

AGREEMENT

THIS AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and AXS Digital, LLC, a Delaware limited liability company located at 800 West Olympic Boulevard, Suite 305, Los Angeles, CA 90015 (“Contractor”).

RECITALS

A. The City desires to procure and Contractor desires to provide the ticketing sales and related services as set forth in this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. COORDINATION AND LIAISON: Contractor shall fully coordinate all services under this Agreement with the Director of Denver Arts and Venues (“DAV”), or his or her designee (“Director”).

2. SERVICES TO BE PERFORMED:

a. Contractor shall diligently undertake and perform the ticketing sales and related services as set forth on **Exhibit A** (the “Scope of Work”) to the City’s reasonable satisfaction.

b. Contractor is ready, willing, and able to provide the services required by this Agreement.

c. Contractor shall faithfully perform the services required by this Agreement in accordance with the terms of this Agreement and the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature.

3. TERM: This Agreement shall commence on the date of full execution of this Agreement and expire on December 31, 2019 (the initial “Term”), provided that the Term shall be extended to include any additional time period necessary to enable Contractor to fulfill its obligations hereunder with respect to events on sale as of December 31, 2019.

4. COMPENSATION AND PAYMENT:

a. Contractor Compensation: The City shall pay and Contractor shall accept as the sole compensation for services rendered and costs incurred under this Agreement the amounts set forth in **Exhibit B**.

b. City Compensation: Contractor shall pay to the City the amounts set forth in **Exhibit B** as consideration for the rights and opportunities provided to Contractor under this Agreement.

c. Reimbursable Expenses: There are no reimbursable expenses allowed under this Agreement, except as provided in **Exhibit B**.

d. Event Settlement: Contractor shall hold in a separate account in a banking institution depository in Denver (or other depository as mutually agreed upon, e.g. in Los Angeles), any and all ticket sale revenues which it receives in the contemplation of or arising from an event pending the completion of the event. Such monies are to be held for the protection of ticket purchasers, the City, and Contractor, and to provide a source of funds for payment to the City of the City Ticket Fee (as defined in Exhibit B), the facilities development admissions tax (the "FDA Tax"), and incidental expenses and outstanding fees owed to the City by a City Tenant (as defined in Exhibit A). Contractor shall remit ticket sales revenues received hereunder according to the following schedule:

(i) Night of Show Audit: At the end of an event, Contractor will provide the City with a night of show audit report in a form and containing such information as are required by the Director. If revisions to the night of show audit report are necessary, Contractor will provide a revised and final night of show audit report by 5:00 P.M. Mountain Time on the next business day after the event; for the avoidance of doubt, if an event ends after midnight, the final night of show audit report shall be due by 5:00 P.M. Mountain Time on the same day the event ends if said day is a business day or on the next business day if the event begins on a Friday or Saturday and ends after midnight (i.e., on Saturday or Sunday, respectively). If an event is comprised of multiple performances, Contractor shall provide the City with a night of show audit report after each performance and a combined audit report following the last performance.

(ii) Final Audit Reports: Contractor shall provide the City with a final audit report in a form and containing such information as are required by the Director within three (3) business days of the end of the event. Such report shall be in a form and shall contain such information as required by the Director, including, among other things, ticket price points, number of tickets sold by channel, sales dollars per channel, attendance numbers,

FDA Tax revenues, the City Ticket Fee, the Contractor Ticket Fee, the City Tenant ticket fee, and box office sales (the “Final Audit”).

(iii) City’s Settlement Instructions: City shall endeavor to provide to Contractor, within seven (7) business days of the end of the event, instructions detailing the amount of funds to be disbursed by Contractor to the City, the applicable City Tenant, and Contractor (the “Settlement Instructions”). The City shall not be in breach of this Agreement in the event it fails to provide the Settlement Instructions on or before said seven-day period; however, Contractor’s obligation to make the payments set forth in Section 4.d(iv) below shall be tolled for each business day that the City is late in providing the Settlement Instructions.

