



HOST AGREEMENT

This Agreement is made by and between the City of Lewisville, Texas (the "City") and Cloud9 Charities ("Cloud9") regarding **Best Little Brewfest in Texas**, which will be held in Old Town Lewisville on Saturday, October 20, 2018, and provides the following terms and conditions:

A. Cloud9 agrees to:

1. Hold the Best Little Brewfest in Texas (the "Event") on the above date, said Event to include a beer-tasting with at least 40 independent breweries present at the festival, live entertainment, and marketing intended to bring visitors to Old Town Lewisville.
2. Hold the Event in full accordance with all applicable state and federal laws and city codes and ordinances.
3. Use commercially reasonable efforts to recruit volunteers, hire and oversee vendors or contractors needed for Event logistics, recruit and coordinate Event participants and vendors, pay all bills associated with the Event, promote the Event to the public, and otherwise manage the planning and logistical aspects of the Event.
4. Actively recruit and secure cash and in-kind sponsors for the Event and negotiate reduced pricing from vendors to the extent possible.
5. Submit a completed Special Events Permit Application form to the City by September 1, 2018, and abide by all reasonable requirements assigned by the Special Events Committee.
6. Provide a final Site Plan for the Event no later than September 1, 2018, with any change made after that date subject to City approval.
7. Refer to the Event location in all marketing and Event materials as "Lewisville, Texas" or "Old Town Lewisville" or "Main & Mill Entertainment District in Lewisville" or "Wayne Ferguson Plaza" or some pre-approved combination of those names.

8. Provide the City the opportunity without charge to distribute promotional materials to Event attendees, either through a vendor booth or through another mutually agreed outlet.
9. Assist the City in reasonable efforts to obtain an accurate count of Event participants and attendees.
10. Take reasonable steps to encourage Event participants and attendees who need overnight lodging to use a hotel located within the municipal boundaries of Lewisville, Texas.
11. To the extent possible, take reasonable steps to use Lewisville merchants when making purchases or hiring services related to conducting the Event.
12. To reimburse the City for any compensation paid by City pursuant to Section F of this Agreement if Cloud9 fails to hold the Event as required by this Agreement. If an act of Force Majeure (described in Section L) occurs on the day of the event, thereby preventing Cloud9 from holding the event in accordance with this Agreement, the reimbursement requirements to the City shall be waived.

B. The City agrees to:

1. Assist Cloud9 in preparing and submitting the Special Events Permit Application form, and in preparing a request to City Council to waive fees associated with the permit. It is understood that this agreement does not bind the City Council, in whole or part, to any specific future action.
2. Provide a letter to the Texas Alcoholic Beverage Commission acknowledging the Event and authorizing the activities to take place on the public streets and public spaces, on or before October 1, 2018.
3. Provide access to City-owned materials as described in Exhibit B and to City personnel needed to operate said equipment or as otherwise directed by the Special Events Committee. Damage to City-owned materials or facilities that is caused by the deliberate or negligent act of Cloud9 or its agents, beyond usual wear and tear, will be compensated at market-based repair or replacement value.
4. Arrange with Waste Management of Texas for use at no cost to Cloud9 of commercial-style dumpsters at the Event site, including delivery and removal of said dumpsters.
5. Promote the Event through currently available outlets including, but not limited to, electronic newsletter, City cable channel, City online outlets, digital billboards and media releases. Any effort that will incur additional expense to the City (such as printing or paid advertising) shall be approved solely at the discretion of the City.

6. Assist Cloud9 to identify at least one and as many as three official Event hotels, based on expected need, with guaranteed rates and room blocks associated with the Event date.

