

**STREET DINING ON MAIN
OUTDOOR DINING LEASE 2023**

This Street Dining on Main Outdoor Dining Lease 2023 (the “Lease” or “Agreement”) is made and executed this ____ day of _____, 2023, by and between **PARK CITY MUNICIPAL CORPORATION**, a Utah municipal corporation, (the “City”, “Park City”, or “Landlord”) and _____, a Utah corporation, (the “Tenant”) located at _____, Park City, Utah.

RECITALS

WHEREAS, the City wishes to enable opportunities for restaurants on Main Street to be able to provide additional outdoor dining opportunities; and

WHEREAS, the City’s goals include the establishment of new and creative opportunities to facilitate the Main Street experience for residents and visitors alike during the shoulder and summer seasons; and

WHEREAS, the City’s goals include the preservation and enhancement of Park City’s character regarding Old Town and the desire to strengthen the pedestrian experience along Main Street; and

WHEREAS, the City recognizes the desire of many visitors and residents to dine outdoors along historic Main Street; and

WHEREAS, the City’s General Plan recommends utilizing street design techniques to encourage slower traffic speeds and a more intimate pedestrian-oriented scale; and

WHEREAS, the City’s goals include maintaining and furthering the resort community’s economic opportunities, as well as enhancing the economic viability of Park City’s Main Street Business District.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

TERMS & CONDITIONS OF LEASE

Based upon good and valuable mutual consideration, the Parties agree as follows:

1. **PROPERTY.** The property affected by this Lease is generally described as the street area and sidewalk directly fronting Tenant’s building located at _____, which has a length of ____ feet (X# of parking spaces), and more specifically described in site plan **Exhibit A**, attached hereto and

incorporated herein by this reference, (the "Premises"). The length of the outdoor dining deck per restaurant may not exceed forty feet (40').

2. RENT. Annual rent is for the use of the street for the deck is _____ Dollars (\$XXXX.00) per parking space of a linear length. Tenant shall be solely responsible for payment of any and all costs associated with Tenant's performance under this Lease, including but not limited to additional business licensing fees, insurance, sales taxes and other expenses.
3. TERM. Unless otherwise delayed, suspended or terminated by Summit County health order(s), the term of this Agreement shall commence on _____, 2023, and shall terminate on October 30, 2023 ("Term") unless terminated earlier as provided herein. The Premises may only be utilized for a six (6) month period commencing on _____ 2023, and terminating on October 30, 2023, except the Premises may not be used during the 2023 Kimball Arts Festival (August 4, 2023 through August 6, 2023) unless Kimball Art Center consents in writing to allow Tenant to use the Premises. Additional term restrictions are attached hereto and incorporated herein by this reference in **Exhibit B** (Street Dining Operational Restrictions). This Agreement may be terminated by Park City upon a finding of non-compliance of this Agreement or the attached operational restrictions.

The use of the Premises shall not conflict with any previously existing Special Event recipients on Main Street, specifically the Arts Fest ("Kimball Art Center"). The Kimball Art Center has been leased exclusive use of Main Street in August. The Premises must be vacated (i.e., removal of decks) no later than 10:00 a.m. MT on Thursday, August 3rd, 2023 for the duration of Arts Fest (including set-up and breakdown) unless the Kimball Art Center consents in writing to allow Tenant's use of the Premises. If the outdoor dining structure is not removed as required, the Landlord will remove the structure at Tenant's cost. **The dates of the 2023 Kimball Arts Festival are subject to change, and as such the vacating of the Premises shall occur at 10:00 a.m. the day prior to the Arts Fest.**

4. MAIN STREET IMPROVEMENTS. If at any time the street dining deck needs to be removed due to construction related to Main Street improvements, the City will give each affected street dining business owner a minimum of seventy two (72) hours to have their decks removed. The City will not be responsible for any associated costs involving deck removal/placement or potential lost revenue.
5. USE OF PREMISES. Tenant may use the Premises only for outdoor dining services in a manner consistent with applicable Summit County health orders, Section 15-2.6-12(B)(1) of the Park City Land Management Code and the terms of this Agreement. Additional operational restrictions which must be complied with as part of the conditions of this Lease are attached hereto and incorporated

herein in **Exhibit B**. Park City makes no representations regarding the Premises and Tenant accepts the Premises "AS IS."