(iv) Settlement Issued: Contractor shall remit payments described in the Settlement Instructions, on or before ten (10) business days after completion of each event. Contractor shall disburse funds in accordance with the Settlement Instructions, in the following order of priority: the City Ticket Fee (as defined in Exhibit B), the FDA Tax, all incidental expenses and outstanding fees owed to the City by the City Tenant, and ticket fees owed to the City Tenant. Each such settlement shall be accompanied by a written settlement report detailing amounts issued in accordance with the Settlement Instructions. Bank service charges, if any, on such account(s), shall be the responsibility of Contractor. Notwithstanding the foregoing, Contractor shall accommodate City Tenant requests for advances on ticket sales revenues provided that the City Tenant provides a letter of credit or other surety in the amount of such advances and in a form approved by the City and Contractor, which approval shall not be unreasonably denied.

e. Invoice and Prompt Payment Ordinance: Contractor shall provide the City with an invoice in a format and with a level of detail acceptable to the City including all supporting document required by the City for any costs billable to the City under Exhibit A and Exhibit B. The City’s Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to any payments by the City to Contractor under this Agreement.

f. Annual Appropriations: Any payment obligation of the City, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future

fiscal years, and this Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

5. STATUS OF CONTRACTOR: Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither Contractor nor any of its employees or subcontractors is an employee or officer of the City under Chapter 18 of the Denver Revised Municipal Code (D.R.M.C.), or for any purpose whatsoever.

6. TERMINATION:

a. The City has the right to terminate this Agreement without cause upon one hundred eighty (180) days prior written notice to Contractor. Either party has the right to terminate this Agreement with cause if the other party commits a breach of its obligations or of an applicable performance standard under this Agreement, and (in the case of a breach capable of remedy) fails to remedy the same within twenty (20) days of delivery of written notice specifying the nature and particulars of the breach. However, nothing gives Contractor the right to perform services under this Agreement beyond the time when its services become unsatisfactory to the Director, provided Director has notified Contractor thereof and Contractor has failed to remedy the same within the applicable notice and cure periods.

b. Notwithstanding the preceding paragraph, the City may terminate this Agreement if Contractor or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

c. Upon termination of this Agreement, with or without cause, Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in this Agreement.

d. If this Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in Contractor's possession, custody,

or control by whatever method the City deems expedient. Notwithstanding the foregoing, the computer hardware, communications equipment, terminals, hook-ups and other equipment provided by Contractor in connection with the services (collectively, and as further defined in Section I of Exhibit A, the “Hardware”) is, and shall at all times remain, the personal property of the Contractor. Upon the expiration or termination of this Agreement, Contractor shall remove the Hardware, without damage to the realty underlying the Hardware. Contractor shall deliver to the City all Materials (as defined in section 28) in any form that were prepared under this Agreement and all other items, materials and documents that have been paid for by the City. Except as provided in section 28 below, these documents and materials are the property of the City.

7. RECORDS AND AUDITS: Contractor shall keep full and accurate accounting records relating to the services provided pursuant to this Agreement, in accordance with generally accepted accounting principles and in accordance with the City’s Fiscal Rules. Contractor shall give the City’s authorized representatives, including the City Auditor or his or her representative, access to and the right to examine such records and any pertinent books, documents, papers and records of the Contractor involving transactions related to this Agreement until the latter of three (3) years after the final payment under this Agreement or expiration of the applicable statute of limitations. In addition, on or before forty-five days after the end of each Contract Year, Contractor shall furnish to the City financial statements of ticket sale revenues and amounts due to the City for the preceding Contract Year, prepared in accordance with generally accepted accounting principles and accompanied by an independent auditor’s report of a nationally recognized, independent certified public accountant. The audit shall contain an unqualified opinion expressed by the independent auditor of the accuracy of the financial records kept by Contractor related to the services provided by Contractor under this Agreement, ticket sale revenues, and amounts due to the City. The audit shall be conducted by a reputable firm selected by Contractor and approved by the City.

