



THE FOUNDRY PLAZA SINGLE EVENT USE AGREEMENT

AGREEMENT CONCERNING USE OF FOUNDRY PLAZA IN DOWNTOWN LOVELAND (Single Event Use)

This AGREEMENT CONCERNING USE OF FOUNDRY PLAZA IN DOWNTOWN LOVELAND (“Agreement”) is entered into and made and effective as of the __ day of _____, 2021, by and between _____ (the “Tenant”) and Loveland Downtown Partnership, a Colorado nonprofit corporation (the “LDP”), each a “Party” and collectively, the “Parties.”

RECITALS

- A. Foundry Loveland Metropolitan District (the “District”) owns, operates, and maintains a venue, located at _____, and more commonly known as the Foundry Plaza (the “Plaza”), as further depicted on Exhibit A (the “Plaza”).
- B. District and LDP have executed a master agreement which provides for LDP to lease, on behalf of District, all or a portion of the Plaza to third parties;
- C. Tenant wishes to lease the Plaza for the purposes and under the terms and conditions stated herein.
- D. Pursuant to the rights and obligations granted by the master agreement, LDP agrees to such rental, occupation, and use of the Plaza by Tenant in consideration of certain covenants according to the provisions set forth herein.

NOW, THEREFORE, in consideration of the covenants herein, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Use of Plaza. TENANT and its invitees, guests, and/or participants are hereby permitted to lease and use the Plaza at such times and on such dates as set forth on Exhibit B (each an “Event”). TENANT agrees that TENANT’s lease and use of the Plaza shall be on a non-exclusive basis and that the Plaza shall remain open to the public during the Event. TENANT shall insure that the Plaza and any property or improvements located thereon are not damaged in any manner by virtue of such use, and TENANT shall be fully responsible for prompt repair in accordance with LDP’s instructions, at TENANT’s sole expense, of any such damage that shall occur. TENANT shall comply with any instructions of LDP concerning use of the Plaza hereunder and shall return the Plaza to the same state of cleanliness and orderliness as it was prior to TENANT’s use.
2. Event Rental Fees. Tenant agrees to pay LDP the rental amount of \$_____ (“Event Rental Fee”) for use of the Plaza for TENANT’s Event. The Event Rental Fee shall be due two weeks prior to the Event date, or at such other time as mutually agreed upon by both Parties. Payment of the Event Rental Fee may be made by credit card or check.
3. Security Deposit. Tenant shall deposit with LDP three hundred and no/100 Dollars (\$300.00) at the time of signing the Agreement, which will reserve Tenant’s Event date (“Security De-

posit"). Tenant acknowledges that the Security Deposit will NOT be applied toward the Event Rental Fee and shall become NON-REFUNDABLE if the Event is cancelled, rescheduled, or postponed by Tenant for any reason.

The Security Deposit will constitute a security deposit which will be used by LDP to apply towards payment to any damages to the Plaza beyond ordinary wear and tear. Tenant is responsible for all damage caused by act or neglect of TENANT, TENANT'S family, invitees, guests, licensees, or any other person in the employ or under control of TENANT that includes but is not limited to independent caterers, music bands, music disc jockeys, food servers, cooks, masters of ceremony act performers, event planners, and decorators. Further, TENANT shall be responsible for trespassers or uninvited third parties during term of the Event.

After inspection of the Plaza by LDP to determine the existence of any damages to property or equipment, LDP will deduct the amount of damages from the total deposit and refund the remaining deposit, if any, to TENANT.

4. Facility Access. All decorations, equipment, and other materials brought in for the Event by TENANT must be removed from the Plaza by the end of the event hours unless previous arrangements have been made with LDP.

5. Security. LDP reserves the right to determine whether security may be required at certain Events. If security is required, TENANT shall submit a plan to LDP outlining the details of the security (the "Security Plan") no less than five (5) business days prior to the scheduled Event, which is subject to review and approval by LDP prior to Event. TENANT shall be responsible for adequate security and peacekeeping measures through the policies established by LDP and/or TENANT during any set up of the Plaza and actual use of the Plaza. In addition, TENANT shall be responsible for procuring private security (one security officer per every hundred attendees) if alcohol is present.

6. Alcoholic Beverages. The sale or consumption of alcoholic beverages is prohibited at any Event unless prior to the respective Event, TENANT obtains the appropriate permits and insurances required under State law, and/or local ordinance/rule. Copies of all permits for consuming alcoholic beverages must be submitted to LDP at least five (5) business days prior to the respective Event. Failure to provide such permits within the time period specified herein shall result in revoking TENANT'S privilege of consuming or selling alcoholic beverages at the respective Event.

7. Additional Expenses. TENANT shall be responsible for all expenses incurred by LDP as a result of termination, cancellation, or rescheduling of TENANT'S Event. In addition, TENANT shall be liable for any physical damages, legal actions, and/or loss of reputation or business opportunities that LDP may incur as a consequence of the actions of TENANT or any of TENANT'S invitees, guests, or participants. Payment of these expenses shall be made immediately by TENANT upon receipt of itemized expenses by LDP. TENANT shall also reimburse LDP for any expenses incurred by LDP pursuant to this Agreement, including, but not limited to, utilities or other services provided for its use of the Plaza over and above the level normally provided to the Plaza.

