

SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT (referred to as “Second Amendatory Agreement”, “Amendatory Agreement” or “Amendment”) is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (the “City”), and **ARAMARK Sports and Entertainment Services, LLC**, a Delaware limited liability company (the “Concessionaire”).

BACKGROUND:

WHEREAS, the City and Concessionaire entered into that certain Agreement, dated December 20, 2017, which was subsequently amended on December 6, 2019 (collectively the “Agreement”), by which Concessionaire agreed to provide various concession services, novelties services, and catering services at Red Rocks Amphitheatre and The Denver Coliseum; and

WHEREAS, the City declared a state of local disaster emergency on March 12, 2020 pursuant to C.R.S. 24-33.5-701, *et seq.*, brought on by the spread of COVID-19, the Governor of the State of Colorado declared a Disaster Emergency (D 2020 003) dated March 11, 2020 on the same basis, and the President of the United States issued a Declaration of Emergency on March 13, 2020 due to the COVID-19 crisis;

WHEREAS, the parties expressly acknowledge that state and local health and safety restrictions (as referred to herein) applicable to the facilities described in the Agreement are on-going to ensure public safety in connection with use of city venues;

WHEREAS, Concessionaire shall seek to minimize expenses incurred related to the Agreement while health and safety restrictions are applicable; and

WHEREAS, the City and Concessionaire benefit by amending the Agreement as it will provide clarity concerning the parties’ respective responsibilities, enable all parties to control costs pursuant to the Agreement, and ensure continuity of services by Concessionaire pursuant to the Agreement upon the conclusion of the Health and Safety Restrictions Period (as herein defined).

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in the Agreement and herein contained the parties agree as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.
2. In response to the COVID-19 crisis in the City and County of Denver, Colorado, the City and Concessionaire hereby agree to modify the Agreement to account for the temporary closure of and/or attendance restrictions at certain city venues beginning on March 13, 2020, and continuing through and beyond the date of this Amendment and

any extension(s) or reinstatement(s) thereof, as well as any and all Federal, State, or local limitations on mass gatherings that render use of the City venues implicated by this Agreement commercially impractical (“Health and Safety Restrictions Period”).

3. In addition, the City and Concessionaire hereby agree to extend the Agreement by two (2) years to account for the economic impact of the Health and Safety Restrictions Period.
4. Section 3 “*Term*”, shall be deleted and replaced with the following:

“3 Term

The term of this Agreement shall commence on November 1, 2017 and continue through and including October 31, 2024.”

5. The following language shall be deleted from section 4(C): “the incentive criteria attached hereto and incorporated herein Exhibit B” and “shall have been”, which shall be replaced with the following:

“the incentive criteria mutually-agreed upon by the parties in signed writing prior to the then-applicable Contract Year” and “are” respectively.

6. The following language shall be deleted from section 4(D): “Reserved”, which shall be replaced with the following:

“D. Health and Safety Restrictions Period Expenses. Due to the Health and Safety Restrictions Period as defined in the Amendatory Agreement, City and Concessionaire agree as follows: Concessionaire shall manage expenses for the duration of the Health and Safety Restrictions Period to ensure Cost of Sales and Operating Losses are minimized as described in **Exhibit H** which is attached hereto and incorporated herein by this reference. If necessary expenses during the Health and Safety Restrictions Period are identified that are not described in Exhibit H, such costs may be approved in advance writing by the Director. Should Concessionaire incur costs during the Health and Safety Restrictions Period not described in Exhibit H, or approved in advance writing by the Director, notwithstanding anything in this Agreement to the contrary, such amounts shall not be the responsibility of the City pursuant to the Agreement and shall not be considered Cost of Sales or be counted as Operating Losses during or subsequent to the Health and Safety Restrictions Period. Nothing in this subsection (D) shall be construed to diminish the Concessionaire’s obligations pursuant to the

Agreement to continue to make payments to the pursuant to Sections 4(A), or the City to make payments to Concessionaire consistent with Sections 4(B).”

7. The following language shall be deleted from Section 4(E): “Reserved”, which shall be replaced with the following:

“E. Health and Safety Restrictions Period Activities. During the Health and Safety Restrictions Period, it may be possible to safely conduct certain activities at certain city venues. Any work performed by Concessionaire in connection with activities occurring during the Health and Safety Restrictions Period shall be performed in accordance with the terms of the Agreement, but shall not be performed unless mutually-agreed upon by the City and Concessionaire in a writing signed by the Director prior to any such work. In the absence of a writing signed by the Director, Concessionaire may provide specific Concession Services in connection with this Agreement by strict conformance with an e-mailed directive from the Director or her designee to perform such services. Performance of Concession Services by Concessionaire during the Health and Safety Restriction Period shall not reactivate the Agreement, which shall occur on the Activation Date in accordance with Sections 34(C) and 45. Notwithstanding the foregoing, all obligations of Concessionaire pursuant to the Agreement, other than as specifically modified in the Second Amendatory Agreement, shall continue in full force and effect.”