The City’s auditor, or his or her representatives, and the Director shall have the right at any time, and from time to time, to audit all of the books of Contractor related to the services provided by Contractor under this Agreement, ticket sale revenues, and amounts due to the City. If a City audit made for any Contract Year reveals that the ticket sale revenues or amounts due to the City shown by Contractor’s audited report were understated, Contractor must

immediately pay to the City the amount of the deficiency. If the ticket sale revenues or amounts due to the City are understated by more than three percent (3%), Contractor shall pay to the City the cost of the City's audit and the amount of the deficiency. The City's right to have such an audit made with respect to any Contract Year shall expire three (3) years after Contractor's statement for such Contract Year has been delivered to the City. If the City determines after an audit that the City was overpaid, the City shall have the option to either credit an overpayment against a subsequent amount due or provide a refund to Contractor.

For purposes herein, "Contract Year" shall mean each calendar year, or portion thereof, during the Term.

8. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of Contractor. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of this Agreement constitutes a waiver of any other breach.

9. INSURANCE:

a. General Conditions: Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies are canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail,

return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Contractor. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

b. Proof of Insurance: Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to the placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. Additional Insureds: For Commercial General Liability and Auto Liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. Waiver of Subrogation: For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.

e. Subcontractors and Subconsultants: All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the insurance requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the

required coverages. Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

f. Workers' Compensation/Employer's Liability Insurance: Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

g. Commercial General Liability: Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

h. Business Automobile Liability: Contractor shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

i. Technology Errors & Omissions including Cyber Liability: Contractor shall maintain Technology Errors and Omissions insurance including cyber liability, network security, privacy liability and product failure coverage with limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

j. Commercial Crime: Contractor shall maintain \$1,500,000 in commercial crime insurance coverage. Coverage shall include theft of City's money, securities or property by contractor's employees, including any extended definition of employee. The City and County of Denver shall be named as Loss Payee as its interest may appear.

k. Additional Provisions:

(1) For Commercial General Liability, the policies must provide the following:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs are outside the limits of liability;
- (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and

- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
- (2) For claims-made coverage: The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
- (3) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

10. DEFENSE AND INDEMNIFICATION

a. Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from, and against all liabilities, claims, judgments, suits, or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify the City for any acts or omissions of Contractor or its subcontractors either passive or active, irrespective of fault, including the City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

b. Contractor’s duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether claimant has filed suit on the Claim. Contractor’s duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant and/or claimant alleges that the City’s negligence or willful misconduct was the sole cause of claimant’s damages.

c. In accordance with section 10(a) above, Contractor will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this

indemnity obligation. Such payments on behalf of the City shall be in addition to any other legal remedies available to the City and shall not be considered the City's exclusive remedy.

d. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of Contractor under the terms of this indemnification obligation. Contractor shall obtain, at its own expense, any additional insurance that it deems necessary.

e. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

11. TAXES, CHARGES AND PENALTIES: The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* Contractor shall promptly pay when due all taxes, bills, debts and obligations it incurs performing the services under this Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

Without limiting the foregoing, a ten percent (10%) FDA Tax for each admission purchased for each event shall be collected by Contractor and paid to the City in accordance with Article VII of Title II of the D.R.M.C. The FDA Tax shall be conspicuously, indelibly and separately stated and charged from the sale price on the ticket or card evidencing the sale and shown separately from the sale price on any record made thereof at the time of the sale or at the time when evidence of the sale is first issued or employed by Contractor. Contractor shall keep and preserve a true, accurate, and complete account of all sales made and monies received, and such other books and records or accounts as may be necessary to determine the amount of the FDA Tax collectible or payable as required herein and by the D.R.M.C. Such records shall be kept and preserved for a period of four (4) years following the due date of the return (as provided in Article II, Title VII, of the D.R.M.C.) or the payment of the FDA Tax, and the City's Manager of Finance, the City's Auditor, the Manager of Department of General Services, the Director, and their duly authorized agents, shall at all times have the right to audit such accounts and any records pertaining thereto.