8. Sublease. TENANT may not sublease the Plaza without prior written consent of the LDP, which may be withheld in LDP'S sole, subjective discretion.

9. Plaza Policies. TENANT acknowledges that it has received and reviewed a copy of the Plaza'S policies and agrees that TENANT and its invitees, guests and/or participants shall abide by all policies of the Plaza as set forth in Exhibit C (the "Plaza Policies"). LDP reserves the right to revoke TENANT'S lease of the Plaza for any Event in which in the judgement of LDP such use would violate any Plaza Policies or any condition upon which this Agreement was made or approved, or such use would not be in the best interest of LDP or the Plaza, in the sole subjective discretion of LDP.

10. Insurance Requirements. TENANT shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement:
- a. General Liability Insurance, including products and completed operations with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
 - b. Automobile Liability with a combined single limit of \$1,000,000.
 - c. Workers Compensation: Statutory limit (If TENANT has employees as defined by the State of Colorado).
 - d. If alcohol will be sold or consumed, TENANT shall provide a copy of a Certificate of Insurance that includes "Host Liquor Liability" (liquor provided but not sold) or "Liquor Liability" (liquor sold on premises) with a \$1,000,000 per occurrence limit.

Certificate Holder:
Loveland Downtown Partnership
201 East 4th Street
Loveland, CO 80537

Additional Insured:
LDP, its respective directors, officers, employees, and agents shall be named as additional insureds and loss payable beneficiaries, where applicable. Waiver of subrogation shall apply to General Liability and Workers Compensation insurance coverage (as applicable).

TENANT shall provide to LDP, a certificate of insurance evidencing that adequate insurance has been provided in accordance with the requirements of this paragraph not later than fourteen (14) days prior to commencement of TENANT's use of the Plaza. It is understood and agreed to by the Parties hereto that TENANT's insurance shall be construed as primary insurance, and LDP's insurance and/or deductibles shall not be construed as contributory.

11. Smoking/Drug Free: The Plaza, which includes any entrances, exits, or other areas immediately adjacent to the Plaza, has been designated as a smoke-free environment. The use or possession of any illegal drugs or substances is strictly prohibited. For purposes of this Agreement, "smoking" shall mean inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device.

12. Indemnity. During each Event, the Plaza will be under the sole control of TENANT, which hereby agrees to fully defend, indemnify, hold harmless, and release LDP, its directors, officers, employees, and agents from any and all liability or loss that may arise as a result, in any manner, from the use, occupancy, or activities of TENANT, its agents or invitees, guests and/or participants hereunder or otherwise as a result, in any manner, of this Agreement. This provision shall survive the termination of this Agreement.

13. Advertising. Promotional literature must contain full name and logo of the Plaza in all advertising and promotional material. Authorized logos shall be provided to TENANT by LDP. All signage shall be provided to LDP within five (5) business days of the Event for approval by LDP. TENANT hereby grants to LDP and its sublicensees, an irrevocable, non-exclusive license to use photos taken at the Event for the Downtown Loveland website (downtownloveland.org) or other advertising or promotional materials.

14. Force Majeure. TENANT shall not hold LDP responsible for failure to provide the Plaza for use on the date of the Event due to emergencies, catastrophes, or interruptions of public utilities.

If an Act of God were to occur preventing the Event from taking place as scheduled, LDP may allow for the Event to be rescheduled, pending availability, with no penalty.

15. Severability. If any provision of the Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

16. Applicable Law. This Agreement shall be governed by the laws of the State of Colorado. Any suit brought for enforcement of this Agreement shall be brought in the Courts of the County of Larimer, Colorado.

17. Attorneys' Fees. In the event any action is required to be filed by LDP in any court to enforce any provisions of this Agreement, LDP shall be entitled to an award of its costs and reasonable attorneys' fees.

18. Relationship of Parties. It is understood and agreed that no agency, employment, or partnership is hereby created by the Parties. It is agreed that TENANT will not make any representations which would create apparent agency, employment, or partnership with LDP and TENANT shall not have any authority to act for or on behalf of TENANT or the LDP in any manner or to create any obligations or debts which would be binding upon LDP or the Plaza. TENANT's ability to use the space for future events will be based on their performance of the Event and condition the space is left in.

19. No Assignment. The rights and privileges of TENANT under this Agreement shall not be assigned in whole or in part to any other party.

Executed this ___ day of _____, 2021.

