

## SECOND AMENDATORY AGREEMENT

**THIS SECOND AMENDATORY AGREEMENT** is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City"), and **SWIRE PACIFIC HOLDINGS INC.**, a Delaware corporation, located at 12634 South 265 West, Draper, Utah 84020.

### WITNESSETH:

**WHEREAS**, the City and the Sponsor previously entered into an Agreement dated January 22, 2018 as amended April 21, 2021 relating to exclusive sponsorship services (collectively, the "Agreement"); and

**WHEREAS**, the parties have determined to revise the benefits and fees;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and obligations herein set forth, the parties agree as follows:

1. The Sponsorship Benefits schedule is attached hereto and incorporated herein as **Exhibit A-1** and all references to "**Exhibit A**", are hereby amended to read "**Exhibits A and A-1**, as applicable
2. The Sponsorship Rights Fee schedule is attached hereto and incorporated herein as **Exhibit B-2** and all references to "**Exhibits B and B-1**, as applicable " are hereby amended to read "**Exhibits B, B-1 and B-2**, as applicable".
3. The additional approval of bond counsel, required by paragraph 2.3 is attached hereto and incorporated herein as **Exhibit D-2** and all references to "**Exhibits D and D-1**" are hereby amended to read "**Exhibits D, D-1, and D-2**".
4. The Sponsorship Rights Fee schedule is attached hereto and incorporated herein as **Exhibit F-1** and all references to "**Exhibit F**", are hereby amended to read "**Exhibits F and F-1**, as applicable".
5. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

*Remainder of page left intentionally blank.*

**Contract Control Number:** THTRS-202262579-02 [201735492-02]  
**Contractor Name:** SWIRE PACIFIC HOLDINGS, INC.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

THTRS-202262579-02 [201735492-02]  
SWIRE PACIFIC HOLDINGS INC.

DocuSigned by:  
*Rob Gehring*  
F55410CF85FF4F9...  
By: \_\_\_\_\_

Name: Rob Gehring

Title: CEO

DocuSigned by:  
*James Sloan*  
154282EAA006411...  
By: \_\_\_\_\_

Name: James Sloan

Title: CFO

DocuSigned by:  
*Randy Majors*  
3F22D7754B4241A...  
By: \_\_\_\_\_

Name: Randy Majors

Title: SVP Foodservice On-premise

**Scope of Sponsorship Benefits  
Exhibit A-1**

**RED ROCKS ASSETS**

**On-site:**

- One (1) 35' x 20' activation footprint at mutually agreed upon concerts during the 2022 concert season.
- One (1) 10' x 10' sampling footprint at mutually agreed upon concerts during the 2022 concert season.

**Social Sweepstakes:**

- Sponsor will host the Red Rocks and Swire Coca-Cola T-Shirt Design contest. A limited number of shirts will be produced as part of retail/summer music program. T-shirts not available for purchase (only way to win is through onsite activation, social, and QR code on intermission slides). Total quantity will not exceed six hundred (600) shirts (Swire Coca-Cola to cover costs of production, Red Rocks will receive allocation of shirts, along with winner). Winner to receive cash prize + tickets. 2<sup>nd</sup> + 3<sup>rd</sup> winner to receive other prizes and tickets.
- 1 social post on Red Rocks social to promote contest (opportunity for media/press release)
- 1 social post (after contest ends) – showing winning design/shirt.

**Signage:**

- One (1) co-branded, Red Rocks themed or centric slide in the intermission slide show to display the QR code for t-shirt design contest entry.

**Hospitality:**

- Twenty (20) tickets and a VIP tour preshow for a mutually agreed upon concert(s) or event at Red Rocks Amphitheatre. Tickets can be requested in sets of two (2) or four (4). Tickets will be utilized for contest prizing.

**FIVE POINTS JAZZ FESTIVAL ASSETS**

**On-site:**

- One (1) 10' x 10' sampling footprint in a mutually agreed upon location.

**Signage:**

- One (1) Presenting Partnership of a mutually agreed upon stage. Signage will be designed, installed, and paid for by DAV.

## Exhibit B-2 Fee Schedule

### Invoice Schedule

Sponsor will pay an annual sponsorship fee as outlined below. Payment will be made within 30 days of the start of the Term, subsequent Term years will be paid within 30 days after the beginning of that Term year.

Year 1- \$400,000 (\$300,000 + \$100,000 signing bonus) \* Due upon execution of agreement

Year 2- \$315,000 Due August 1, 2018

Year 3- \$330,000 Due August 1, 2019

Year 4- \$55,000 Due August 1, 2020

Year 5- \$345,000 Due August 1, 2021

Year 6- \$405,000 Due August 1, 2022

TOTAL SPONSORSHIP FEES: \$1,850,000

**EXHIBIT D-2**

(exhibit follows)

**From:** [Edrich, Matthias M.](#)  
**To:** [Heydman, Laurie J. - CAO Asst City Attorney - Sr](#)  
**Subject:** [EXTERNAL] Re: Tax review 2022 Swire Coca Cola  
**Date:** Saturday, May 7, 2022 7:25:04 AM  
**Attachments:** [image001.png](#)

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Hello Laurie,

Thank you very much for your email. The amendment is "approved" for purposes of the bond counsel approval. The additional payment increases the amount of private business use in 2022, but the increase is minimal.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Thank you, and please let me know if you have questions.