12. ASSIGNMENT; SUBCONTRACTING: Neither party shall voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the other party's written consent. Any assignment or subcontracting without such consent will be ineffective and void, and shall be cause for

termination of this Agreement. The Director has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate this Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subconsultant, subcontractor or assign. Notwithstanding the foregoing, the following assignments or subcontracting shall not require additional approval from the City: (i) Contractor may assign this Agreement, with prior written notice to the City, in connection with a sale of all or substantially all of the assets of Contractor to a buyer who assumes in writing Contractor's obligations hereunder; (ii) Contractor may assign this Agreement, with prior written notice to the City, in connection with a corporate reorganization to its parent company or a wholly-owned subsidiary who assumes in writing Contractor's obligations hereunder; and (iii) Contractor may subcontract with the service providers specifically named in Exhibit A to perform the services specifically described with respect to such service providers in Exhibit A.

13. INUREMENT: The rights and obligations of the parties to this Agreement inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of this Agreement.

14. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or Contractor receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

15. NO AUTHORITY TO BIND CITY TO CONTRACTS: Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

16. SEVERABILITY: Except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

17. CONFLICT OF INTEREST:

a. No employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement. Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, *et seq.* or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

b. Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of Contractor by placing Contractor's own interests, or the interests of any party with whom Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Agreement in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict. Contractor's provision of ticketing and related services to other venues inside and outside of the City and County of Denver shall not in and of itself constitute a conflict of interest.

18. NOTICES: All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Contractor at the address first above written, and if to the City at:

Director, Denver Arts & Venues

144 W. Colfax Ave.

Denver, CO 80202

And

Finance Director, Denver Arts & Venues

1345 Champa Street

Denver, CO 80204

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail via United States mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

19. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THIS AGREEMENT:

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

b. Contractor certifies that:

- (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
- (2) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

c. Contractor also agrees and represents that:

- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
- (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (5) If it obtains actual knowledge that a sub-consultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such sub-consultant or subcontractor and the City within three (3) days. Contractor will also then terminate such sub-consultant or subcontractor if within three (3) days after such notice the sub-consultant or subcontractor does not stop employing or contracting with the illegal alien,

unless during such three-day period the sub-consultant or subcontractor provides information to establish that the sub-consultant or subcontractor has not knowingly employed or contracted with an illegal alien.

- (6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. Contractor is liable for any violations as provided in the Certification Ordinance.

If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

20. DISPUTES: All disputes between the City and Contractor arising out of or regarding this Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Director as defined in this Agreement.

21. GOVERNING LAW; VENUE: This Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, the Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into this Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to this Agreement will be in the District Court of the State of Colorado, Second Judicial District.

22. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this Agreement, Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status,

sexual orientation, gender variance, marital status, or physical or mental disability. Contractor shall insert the foregoing provision in all subcontracts.

23. COMPLIANCE WITH ALL LAWS: Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, Revised Municipal Code, ordinances, rules, regulations and Executive Orders of the City and County of Denver. The foregoing compliance activities shall include without limitation Title III of the Americans with Disabilities Act and the Americans with Disabilities Act Accessibility Guidelines, which require, among other things, that persons seeking to purchase accessible seating must be able to do so during the same hours and in the same manner as persons seeking to purchase general seating.

24. LEGAL AUTHORITY: Each party represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of Contractor represents and warrants that he or she has been fully authorized by Contractor to execute this Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either Contractor or the person signing this Agreement to enter into this Agreement.

25. NO CONSTRUCTION AGAINST DRAFTING PARTY: The parties and their respective counsel have had the opportunity to review this Agreement, and this Agreement will not be construed against any party merely because any provisions of this Agreement were prepared by a particular party.

26. ORDER OF PRECEDENCE: In the event of any conflicts between the language of this Agreement and the exhibits, the language of this Agreement controls.

