

## AGREEMENT FOR OUTDOOR DINING

Made this \_\_\_\_ day of \_\_\_\_\_, 2022 between: The CITY OF ITHACA, a municipal corporation with offices at 108 East Green Street, Ithaca, New York, hereinafter called the "City",

And

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Name of Business and Owner

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Address:

herein after called the "Applicant"

### WITNESSETH:

WHEREAS, the Applicant is desirous of having Outdoor Dining at their business located above and the City is desirous of allowing the Applicant to provide such amenity;

NOW, in consideration of the covenants, conditions, and provisions contained herein, it is hereby AGREED as follows:

1. The Applicant's outdoor dining site is located at the above address.
2. The term of this agreement shall be:
  - Annual Permit from **April 1, 2022** to **March 31, 2023** (\$1.80 per sq. ft.)
  - Seasonal Permit from **April 1, 2022** to **October 31, 2022** (\$1.50 per sq. ft.)

The hours of operation are: \_\_\_\_\_ AM/PM to \_\_\_\_\_ AM/PM.

3. The Applicant has submitted the following fees. Use fees are calculated by the amount of space used.

\$ 100 / 50 New/Returning Application Fee

\$ \_\_\_\_\_ Use Fee ( \_\_\_\_\_ square feet X \$1.50 or \$1.80 per square foot)

\$ \_\_\_\_\_ **Total**

4. The applicant acknowledges that all fees are nonrefundable unless otherwise specified herein.
5. Applicant agrees that by signing this Agreement, Applicant has reviewed and shall comply with all provisions of the City of Ithaca Outdoor Dining Regulations and the applicable Outdoor Smoking Regulations as set forth in the City Code §280-4, which are attached and included with this agreement as Attachment A. The Outdoor Dining Information Packet is hereby attached and made a part of this Agreement by reference.

6. Applicant has provided the City with all applicable documentation as noted in Attachment A and is hereby attached and incorporated by reference into this Agreement.
7. Applicant affirms that all representations made on the application form, and in any document in connection therewith, are truthful and suffer from no material omissions. Applicant shall conspicuously display the permit at all times during outdoor dining operations.
8. The Applicant hereby agrees to:
- Comply with all applicable local, state, and federal laws, ordinances, and regulations.
  - Comply with any directive of the Superintendent of Public Works or his/her designee.
  - Refrain from utilizing outdoor dining space after this agreement has expired or the agreement is suspended or revoked.
  - Surrender any rights under this outdoor dining agreement promptly upon revocation or suspension of the agreement. In the event the Applicant fails to cease outdoor dining operation, the City may take all necessary measures to effect removal of the Applicant's property from city property and enforce termination of the Applicant's rights under this agreement.
9. Any business who violates the guidelines regarding the placement of outdoor dining furniture and fixtures shall receive a written warning letter for the first violation from the Office of the Superintendent of Public Works. The business shall be liable for a penalty of \$250 for the second violation in a 12 month period, \$500 for the third violation in a 12 month period, and \$1,000 for the fourth and subsequent violations in a 12 month period. In lieu of a \$1,000 fine, the business may agree to a temporary permit revocation of seven (7) consecutive days within a month from when the violation is served. **Violations of City Code §157 could be a basis for denying any future outdoor dining applications.**
10. The City may terminate this agreement at any time without cause, in which case the applicant shall be reimbursed for the period of time which would be remaining on the agreement if the agreement were not terminated before expiration.
11. The City may terminate this agreement for cause, including but not limited to:
- Violation of the Operational Guidelines listed in Attachment A, Outdoor Dining Information Packet.
  - Fraud, misrepresentation or false statements in the agreement application.
  - Violation of any ordinances, regulations or laws applicable to the holder of such agreement.
12. If the agreement is terminated for cause, the agreement period shall end immediately, and no refunds will be issued. Notice of proposed suspension or revocation of an agreement for outdoor dining shall be given in writing, setting forth

specifically the grounds of the complaint. The applicant shall have a right to a hearing in front of the Board of Public Works on the proposed revocation or suspension.

13. The Superintendent of Public Works shall have the right to terminate or re-instate the agreement. Such decision shall become effective immediately.

14. Applicant shall indemnify the City of Ithaca and hold it harmless (which shall include but be not limited to Applicant's responsibility for the City's reasonable attorney's fees and costs) with regard to any and all claims arising from the use of the premises as herein contemplated and permitted.

15. The Applicant shall not discriminate against any employee, applicant for employment, subcontractor, supplier of materials or services or program participant because of actual or perceived age; creed; color; disability; domestic violence victim status; ethnicity; familial status; gender; gender identity or expression; height; immigration or citizenship status; marital status; military status; national origin; predisposing genetic characteristics; race; religion; sex; sexual orientation; socioeconomic status; or weight.

16. Workers' Compensation and Disability Coverage: A condition for entry into this agreement is the presentation by the applicant to the City of Ithaca of either proof that the applicant provides the levels of workers' compensation and disability coverage required by the State of New York or that the Applicant is not required to provide such coverage.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

**CITY OF ITHACA:**

BY: \_\_\_\_\_  
Superintendent of Public Works

DATE: \_\_\_\_\_

**APPLICANT:**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

DATE: \_\_\_\_\_

**APPROVAL AS TO FORM:**

BY: \_\_\_\_\_  
City Attorney

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
City Controller

DATE: \_\_\_\_\_