's compensation insurance (meeting applicable statutory requirements), in addition to excess or umbrella liability insurance with limits of not less than $10,000,000.00 per occurrence and in the aggregate providing coverage in excess of, and follow-form to, the primary commercial general liability, automobile liability, and employer's liability insurance required herein, at its own cost and expense and with a reputable insurance agency and company, insuring against all claims, demands, or actions for injury or death and for damage to property. Tenant shall provide a certificate of insurance evidencing all such insurance coverage to Landlord prior to the Commencement Date and prior to any policy renewal date. All such insurance policies shall (i) name Landlord and its mortgagees as additional insureds, and (ii) by its terms, provide that coverage shall not be modified or cancelled without at least fifteen (15) days' prior written notice to Tenant and Landlord, and (iii) contain an endorsement that such insurance policies will be primary and without contribution from Landlord's policies. Tenant shall provide Landlord with full and complete copies of all insurance policies including attachments and endorsements upon Landlord's request. Should Tenant or Tenant's insurer refuse to defend Landlord, Tenant is responsible for any reasonable attorneys' fees or costs incurred by Landlord in seeking to enforce its rights under this provision. Landlord Parties (defined below) shall be named as additional insureds. Landlord may maintain any insurance Landlord deems reasonable regarding the Premises in Landlord's sole discretion. All insurance maintained by Landlord shall be in addition to and not in lieu of the insurance required to be maintained by Tenant. None of the insurance carried by Landlord shall name Tenant as an insured or otherwise be for the benefit of Tenant, as a third-party beneficiary or otherwise. Notwithstanding anything to the contrary in the foregoing, Landlord expressly acknowledges that Tenant is self-insured and such self-insurance satisfies all of Tenant's obligations under this Section 8.

9. Casualty or Condemnation. In the event that the Premises shall be substantially damaged or destroyed by fire or other cause, or in the event that a substantial portion of the Premises is taken by condemnation or other governmental taking, Landlord and Tenant shall each have the right, to be exercised by notice in writing delivered to the other party within sixty (60) days after said occurrence, to cancel and terminate this Lease. Upon the giving of such notice, the Term of this Lease shall expire on the date which is thirty (30) days after such notice is given, and Tenant shall vacate the Premises and surrender the same to Landlord pursuant to the terms of this Lease. In the event that neither party elects to terminate the Lease as aforesaid, Tenant shall restore the Premises, at Tenant's sole cost and expense, to substantially the same condition as it was prior to the casualty or condemnation (less the portion of the Premises so taken and less any Improvement Work if the Tenant does not wish to recreate the Improvement Work) within a reasonable period of time after such casualty or condemnation, not to exceed a total of ninety (90) days thereafter. In no event shall Tenant have any claim to any insurance or condemnation proceeds by reason of any such casualty, condemnation, or taking of the Premises, except for any insurance proceeds available through Tenant's own insurance policy(ies).

10. Default. It is mutually agreed that in the event either party shall default in performing any of the terms or provisions of this Lease (each, an "Event of Default") and fails to cure such default within ten (10) business days after receipt of written notice from the non-defaulting party for a monetary default, and thirty (30) days after receipt of written notice from the non-defaulting party for a non-monetary default, such party shall be deemed in default hereunder and the non-defaulting party may terminate this Lease by delivering ten (10) business days' prior written notice to the defaulting party thereof, may pursue such additional remedies as set forth in this Lease, and/or may pursue all remedies available to it at law or in equity. In addition, each of the following events shall also be considered an Event of Default under this Lease: (i) Tenant files a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent or shall file any petition or answer seeking reorganization, arrangement, recapitalization, readjustment, liquidation, dissolution or similar relief under any present or future bankruptcy laws of the United States or any political subdivision thereof, (ii) Tenant seeks, consents, or acquiesces in the appointment of any trustee, receiver, or liquidator of a substantial portion of Tenant's assets, (iii) an involuntary petition in bankruptcy shall be filed against Tenant seeking any reorganization, arrangement, readjustment, liquidation, dissolution, or similar relief under any present or future bankruptcy laws of the United States or any political subdivision thereof and such petition is not dismissed or vacated within one hundred twenty (120) days after its filing, and/or (iv) Tenant assigns this Lease in contravention of Section 13.