27. CONFIDENTIAL INFORMATION:

a. City Information: Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, Contractor may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. Contractor agrees that

all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. Contractor shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent Contractor would to protect its own proprietary or confidential data. “Proprietary Data” shall mean any materials or information which may be designated or marked “Proprietary” or “Confidential”, or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Contractor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

b. Contractor’s Information The City understands and agrees that the Software constitutes the valuable property and trade secret of Contractor, embodying substantial creative efforts which are secret, confidential, and not generally known by the public, and which secure to Contractor a competitive advantage. The City agrees during the term of this Agreement and the license granted hereunder, and thereafter, to hold the Software including any copies thereof and any documentation related thereto, in strict confidence and to not permit any person or entity to obtain access to it except as required for the City’s exercise of the license rights granted hereunder, subject to applicable law. The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, et seq., C.R.S. (2003). In the event of a request to the City for disclosure of such information, the City shall advise Contractor of such request in order to give Contractor the opportunity to object to the disclosure of any of its documents which it marked as proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same.

28. INTELLECTUAL PROPERTY RIGHTS:

a. Except as provided below, the City and Contractor intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data (including consumer data), products, ideas, inventions, and any other work or recorded information created by Contractor and paid for by the City pursuant to this Agreement, in preliminary or final

form and on any media whatsoever (collectively, “Materials”), shall belong to the City. Contractor shall disclose all such items to the City. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are “work made for hire” and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not “work made for hire,” Contractor (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity. Notwithstanding the foregoing, the City and Contractor agree that Contractor will provide the City with the current version of its proprietary software and related applications (including without limitation APIs as reasonably requested) and documentation for the sale and management of tickets, including ticketing management functions, box office on-line sales and group sales and all upgrades, new releases, new versions and modifications thereto during the Term (collectively, the “Software”). The Software shall at all times remain the property of the Contractor; however the Contractor hereby grants to the City a nonexclusive, royalty free license to use the Software throughout the Term.

b. Additional Intellectual Property Provisions.

1) No Unauthorized Use.

The City shall use the Software only for the purposes hereof and shall not knowingly allow any unauthorized use.

2) Software Ownership.

The City hereby acknowledges that Contractor is and shall at all times remain the sole owner of the Software and all modifications, enhancements and changes thereto, regardless of any direct or indirect contribution that may have been made by the City or any of its agent or representatives, which, as the case may be, is hereby assigned and transferred, in full ownership and with no additional consideration as that contained herein, to the Contractor.

3) No Copies.

The City shall not make any copies of, changes, modifications or enhancements to the Software unless specifically instructed to do so and as instructed by Contractor.

4) Reverse Engineering.

The City may not attempt to decompile any part of the Software nor may it attempt to reverse engineer or create any similar software using the Software or any knowledge acquired from Contractor or the Software and its operation during the Term of this Agreement.

5) Licenses for Management and POS Applications.

Contractor hereby grants the number of end-user licenses reasonably necessary in order to provide use of the amount of Hardware provided to the City asset forth in Exhibit A, for the use of the AXS ticketing platform, the Hardware, and the Software in accordance with the terms and conditions hereof. Such licenses will have a term which shall be the same as the Term of this Agreement and any renewal or extension thereof.

6) Third Party Applications.

Contractor shall ensure that the City and Contractor, as well as their authorized employees and City tenants, shall be authorized to use any third party applications included in the Software and required for the performance of the Services hereunder.

8) Marks and Website Use.

Each party grants to the other party a non-exclusive, non-transferable license to use its trade names, trademarks, service marks, and logos or other graphic representations (collectively, "Marks") during the Term of this Agreement, subject to the terms and conditions hereafter set forth, solely in connection with exercising such parties' rights and obligations set forth in this Agreement. The license granted to Contractor hereunder shall be limited to Marks that are under the direct control of DAV and shall not include any other Marks of the City. The license granted to Contractor hereunder includes the City's authorization for Contractor to coordinate use of the City's Marks by StubHub, Inc. in promoting on sales for events at the City Venues (as such term is defined in Exhibit A). The City and Contractor shall agree in writing as to the form and content of any proposed use of the other party's Marks and the media in which such Marks are to be used prior to their use; without limiting the foregoing, Contractor shall obtain the City's prior written approval of any proposed use of the City's Marks by StubHub, Inc. Such

use may be subject to reasonable conditions as either party may impose, including, but not limited to, conditions affording each party adequate protection of its Marks. No party may make any changes or amendments to another party's websites or their contents without the express written approval of such other party, nor may it use any such content, including any trade or service mark, for any purposes other than in sole connection with this Agreement and the Scope of Work.