TENANT:

LDP:
Loveland Downtown Partnership

BY: _____

BY: _____
Sean Hawkins, Executive Director

Date: _____

Date: _____

EXHIBIT A

(To Single Event Use Agreement for Foundry Public Plaza)

DEPICTION of The PUBLIC PLAZA

Legal Description: Tract A, Block 2, LOVELAND ELEVENTH SUB, LOV
(20170026758)



EXHIBIT B
(To Single Event Use Agreement for Foundry Public Plaza)

PLAZA POLICIES

1. Plaza Hours. The plaza is closed between the hours of 10:00 p.m. and 5:00 a.m., unless otherwise posted, and at any other times when the plaza has been fenced, locked, and/or temporarily closed to public use, except as authorized.
2. Plaza Use. Plaza use is on a “first come, first served” basis, unless the plaza facility has been reserved by permit.
3. Unauthorized motor vehicles. No motorized vehicles are allowed on sidewalks, bike paths, or turf areas.
4. Trash and dumping of trash/refuse. Disposal of all litter, trash, and debris generated during ordinary recreational use of the plaza is required of all plaza users. Dumping of refuse generated off-site is prohibited. Any trash or debris that cannot be placed inside a plaza trash receptacle must be removed from the plaza property by the plaza user(s).
5. Overnight Parking/Camping. Overnight parking or camping is prohibited.
6. Damage to District Property. Destruction, damage, or removal of District property is prohibited. Climbing on plaza sculptures is prohibited.
7. Weapons and firearms. Possession, display, brandishing, or use of any illegal or deadly weapon or firearm is prohibited. Weapons are defined as including, but not limited to, any lawn dart, slingshot, razor, dirk, dagger, or any knife with a blade over 3 ½ inches, nunchaku or throwing stars. Firearms are defined as including, but not limited to, any crossbow, bow and arrow, slingshot, blowgun, BB gun or pellet gun, whether powered with gunpowder, compressed air, or gas cartridges. It shall not be prohibited to carry a concealed handgun if, at the time of carrying the concealed handgun, the carrier possesses a valid permit.
8. Fireworks, fires or open flames, model rockets. Discharge or use of firearms, projectiles, or fireworks is prohibited. Open flames, grills, and candles are prohibited, subject to permitting.
9. Glass. Glass is not permitted.
10. Alcoholic beverages. Consumption or possession of alcoholic beverages is prohibited, unless in conjunction with an event for which a Plaza Special Use Permit has been issued and a proper permit for alcohol consumption has been issued as required by City of Loveland ordinance.
11. Disposables. Balloons, birdseed, rice, and confetti are prohibited.
12. Possession of illegal drugs or paraphernalia; public consumption of marijuana products. The possession of any illegal drug, substance or drug paraphernalia is prohibited. The public consumption of any marijuana product is prohibited.
13. Tents. Tents must be weighted down by water barrels, weights, or sandbags. Staking of tents into the ground is prohibited.

14. Signs. Signs and other items may not be attached to District property (e.g., fences, trees, or trash receptacles) and may not be staked into the ground. Signs may not be left in the plaza.
15. Use of athletic cleats or spikes. The use of athletic cleats or spikes, or any other footwear or gear that damages plaza turf is prohibited.
16. Wildlife. Feeding, hunting, or disturbing wildlife is prohibited. Fishing is prohibited.
17. Pets. Pets must be leashed and under human control at all times. Pet waste must be picked up and disposed of immediately. Dog owners and handlers who let dogs off-leash may be suspended or banned from the plaza.
18. Amplification and Noise. Amplified sound is prohibited, subject to permitting, with the exception of the approved events in which standard amplification for music, announcements, etc. all to fall within the approved time limits during a permitted event.
19. Fencing. Temporary fencing is prohibited, subject to permitting.
20. Permits & Event Rules. Any person or entity ("Customer") seeking to lease and use all or a portion of the Plaza for an event ("Event") shall be required to enter into a single event use agreement. In addition, any Customer seeking to lease and use all or a portion of the Plaza for an Event involving protests, marches and/or any other form of speech activity will be required to obtain a permit in addition to entering into a single event use agreement. The single use event agreement and, if applicable, permit may require a non-refundable application fee and a refundable damage deposit. Permits are not transferable and must be in the possession of the group during the Event. Event organizers are required to obtain all applicable permits (e.g., noise, alcohol, street closure) from applicable jurisdictions (e.g., the City of Loveland) and must comply with all applicable state and local statutes, ordinances, rules and regulations. The Customer is responsible for the actions of Event attendees.
 - a. Security Deposit. A refundable damage deposit of Three Hundred Dollars (\$300.00) is required for all Events. The Security Deposit will be returned following completion of the Event if the property used is cleaned and restored to the condition it was in prior to the Event. If the property used is not properly cleaned or restored, the Security Deposit or portion thereof shall be applied to the costs of clean-up, and the permit holder will be billed the actual costs of clean-up. Any unused portion of the Security Deposit will be refunded.
 - b. Parking Control. The Customer is responsible for parking control measures as may be required by the City of Loveland.
 - c. Insurance. The District may require commercial general liability insurance and other insurance coverage for any Event held at the Plaza.
 - d. Security. The District may require security services for Events, including, but not limited to, Events involving provision of alcohol or creating significant risk of injury to person or property to ensure public safety.