C. **PRODUCTION SERVICES:** If so desired by Cloud9, the City will provide at no charge to Cloud 9 the staff and expertise needed to perform the following production services in relation to the Event:

- a. Creating the overall Event site plan and site plan layout
- b. Submitting and processing the required Special Event Permit
- c. Developing a street closure plan
- d. Supervising tent and vendor placement
- e. Supervising food vendor placement
- f. Creating and implementing a vendor load-in plan
- g. Assessing need, placement and services for portable restrooms
- h. Establishing perimeter fence line and supervising installation
- i. Coordinating police, fire and first aid presence at the Event
- j. Working with the selected vendor to plan and implement a power layout
- k. Developing and implementing a plan for placement of on-site Event signage
- l. Coordinating services from other City departments and Waste Management
- m. Securing and supervising stage operation and management staff
- n. Creating and supervising a load-in and removal schedule for Event services
- o. Notifying property owners, residents and businesses affected by Event site

Vendor interactions would include gathering price quotes, selecting a vendor, arranging placement and delivery of the contracted equipment, managing use of the contracted equipment, and arranging removal of the contracted equipment. Cloud9 would have the opportunity to contact potential vendors and request discounted or donated services and equipment, but only prior to a vendor agreement being signed. Invoices would be submitted to Cloud9 for payment.

Event site plan would be developed in consultation with Cloud9. Significant changes to the site plan would be submitted to Cloud9 for approval, with the understanding that significant changes made within 72 hours of the Event would require only verbal approval by Cloud9. Incidental changes made by the City to the site plan would not require approval by Cloud9. Any site plan changes that in the opinion of City staff are needed to protect the safety and welfare of Event attendees or participants will be made without advance approval, but Cloud9 will be notified about the change and the reason for the change as soon afterward as is reasonable.

If Cloud9 chooses to activate this portion of the Agreement (Section C), written notice must be received and acknowledged by the City no later than 90 calendar days prior to the event date (on or about July 20, 2018).

- D. **TERM:** The term of this Agreement will be from date assigned, to November 1, 2018, and will include all services needed to conduct and review the Event being held on October 20, 2018.
- E. **RIGHT OF FIRST NEGOTIATION:** Cloud9 hereby grants the City the right of first negotiation to have the 2018 Event be located in Old Town Lewisville. The right of first negotiation shall commence on the Effective Date and will expire on February 1, 2019 (the "Negotiation Term"). If Cloud9 decides to hold the Event or a substantially similar event during the Negotiation Term, Cloud9 shall notify the City in writing of the terms on which Cloud9 is willing to hold the Event (i.e. the amount of necessary monetary and in-kind contributions from the City). The City shall have the option for a period of sixty (60) days after receiving such notice to negotiate with Cloud9 regarding the proposed terms. If at the end of 60 days a written agreement between the City and Cloud9 has not been entered into, the right of first negotiation shall terminate
- F. **COMPENSATION:** The City will fund up to \$20,000 in Event expenses, limited to the expense categories described below. No expenses beyond \$20,000 will be paid by the City.
 - a. Tent rentals
 - b. Table/chair rentals
 - c. Linen rentals
 - d. Generator rentals
 - e. Air-conditioner rentals for tents
 - f. Light rentals for tents
 - g. Portable restroom rentals
 - h. Temporary fencing rental
 - i. Communication device rentals (e.g. radios)
 - j. Printing of vertical pole banners (up to 25)
 - k. Creation of over-the-street banner or banners
 - l. Printing of marketing materials (posters, fliers, etc.)
 - m. Printing of promotional items (shirts, coasters, etc.)

Payment for the listed expenses will be made in a single payment upon receipt of an invoice from Cloud9 and approval thereof by the City. The City reserves the right to request additional justification prior to payment of any invoice. If

satisfactory justification is not received, the City reserves the right to amend the invoice or to refuse to make payment without incurring penalty or interest. Invoice must be received by the city prior to **September 1, 2018**.

It is understood by both parties that this Agreement is for the October 20, 2018 Event only and no obligation for future support is assumed. It is the intent of the City that, as the Event grows and other sponsorship is received, the need for cash support from the City will be reduced or eliminated.