11. Landlord's Remedies. Upon the occurrence of any Event of Default by Tenant, Landlord may terminate this Lease by delivering twenty (20) business days' prior written notice to Tenant, whereupon the estate hereby vested in Tenant shall cease and any and all other right, title, and interest of Tenant hereunder shall likewise cease without further notice or lapse of time, as fully and with like effect as if the entire Term of this Lease had elapsed, but Tenant shall continue to be liable for amounts due and payable to Landlord as hereinafter provided.

Upon the occurrence of any Event of Default, or at any time thereafter, Landlord, in addition to and without prejudice to any other rights and remedies Landlord shall have at law or in equity, shall have the right to re-enter the Premises and recover possession thereof and dispossess any or all occupants of the Premises in accordance with applicable law, but Tenant in such case shall remain liable to Landlord for amounts due and payable to Landlord as herein provided.

In case of any Event of Default, re-entry, and/or dispossession by summary proceedings, whether or not this Lease shall have been terminated as aforesaid, Tenant shall pay an amount equal to the Rent and all other sums required to be paid by Tenant hereunder during the period which would otherwise have constituted the balance of the then-current Term of this Lease, plus all direct and out-of-pocket damages, costs, fees, and expenses incurred by Landlord as a result of such Event of Default, including without limitation, reasonable attorneys' fees, costs, and expenses incurred by Landlord in pursuit of its remedies hereunder.

The failure of Landlord to insist in any instance on the strict performance of any obligations of this Lease or to exercise any election, will not be deemed a waiver for the future of the performance of that obligation or of the right to exercise that election. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies in law or in equity.

12. Indemnification. To the fullest extent permitted by law, Tenant agrees to indemnify, defend, and hold harmless Landlord or any of its shareholders, members, officers, employees, representatives, and agents (each, a "Landlord Party" and collectively, the "Landlord Parties") against any and all claims (including personal injury and death), demands, damages, costs. and expenses, including reasonable attorneys' fees (collectively, "Claims"), arising from (i) the use and operation of the Premises by Tenant, its partners, officers, employees, representatives, agents, or any act or omission of any of the foregoing Tenant parties (each, a "Tenant Party", and collectively, the "Tenant Parties"), (ii) the negligence, intentional misconduct, criminal activity, or civil wrongdoing of a Tenant Party, and (iii) the breach by Tenant of this Agreement, with the exception of any Claims arising from the gross negligence or willful misconduct of a Landlord Party. To the maximum extent permitted by applicable law, Tenant assumes all risks associated with the Premises and the Tenant's Use and occupancy thereof and shall be solely responsible, at Tenant's sole cost and expense, for the condition, maintenance, repair, operation, security, and compliance with laws of and at the Premises during the Term. For the avoidance of doubt, nothing herein shall limit any immunities, defenses, or limitations of liability available to Tenant under applicable law. The parties' obligations under this Section 12 shall survive the expiration or termination of this Lease.

13. Assignment. Tenant shall not have the right at any time during the Term of this Lease to assign this Lease or to sublet the Premises, in whole or in part, without Landlord's prior written consent. No assignment of this Lease by Tenant, whether or not Landlord's consent is required, shall be effective until Landlord receives a copy of a written assignment under which the relevant assignee has agreed to assume all of Tenant's obligations hereunder.

14. Notices. All notices authorized or required hereunder shall be in writing and shall be delivered to the parties at its address set forth on Page 1 of this Lease, with a copy as set forth below. Notices shall be delivered either by (i) certified mail, return receipt requested, postage prepaid, (ii) personal delivery or (iii) overnight courier. Any such notice shall be deemed delivered on the date of delivery or the date delivery is refused. Notice of any change to a party's address must be given in one of the same manners permitted by this Section 14.