Sincerely,

Matthias

**Matthias M. Edrich**

Tax Partner

**Kutak Rock LLP**

1801 California Street, Suite 3000, Denver, CO 80202

[matthias.edrich@kutakrock.com](mailto:matthias.edrich@kutakrock.com)

**office:** 303.297.2400 **direct:** 303.292.7887 **cell:** 720.253.2466

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**From:** Heydman, Laurie J. - CAO Asst City Attorney - Sr <[Laurie.Heydman@denvergov.org](mailto:Laurie.Heydman@denvergov.org)>

**Sent:** Thursday, May 5, 2022 2:41 PM

**To:** Edrich, Matthias M. <[Matthias.Edrich@KutakRock.com](mailto:Matthias.Edrich@KutakRock.com)>

**Subject:** Tax review 2022 Swire Coca Cola

[ CAUTION - EXTERNAL SENDER ]

Good afternoon Matthias-I am attaching your most recent approval (that I have anyway) of the Coca Cola contracts for Arts and Venues. They are modifying the payment by an increase of \$75K and providing additional benefits as also attached. Please let me know if this is permissible under the

financings.  
Thank you as always!



**Laurie J. Heydman** | Senior Assistant City Attorney  
Municipal Operations Section, City Attorney's Office | City  
and County of Denver  
[Pronouns](#) | She/Her/Hers  
p: (720) 913-3278 | cell: (720) 785-4911  
[laurie.heydman@denvergov.org](mailto:laurie.heydman@denvergov.org)

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Thank you.

**EXHIBIT F-1**

**(exhibit follows)**

## **ARTS & VENUES DENVER VENUE SPONSORSHIP POLICY**

Updated January 21, 2022

The relationships between Arts & Venues Denver (A&V), our event clients and our venue sponsors involve commitments of significant value. While A&V encourages event organizers to utilize our facilities and secure sponsorships, we must also ensure that the benefits events offer to potential event sponsors fit within the constraints of our corporate sponsorship program and current contractual obligations. This policy outlines A&V's process to work through event and venue sponsor conflicts and allows for effective communication and transparency with our clients and our corporate sponsors.

If you have any questions regarding the terms below, please contact A&V Marketing & Communications Department.

- 1) Event organizers will use reasonable efforts to submit event sponsors on-site benefits (e.g. banners, flags, tents, etc.) to A&V Marketing & Communications Department prior to signing an A&V venue booking agreement and at least sixty (60) days prior to the event date. A&V will review the information within seven (7) business days of receipt and will provide the event with notice of conflicts to existing A&V venue sponsorship agreements.
- 2) A&V reserves the right to limit event sponsorships activation in the following protected and exclusive venue sponsorship categories:

### **SPONSORSHIP CATEGORIES**

- Beer/Malt Beverages
- Hard Seltzer
- Non-Alcoholic Beverages
- Energy Drink
- Natural Spring Water and Bottled Water
- Spirits/Liquor
- Spirits/Wine
- Waste and Recycling
- Hotel
- Spirits/Champagne
- Cellular Service
- Grocer

### **CURRENT SPONSORS**

MolsonCoors  
Mark Anthony Brands (White Claw)  
Coca-Cola  
Red Bull  
Eldorado and Dasani  
Stranahan's and Pernod Ricard  
Ste. Michelle Wine Estates  
Alpine Waste  
Origin Hotel (Red Rocks only)  
G.H. Mumm  
Visible  
King Soopers

- 3) If event organizers wish to secure an event sponsor that falls within one of A&V's protected categories listed above, the event organizer will provide first right of refusal to A&V's venue partner for such a sponsorship. If the venue partner does not wish to participate, the event organizer must work within the approved footprint provided by A&V. At no time will conflicting, contracted venue signage or promotions be covered up or removed for public events.
- 4) To maintain the integrity of A&V's corporate sponsorship program, the sampling of products that compete with A&V sponsor products will not be allowed at the Venues, unless approved by the A&V Marketing & Communications Department. Concessions may be possible for private functions, not open to the public, and will be evaluated by the A&V on a case-by-case basis. Event sponsors who wish to sample products may do so only within the footprint of the event and during event times. Event sponsors may only distribute sample-sized items. Sample sizes for liquid beverages must be four (4) ounces or smaller and poured into a serving cup. Sample sizes for non-beverage items must be two (2) ounces or smaller. For avoidance of doubt, no event organizer shall have the right to sell products that compete with A&V sponsor products or to otherwise distribute products that compete with A&V sponsor products (other than the sampling rights set forth in this Section 4) at such event in the sponsorship categories listed above excluding alcoholic beverages. Except as otherwise stated in this sponsorship policy, the terms and conditions (including the exclusivity provisions) of the Sponsorship Agreement shall remain in full force and effect before, during and after any such event.

- 5) Sponsorship displays and sales locations that are agreed to without approval from A&V may be removed after either written or oral notice (to be confirmed in writing) to the event organizer.
- 6) Under no circumstances will existing or permanent venue sponsor signage be covered or removed.
- 7) Event sponsor third party associations or pass throughs are not permitted.

Sponsors shall not exercise sponsorship rights and benefits: for or in furtherance of any illegal purpose; in conflict with any applicable law, ordinance, rule, regulation, or executive order of any governmental authority; or in violation of this policy or other policies or rules and regulations of Arts & Venues.

#### A&V Marketing Department Contacts

Brian Kitts  
Director of Marketing & Communications  
Brian.kitts@denvergov.org  
720-865-4229

Or

Andrew Lindley  
Corporate Partnerships Development Manager  
Andrew.Lindley@denvergov.org  
720-865-4325