- G. **EXPENSES/REVENUE:** Unless otherwise assigned in this Agreement, all expenses related to conducting the described Event will be the responsibility of Cloud9 charities. All revenue generated by gate admissions, vendor fees and sponsor payments will be assigned in total to Cloud9 charities.
- H. **FINANCIAL REPORTING:** No later than 45 days after the conclusion of the Event, Cloud9 will submit to the City a detailed financial report for the Event including at minimum revenue itemized by income category, list of sponsors with name and value of support, and itemized expenses with copies of all paid invoices, and the final Event budget. In particular, this report will include a list of all expenses paid using the City's monetary contribution described in this Agreement, including copies of paid invoices for those expenses. The City shall require immediate reimbursement for payment of any expenses that fall outside the categories described in Section F above.
- I. **INSURANCE:** Cloud9 agrees to maintain, at its sole expense throughout the performance of services described in this Agreement, minimum insurance coverages described in Exhibit A plus additional Host Liquor coverage as needed. The City agrees to provide a letter stating its status as a self-insurance entity and to maintain such coverage for the duration of the Agreement.
- J. **INDEMNIFICATION:** Cloud 9 agrees to defend, indemnify and hold the City, its officers, agents and employees harmless against any and all claims, lawsuits, judgments, costs, attorney's fees, and expenses for personal injury (including death), property damage, negligence or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the Event or Cloud 9's breach of any of the terms or provisions of this Agreement. This indemnity shall not apply to any liability resulting from the sole negligence or fault of the City, its officers, agents, employees or separate contractors. The provisions of this paragraph

are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

- K. **LEGAL JURISDICTION:** The Parties agree that if legal action is brought under this Agreement, exclusive venue shall lie in the courts of Denton County, Texas, and its terms and provisions, as well as the right and duties of the Parties hereunder, shall be governed by the laws of the State of Texas.
- L. **TEXAS GOVERNMENT CODE CHAPTER 2270:** Pursuant to Texas Government Code Chapter 2270, Producer affirms that the execution of this Agreement serves as written verification that Producer: (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the Agreement.
- M. **TEXAS GOVERNMENT CODE CHAPTER 2252:** Pursuant to Texas Government Code Chapter 2252, Subchapter F, Producer affirms, by entering into this Agreement that is it not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to Iran, Sudan, or a foreign terrorist organization.
- N. **FORCE MAJEURE:** If by reason of Force Majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. So far as that party's obligations and ability to perform are affected by such Force Majeure, such obligations and performance shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God; strikes, lockouts, or other industrial disturbances; act of public enemy; orders of any kind of government of the United States or the State of Texas or any civil military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines or canals; or other causes not reasonably within the control of the party claiming such inability.

- O. **AMENDMENTS:** This Agreement may be amended or modified only by the mutual agreement of the Parties. Such amendment or modification must be in writing and executed by an authorized representative of each Party.

SIGNATURE PAGE TO FOLLOW

ACCEPTED AND AGREED:

CLOUD9 CHARITIES

By: Daynor Stinson

Printed Name: Daynor Stinson

Title: EVENT DIRECTOR

Date: MAY 14, 2018

CITY OF LEWISVILLE, TEXAS

151 W. Church Street
Lewisville, Texas 75057

By: ~~Donna~~ Barron, City Manager

Donna Barron

Date: May 16, 2018

EXHIBIT B

SPECIAL EVENTS EQUIPMENT INVENTORY

The following equipment owned by the City will be available for use in connection with the contracted event. Equipment will be used under supervision of City staff. (List is current as of Jan. 1, 2015.)

Tents

10x10	50
20x20 (canopy only)	5
30x100 ^a	1

Materials

Folding Tables (6')	115
Folding Chairs	200
Hand Sanitizer Stations	6
Ice Chests (150qt)	15
Cooling Box Fans	3
Bike Rack (8' lengths)	7300'

Marketing

A-Frame Signs	24
Four-sided banner mounts ^b	4

Sounds/Stage

20x24 Sectional Stage	1
PA System ^c	1
WFP stage	1

^a can be divided into sections to form other sizes (30x30, 30x60, etc.)

^b mounts hold four banners measuring 4' by 8' each, to be provided by the client per city specifications

^c includes mixer, amps, main speakers, monitor speakers, mikes, cables, stands and sound tech if requested