6. **IMPROVEMENTS TO THE PREMISES.** Tenant shall not make any improvements to the Premises without first obtaining Park City's written consent. Any improvements approved by Park City shall be completed at Tenant's sole expense and removed at Tenant's sole expense upon expiration of this Agreement. No permanent alterations to the City's property are permitted.
7. **SIGNS.** No signs shall be permitted on the Premises except as specifically approved by the Park City Municipal Corporation Planning Department pursuant to the Park City Sign Code and/or Tenant's Master Sign Plan.
8. **INSURANCE.** Tenant shall, at Tenant's sole expense, carry a policy of general liability insurance in an amount of at least Two Million Dollars (\$2,000,000) per combined single limit per occurrence and Three Million Dollars (\$3,000,000) per aggregate for personal injury, bodily injury and property damage. Park City shall be named as an additional insured by endorsement on each policy. Tenant's insurance is to be primary to Park City's and Park City's insurance shall be non-contributory. A certificate of insurance naming Park City as an additional insured shall be provided to Park City on or before the Lease commencement. Insurance shall be maintained continuously during the term of the Lease and should any of the above described policies be cancelled before the expiration date thereof, Tenant shall deliver notice to Park City within thirty (30) days of cancellation. Tenant may carry whatever other insurance Tenant deems appropriate. The parties agree that Tenant's sole remedy in the event of business interruptions, fire, windstorm, or other loss from hazard shall be its own insurance and Tenant will have no action against Park City. Park City is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act on behalf of either entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect Park City for liability or allegations arising out of the Tenant's use of the Premises.
9. **HOLD HARMLESS.** Tenant covenants and agrees to defend, indemnify, and hold Park City harmless from all claims, loss, damage, injury or liability (hereafter "Liability") resulting from Tenant's use and occupancy of the Premises to the full extent permitted by law and/or the Utah Governmental Immunity Act, including reasonable attorney's fees, but excluding any liability resulting from acts or omissions of Park City, its officers, employees or agents. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. Sections 63-30-1, et seq.), as amended. The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act. In case of an emergency including but not limited to a flood, storm drain, or utility, the structure may be removed or damaged by response teams at the cost of the Tenant.

Tenant shall indemnify, protect and hold the Landlord harmless from and defend (by counsel reasonably acceptable to Landlord) the Landlord against any and all claims, causes of action, liability, damage, loss or expense (including reasonable attorneys' fees and costs and court costs), statutory or otherwise arising out of or incurred in connection with (i) the use, operation, occupancy or existence of the Premises or the presence of visitors, or any other person, at the Premises during the Term, (ii) any activity, work or thing done or permitted or suffered by Tenant in or about the Premises, (iii) any acts, omissions or negligence of Tenant, any person claiming through Tenant, or the contractors, agents, employees, members of the public, invitees, or visitors of Tenant or any other such person ("Tenant Party" or "Tenant Parties"), (iv) any breach, violation or nonperformance by any Tenant Party of any provision of this Lease or of any law of any kind, or (v) except to the extent resulting from any negligence or intentional torts of Landlord.

10. ASSIGNABILITY. Tenant shall not assign or transfer any interest in this Agreement without the prior written consent of Park City. Any assignment or transfer without written approval is void.
11. PROFESSIONAL PERFORMANCE. Tenant agrees to perform services under this Agreement at the highest professional standards, and to the satisfaction of Park City.
12. COUNTERPARTS. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.
13. ELECTRONIC SIGNATURES. Each party agrees that the signatures of the parties included in this Agreement, whether affixed on an original document manually and later electronically transmitted or whether affixed by an electronic signature through an electronic signature system such as DocuSign, are intended to authenticate this writing and to create a legal and enforceable agreement between the parties hereto.
14. APPLICABLE LAW. This Agreement shall be governed by the laws of the state of Utah.
15. ENTIRE AGREEMENT. This Agreement constitutes the entire and only agreement between the parties and it cannot be altered or amended except by written instrument, signed by both parties.

Executed the day and year first above written.

Tenant:

a Utah corporation,
dba

By: _____
Name Printed:

Title: _____

THE CITY REQUIRES THE TENANT TO COMPLETE EITHER THE NOTARY BLOCK OR THE UNSWORN DECLARATION, WHICH ARE BELOW.

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this _____ day of _____, 2023, personally appeared before me _____, who being duly sworn, did say that he/she is the _____ of _____, a Utah corporation, **dba** _____, and acknowledged to me that the preceding Agreement was signed on behalf of the company, and he/she acknowledged that the company did execute the same for its stated purpose.

Notary Public

PARK CITY MUNICIPAL CORPORATION,
a Utah municipal corporation

By: _____
Nann Worel, Mayor

Attest:

Approved as to form:

Michelle Kellogg, City Recorder

City Attorney's Office

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.
Signed on the ____ day of _____, 2023, at _____
(insert State and County here).

Printed name _____

Signature: _____

DRAFT