

City of Concordia
BROADWAY PLAZA CONCESSIONAIRE AGREEMENT

This AGREEMENT is made _____, 20____, by and between Cloud Corp, acting for the City of Concordia as Manager of Broadway Plaza (the Manager) and _____
(the Concessionaire).

1. *The Concession.* The Concessionaire will operate a food/beverage concession from the concession stand at Broadway Plaza from _____ .m. to _____ .m. on _____, 20____.

2. *Scope of work.* The Concessionaire will provide high quality food and beverages to the general public, will offer prompt, courteous, and convenient service, and will maintain the concession stand in a safe and sanitary manner..

3. *Manner of operation.* The Concessionaire will determine the types of food and beverages to be offered, will set the prices, will purchase all supplies with the Concessionaire's own funds, will hire, train, direct, control, and discharge such employees as the Concessionaire desires, will obtain any required licenses and permits, will collect and pay all applicable taxes, will obtain all required permits or licensing, and in general will oversee and operate the concession stand as the Concessionaire thinks fit. All profits from the operation of the concession stand will go to the Concessionaire, and any losses will be borne by the Concessionaire.

4. *Facilities and equipment.* The city will provide water, electricity, and lighting to the concession stand at no cost to the Concessionaire. All other equipment will be provided by the Concessionaire.

5. *No Tobacco.* Broadway Plaza is a tobacco free facility. No tobacco may be sold or used at the concession stand.

6. *Non-discriminatory.* The Concessionaire will be an equal opportunity employer. The Concessionaire will not discriminate against any employee or applicant for employment or customer because of race, color, religion, age, sex, disability, or national origin.

7. *Limited use.* The Concessionaire's use of the concession stand is limited to those activities necessary or convenient for the operation of the concession granted by this agreement.

8. *Signs.* The Concessionaire will not place any signs or advertisements on the exterior of the concession stand or elsewhere in Broadway Plaza without the approval of the Manager.

9. *Hazardous Activities or Materials.* The Concessionaire will not allow the concession stand to be used in any manner that might invalidate or increase the rate of insurance on any policy maintained by the City; will permit to be kept at the concession stand any flammable fluids, toxic materials, or substances reasonably deemed dangerous by the City or the

City's insurance carriers; and will not use the concession stand for any purpose that creates a nuisance.

10. *Maintenance.* Maintenance and repair of the concession stand and the related plumbing, water lines, and sewer lines will be the responsibility of the City, except that the Concessionaire will be liable for the cost of any repair necessitated by the negligent or intentional acts of the Concessionaire or the Concessionaire's agents or employees. Insofar as reasonably possible, maintenance and repair will be done at times other than the hours of operation required by this agreement.

11. *Access and Inspection.* Employees or agents of the City may enter the concession stand at any reasonable time for the purpose of inspecting the premises.

12. *Concession fee.* The Concessionaire will pay to the City a concession fee of \$_____, payable in advance of the concession date. In addition, a \$_____ damage deposit will be paid when keys to the concession stand are given to the Concessionaire. The damage deposit will be returned if the concession stand is returned to the City at the end of the concession period in as good condition as when the Concessionaire took possession, fair wear and tear and maintenance obligations of the City excepted.

13. *Guidelines and Standards of Operations.* The Concessionaire will maintain the food preparation area, serving counters, and all equipment, materials, utensils and other items used at the concession stand, in a clean, safe, sanitary manner. The Concessionaire will store, prepare, and display the food and beverages in a clean, safe, and sanitary manner. The Concessionaire will keep the concession stand clear of broken glass, litter, debris, and garbage. The Concessionaire will dispose of any waste water or other waste fluid in the sanitary sewer. In the event waste fluids may not legally be disposed of in the sanitary sewer, the Concessionaire is responsible for disposing of same in an appropriate and lawful manner. The Concessionaire will comply with all applicable health and sanitation laws and regulations.

14. *Indemnification.* The Concessionaire agrees to indemnify and hold harmless the City, its officers, employees, and insurers from and against all liability, claims, penalties and demands on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, failure to obtain or comply with any required permits or licenses, or any other loss of any kind whatsoever, which arise out of Concessionaire's operation of the concession stand. If such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of the Concessionaire or any officer, director, shareholder, member, employee, representative, or agent of the Concessionaire, or which arises out of any workers' compensation claim of any employee of the Concessionaire or of any employee of any subcontractor of the Concessionaire, then the Concessionaire agrees to investigate, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of the Concessionaire, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such

liability, claims, or demands alleged are groundless, false, or fraudulent,

15. *Attorney Fees.* If any action is brought on account of any breach of this agreement, or for the recovery of the possession of the concession stand, or otherwise, the prevailing party will be entitled to recover from the other party, as part of prevailing party's costs, reasonable attorneys' fees, the amount of which will be fixed by the court and will be made a part of any judgment.

16. *Termination or suspension.* The City may terminate this agreement immediately if the Concessionaire fails to operate the concession stand at the times and in the manner described in this agreement. The Concessionaire may terminate this agreement if the city fails to provide and maintain the concession stand and equipment as described in this agreement, or may suspend performance of this agreement until the concession stand and equipment is made operable. If an event planned for the date of the concession is postponed or canceled due to weather or some other cause beyond the control of the Concessionaire, and as a result Concessionaire decides not to operate the concession, the Concessionaire's fee will be refunded. Partial refunds will not be made if the concession is operated for any period of time.

17. *Delivery after Termination.* The Concessionaire will vacate the concession stand promptly after the rental period and will leave all City-owned equipment in as good condition and state of repair as when received, except for ordinary wear and tear, or loss and damage not otherwise caused by Concessionaire. Any items of food, supplies, or equipment remaining in the concession stand after the concession period will be considered abandoned and may be disposed of by the City in any manner.

18. *Independent Contractor.* The Concessionaire is an independent contractor. Neither the Concessionaire nor any employee or agent of the Concessionaire are employees or agents of the City or CloudCorp, nor is the Concessionaire engaged in a joint venture or partnership with the City or CloudCorp. Neither the Concessionaire nor the Concessionaire's employees or agents are entitled to any City or CloudCorp benefits, including vacation, worker's compensation, sick pay, any kind of insurance, or any other benefits.

19. *Entire Agreement.* This is the entire agreement between the parties and there are no other terms, obligations, covenants, representations, statements, or conditions, oral or written, of any kind whatsoever. Any agreement hereafter made will be ineffective to change, modify, discharge or effect an abandonment of this writing.

20. *Severability.* If any clause or provision of this agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this agreement, then and in that event, it is the intention of the parties hereto that the remainder of this agreement will not be affected thereby.

CLOUDCORP

CONCESSIONAIRE

By _____