In addition to the notice addresses set forth on Page 1, the parties hereto agree to provide copies of all notices in the same manner as follows:

Copies of notices to Tenant shall be sent to:

City of Wilmington
Mayor's Office
Attn: Chief of Staff
800 North French Street, 9th Floor
Wilmington, DE 19801

With a copy to:

City of Wilmington
Department of Parks and Recreation
Attn: Director
Municipal Services Complex
500 Wilmington Avenue
Wilmington, DE 19801

With a copy to:

City of Wilmington
Law Department
Attn: City Solicitor
800 North French Street, 9th Floor
Wilmington, DE 19801

Copies of notices to Landlord shall be sent to:

Bottling Group, LLC
c/o PepsiCo Global Real Estate
700 Anderson Hill Road
Purchase, NY 01577

15. Broker. Landlord and Tenant hereby represent and warrant to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker, and Landlord and Tenant hereby agree to indemnify, defend, and hold the other party harmless from all liabilities, costs, demands, judgments, settlements, claims, and losses, including reasonable attorneys' fees and costs, incurred by the other party in conjunction with any such claim or claims of any broker claiming to be due any fee or commission in reliance on the acts or representations of the relevant indemnifying party. The parties' obligations under this Section 15 shall survive the expiration or termination of this Lease.

16. Attornment. In the event of the sale or assignment of Landlord's interest in the Premises or in the event of a foreclosure under any mortgage made by Landlord covering the Premises, Tenant shall attorn to and recognize such purchaser as Landlord under this Lease.

17. Subordination. At the option of Landlord or Landlord's mortgagee, or both of them, this Lease and the Tenant's interest hereunder shall be subject and subordinate at all times to any mortgage or mortgages, deed or deeds of trust, or such other security instrument or instruments, including all renewals, extensions, consolidations, assignments, and refinances of the same, as well as all advances made upon the security thereof, which now or hereafter becomes liens upon Landlord's interest in the Premises. The foregoing subordination shall be automatic without the need for any further instrument or act on the part of Tenant to effectuate such subordination.

18. Miscellaneous. All rights, powers, and privileges conferred hereunder upon Landlord shall be cumulative and not restrictive to those available under law or equity. No failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant with any obligation of Tenant hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof. Time is of the essence of each and every provision in this Lease. This Lease sets forth the entire agreement of the parties and there are no other covenants or agreements (whether oral or written) except as expressly set forth herein. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, permitted assigns, and legal representatives. This Lease may be executed in multiple counterparts and all such counterparts when taken together shall constitute one and the same instrument. The parties' signatures to this Lease may be delivered by e-mail, Docusign, or similar technology, and such signatures shall have the same force and effect as the original thereof. This Lease shall be governed by and construed under the laws of the State of Delaware. All disputes in connection with this Lease shall be resolved by a court of competent jurisdiction located in New Castle County, Delaware.

19. Hazardous Substances. Tenant shall not use, install, generate, or dispose of "Hazardous Substances", in, upon, or about the Premises. As used herein, "Hazardous Substance(s)" shall mean any material or substance which is: (i) petroleum or oil or gas or any direct or derivative product or byproduct thereof; (ii) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317; (iii) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); (iv) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601); (v) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; (vi) defined as such or regulated by any "Superfund" or "Superlien" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Substances and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect. If any Hazardous Substance(s) is found in, at, under, or about the Premises, or migrating therefrom, as a result of the acts or omissions of Tenant or Tenant Parties, Tenant shall promptly, at its sole cost and expense, remove and/or treat the same, as required by applicable laws and pay any fines or penalties imposed by any governmental authority in connection therewith. To the maximum extent permitted by law, Tenant hereby covenants and agrees to indemnify, defend, and hold Landlord harmless from and against any and all claims, actions, administrative proceedings, judgments, damages, penalties, costs, expenses, losses, and liabilities of any kind or nature that arise from or in connection with the presence, release, spill, or discharge of any Hazardous Substances in, on, or about the Premises resulting from the acts or omissions of Tenant or Tenant Parties. Without limiting the generality of the foregoing, the indemnity set forth above shall specifically cover any investigation, monitoring, and remediation costs.