8. Section 4, subpart (I) shall be amended by the addition of “Notwithstanding the foregoing or anything contained herein to the contrary, for the Contract Year beginning on November 1, 2019 and concluding on October 31, 2020 (“2020 Contract Year”) and the Contract Year beginning on November 1, 2020 and concluding on October 31, 2021 (“2021 Contract Year”), the City and Concessionaire agree that any Operating Losses shall carry forward to the subsequent Contract Year. The City shall not be required to pay Concessionaire for any Operating Loss unless and until an Operating Loss remains unsatisfied at the end of the 2021 Contract Year.” after the fifth sentence.
9. The following language shall be deleted from Section 6(A) and 6(C): “(to the extent applicable based on the requirements set forth in **Exhibit B** herein)”.
10. For purposes of clarity, Concessionaire’s obligations pursuant to Sections 7(X) and 15(G) shall be in effect and continue and not be altered or affected by the Health and Safety Restrictions Period or this Amendment.
11. This Amendment is intended to preserve the parties’ rights and obligations for resumption of normal activities after the Health and Safety Restrictions Period and to promote continuity of services at the conclusion of the Health and Safety Restrictions

Period. To effect such intent, a new section 28(F) shall be added to the Agreement as follows:

“F. Notwithstanding anything contained in Section 28 or the Agreement to the contrary, the Concessionaire agrees not to seek to terminate the Agreement in connection with the Health and Safety Restrictions Period.”

12. Section 28(E) shall be amended by addition of the following after the first sentence:

“Notwithstanding the foregoing, the terms of this subsection 28(E) shall not apply in connection with the Health and Safety Restrictions Period.”

13. A new Section 34(C) shall be added to the Agreement as follows:

“C. **Notices concerning cessation of the Health and Safety Restrictions Period** - In accordance with subsection 34(B), City shall notify Concessionaire at least 14 days prior to the conclusion of the Health and Safety Restrictions Period (“Full Reopening Notice”). The Full Reopening Notice shall be sent by electronic mail message to Richard Hesse (Hesse-Richard@Aramark.com) or overnight mail to Concessionaire and shall be deemed effective when sent by City.”

14. A new section 45 shall be added to the Agreement as follows:

“45 Cessation of the Health and Safety Restrictions Period and Resumption of Normal Activities

Upon Submission of the Reopening Notice, Concessionaire shall undertake all actions necessary to resume providing all services required by the Agreement on the day after the date identified by City as the expiration date of the Health and Safety Restrictions Period (“Activation Date”). Should Concessionaire fail to provide requested services on and after the Activation Date, Concessionaire shall be in breach of this Agreement.”

15. Concessionaire consents to the use of electronic signatures by the City. This Amendatory Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Amendatory Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Amendatory Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the basis that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

16. The Parties agree that this Amendatory Agreement shall be deemed effective as of August 1, 2020.

17. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

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Contract Control Number:
Contractor Name:

Alfresco#201737254-00/201950684-02
Aramark Sports and Entertainment Services, LLC

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:

Alfresco#201737254-00/201950684-02
Aramark Sports and Entertainment Services, LLC

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Contract Control Number: Alfresco#201737254-00/201950684-02
Contractor Name: Aramark Sports and Entertainment Services, LLC

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

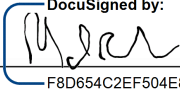
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Contract Control Number:
Contractor Name:

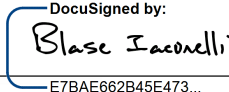
Alfresco#201737254-00/201950684-02
Aramark Sports and Entertainment Services, LLC

By:  _____ 9/9/2020
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Name: Mark Adams
(please print)

Title: VP Finance
(please print)

ATTEST: [if required]

By:  _____
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Name: Blase Iaconelli
(please print)

Title: Assistant General Counsel
(please print)

Exhibit H

Red Rocks and Denver Coliseum Expense Reductions

The following are expense reductions to date:

- Laid off all hourly associates on March 11th
- Laid off 6 hourly benefited managers on March 13st
- Furloughed 5 Salaried Managers on April 3rd
- All current managers took a 5% pay reduction beginning on June 4th
- Laid off two furloughed managers to save on future benefits costs
- Additional Furloughs will be at the City & County of Denver's discretion
- Suspended all service contracts on March 25th
 - Loomis
 - Hood Cleaning
 - Fryer Cleaning
 - Uniforms and Laundry
 - Pest Control
 - Knife Sharpening
 - Cash Machine annual maintenance
- Returned four laptops for LOA employee's
- Returned all dated product to suppliers, product not able to be returned has been donated to the Food Bank of the Rockies
- Dine Time restaurant reservation contract has been canceled effective at the end of the contract, July 31st.
- All purchases outside of opening and operating costs have ceased
- All Managers are taking shifts at the Denver Coliseum and the two locations currently open at Red Rocks to reduce hourly employee costs