20. City Ownership Acknowledgment. Tenant acknowledges and agrees that, as between the parties, the Premises are and shall at all times be deemed and treated as property of Tenant for all intents and purposes, including without limitation administration, control, use, liability, and occupancy, subject to the provisions of this Lease, including but not limited to, Landlord's obligation to pay real property taxes in Section 5.

21. Landlord Liability. To the maximum extent permitted by applicable law, Landlord shall have no liability, duty, or responsibility whatsoever with respect to the condition, maintenance, repair, operation, security, management, compliance, or use of the Premises, or any loss, injury, damage, claim, demand, action, suit, proceeding, penalty, fine, cost, or expense arising out of or relating to the Premises or the Tenant's Use or occupancy thereof, whether sounding in contract, tort, statute, or otherwise, except for liability arising from Landlord's gross negligence or willful misconduct. In no event shall Landlord ever be liable to Tenant for any punitive, consequential, treble, special, incidental, or indirect damages incurred by Tenant resulting from any cause whatsoever. Tenant specifically agrees to look solely to Landlord's then equity interest in the Property and Premises, or any insurance or sale proceeds of the Property, for recovery of any judgment from Landlord. In no event shall any of the partners, managers, members, officers, directors, shareholders, representatives, or employees acting on behalf of Landlord, or any successor in interest, nor any beneficiary of any trust of which any person holding Landlord's interest as trustee, be personally liable for any such judgment or claim by Tenant, or anyone claiming under Tenant.

22. Liens. Tenant shall not suffer or permit any mechanic's, materialman's, construction, tax, judgment, or other lien or encumbrance of any kind (collectively, "Liens") to be filed against the Premises or any portion of the Property by reason of any work, labor, services, materials, obligations, or liabilities of Tenant or anyone claiming by, through, or under Tenant. If any such Lien is filed, Tenant shall, at its sole cost and expense, within ten (10) business days after notice thereof, cause the same to be discharged of record, or shall bond around such Lien in a manner reasonably acceptable to Landlord.

23. Estoppel. At any time within fifteen (15) business days after request by Landlord, Tenant shall execute, acknowledge and deliver to Landlord, any Landlord Party, mortgagee, any purchaser, or any other person specified by Landlord, an estoppel certificate, modified to conform to the type of transaction or the circumstances for which the request is being made, e.g., mortgage, assignment, sale, etc. Failure of Tenant to timely respond to Landlord's request shall be deemed a certification by Tenant that the facts set forth in Landlord's submission to Tenant are true, correct and complete.

24. Prior Lease. To the extent any prior lease, amendment, or other agreement relating to the Premises exists between Landlord and Tenant (collectively, the "Prior Lease"), this Lease supersedes, replaces, and restates in its entirety the Prior Lease as of the Effective Date, and the Prior Lease shall be of no further force or effect from and after such date. This Lease constitutes the entire agreement between Landlord and Tenant with respect to the Premises, and there are no other agreements, representations, or understandings, oral or written, relating thereto except as expressly set forth herein.

25. Termination of Lease. After the expiration of the Initial Term, Landlord may terminate this Lease for any reason or no reason by giving thirty (30) days' written notice to Tenant of such termination, at the expiration of which this Lease shall automatically cease and terminate and Tenant shall be immediately obligated to quit the Premises. Any notice to quit or notice of Landlord's intention to reenter the Premises is expressly waived. If Landlord elects to terminate this Lease, everything contained in this Lease on the part of Landlord to be done and performed

shall cease without prejudice, subject however, to the right of Landlord to recover from Tenant all Rent and any other sums accrued up to the time of termination or recovery of possession by Landlord, whichever is later, and any other monetary damages or loss of reserved Rent sustained by Landlord.

26. Right of First Offer to Purchase the Premises. If Landlord intends to sell the Premises during the Term and provided no Event of Default then exists, Tenant shall have a right of first offer to purchase the Premises on the same terms and conditions at which Landlord proposes to sell the Premises to a third party. Landlord shall give Tenant written notice of its intent to sell and shall indicate the terms and conditions (including the sale price) upon which Landlord intends to sell the Premises to a third party. Tenant shall thereafter have sixty (60) days to elect in writing to purchase the Premises and execute a purchase and sale agreement with respect thereto and shall have an additional sixty (60) days to close on the acquisition of the Premises on the terms and conditions set forth in the notice provided by Landlord to Tenant; provided that prior to the execution of a binding purchase and sale agreement, Landlord shall retain the right to elect not to sell the Premises. If Tenant does not elect to purchase the Premises, then Landlord shall be free to sell the Premises to a third party. However, if the price at which Landlord intends to sell the Premises to a third party is less than ninety-five percent (95%) of the price set forth in the notice provided by Landlord to Tenant, then Landlord shall again offer Tenant the right to acquire the Premises upon the same terms and conditions offered to the third party, provided that Tenant shall have only thirty (30) days thereafter to complete the acquisition. This Section 26 shall not apply to the sale of the Property to [insert current purchaser's name].

27. Legal Counsel. Landlord and Tenant each acknowledge that it has had the opportunity to review this Lease with legal counsel of its choice, and there will be no presumption that ambiguities will be construed or interpreted against the drafter.

28. Exemption of Landlord Liability. Notwithstanding anything to the contrary herein, Landlord shall not be liable for any damage or injury to the person, business (or any loss of income therefrom), goods, wares, vehicle, merchandise or other property of Tenant, Tenant's employees, customers or any other person in or about the Premises, whether such damage or injury is caused by or results from: (a) fire, electricity, water, gas or rain; (b) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, or lighting fixtures or any other cause; (c) conditions arising in or about the Premises or upon other portions of the Property, or from other sources or places; or (d) any act or omission of any other tenant or third party on the Property. Notwithstanding anything to the contrary in the foregoing, Landlord shall be liable for any damage or injury caused by its gross negligence or willful misconduct.

29. Subdivision of Property; Cooperation. Tenant acknowledges and agrees that, as of the Commencement Date and throughout the Term of this Lease, Tenant is the tenant under this Lease with respect to the Premises described herein, which Premises currently form a portion of the larger Property. Tenant further acknowledges that Landlord intends, during the Term, to subdivide, lot-line adjust, or otherwise legally parcel-off the Premises from the remainder of the Property (the "Subdivision") and grant and convey such Premises to Tenant. Tenant agrees to use commercially reasonable efforts to cooperate with and support Landlord in connection with the Subdivision, including, without limitation, by executing and delivering such applications, consents,

acknowledgments, certificates, affidavits, surveys, boundary acknowledgements, estoppels, or other documents as may be reasonably required in furtherance of the Subdivision, provided that nothing herein shall be deemed to waive or limit Tenant's governmental, legislative, or regulatory powers or discretion, or require Tenant to act in any capacity other than as tenant under this Lease. Landlord shall be solely responsible, at its cost and expense, for obtaining all governmental approvals, permits, surveys, plats, and recordings required to complete the Subdivision; provided, however, that Tenant shall bear its own internal administrative costs and personnel time incurred in connection with such cooperation. Completion or non-completion of the Subdivision shall not affect the validity or enforceability of this Lease, nor Tenant's rights or obligations hereunder. Tenant further agrees to (a) respond to any written request from Landlord relating to the Subdivision within ten (10) business days after receipt (or such shorter period as may be required by applicable governmental deadlines, provided Landlord notifies Tenant of such deadline in writing); and (b) coordinate, as reasonably requested, with appropriate municipal departments or officials in Tenant's capacity as tenant of the Premises to acknowledge the Subdivision. Tenant's cooperation obligations under this Section are affirmative and continuing and shall not be unreasonably withheld, conditioned, or delayed.

[Signatures Follow on Next Page]

IN WITNESS WHEREOF, the parties have executed this Lease effective as of the Effective Date.

LANDLORD:

BOTTLING GROUP, LLC

_____
Witness

By: _____(SEAL)
Name:
Title:

[CORPORATE SEAL]

State of Delaware)
) ss.
County of New Castle)

On this _____ day of _____, 2026, there did appear before me, a Notary Public for the State and County aforesaid, _____, _____ of _____, who did execute the foregoing Lease Agreement on behalf of Bottling Group, LLC.

_____
Notary Public

[signatures continue on next page]

TENANT: **CITY OF WILMINGTON**

_____
Witness

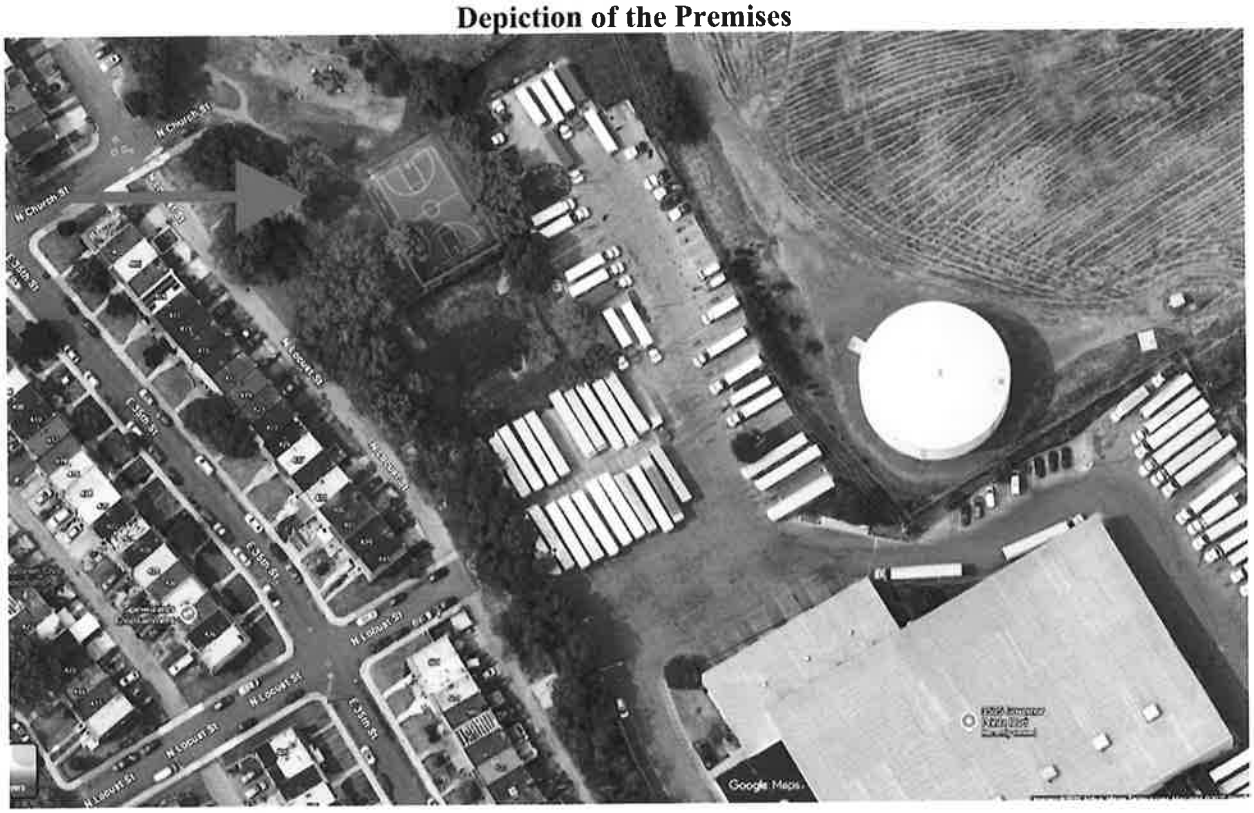
By: _____(SEAL)
Name:
Title:

[CORPORATE SEAL]

State of Delaware)
) ss.
County of New Castle)

On this _____ day of _____, 2026, there did appear before me, a Notary Public for the State and County aforesaid, _____, _____ of the City of Wilmington, who did execute the foregoing Lease Agreement on behalf of the City of Wilmington.

_____
Notary Public

Exhibit A

Depiction of the Premises