Neither party will challenge or assist in a challenge to the validity of the other party's Marks, any registrations thereof or the ownership thereof. Each party will be solely responsible for taking such actions, as it deems appropriate to obtain trademark, service mark, or other protection of its respective Marks.

If a party desires to sell or distribute for sale any promotional materials or other merchandising or novelty items bearing the Marks of the other party, then it shall request permission to do so from the other party and, if granted, the parties shall negotiate in good faith a separate licensing agreement covering such materials or items before they may be sold or distributed for sale.

9) StubHub Marks.

Contractor represents to the City that StubHub, Inc., on behalf of itself and its related entities ("StubHub"), has authorized Contractor and the City to use StubHub's names, trademarks, service marks, copyrights and other intellectual property (collectively, the "StubHub Marks") associated with its respective business during the Term of this Agreement in connection with providing the benefits described in Section D.2.c of Exhibit A. Contractor shall indemnify, defend and hold the City harmless from and against any claims, losses, damages, liabilities or expenses (including attorneys' fees and expenses) arising out of or resulting from any claim that the StubHub Marks, when used by the City or Contractor in accordance with this Agreement, infringes, misappropriates or violates any United States patent issued as of the date hereof, copyright, trademark, trade secret or other intellectual or proprietary right of any third party.

29. PCI/DSS COMPLIANCE: [FOR CREDIT CARD INTERFACE ONLY]

A. The Contractor covenants and agrees to comply with Visa's Cardholder Information Security Program/CISP, MasterCard's Security Data Program and SDP Rules, and with all other credit card association or National Automated Clearing House Association (NACHA) rules or rules of member organizations (generally "Association"), and further covenants and agrees to maintain compliance with the Payment Card Industry Data Security Standards (PCI DSS), MasterCard Site Data Protection (SDP), and (where applicable) the VISA Payment Application Best Practices (PABP) (collectively, the "Security Guidelines"). Contractor represents and warrants that all of the hardware and software components that it utilizes for the City or uses under this Agreement is and will be PCI DSS compliant under current standards which are required of the City. All service providers that Contractor uses under the Agreement must be recognized by VISA as compliant with PABP. Contractor further agrees to exercise reasonable due diligence to ensure that all of its service providers, agents, business partners, contractors, subcontractors and any person or entity that may have access to credit card information under this Agreement maintain compliance with the Security Guidelines and comply in full with the terms and conditions set out herein.

B. The Contractor shall not retain or store CVV2/CVC2 data subsequent to authorization of a credit card transaction, shall prohibit disclosure of any and all cardholder information, and in the event of a compromise of credit card information of any kind, Contractor shall immediately notify the City in writing, and shall provide, at Contractor's sole expense, all necessary and appropriate notification to parties and persons affected by such disclosure and compromise.

C. Contractor must provide verification to the City, prior to start up and ongoing annually during the term of this Agreement, that all modules of the Contractor's system(s) that interface with or utilize credit card information in any manner or form of collection are Payment Card Industry Data Security Standards (PCI DSS) compliant.

D. The Contractor must provide regular (at least annual) results of a network scan for all Internet or IVR payment acceptance modules that verify PCI DSS compliance, or in the City's sole discretion, allow the City's contracted PCI DSS compliance auditor full access to the Contractor's system(s) at any time to provide this verification to the City.

Any cost associated with the City's contracted PCI DSS compliance auditor will be paid by the City. If any Association requires an audit of the Contractor or any of Contractor's Service Providers, agents, business partners, contractors or subcontractors due to a data security compromise event related to this Agreement, Contractor agrees to cooperate with such audit. If as a result of an audit of the City it is determined that any loss of information is attributable to the Contractor, the Contractor shall pay the City's reasonable costs relating to such audit, including attorney's fees. No review, approval, or audit by the City shall relieve the Contractor from liability under this section or under other provisions of this Agreement.

E. In addition to all other defense and indemnity obligations undertaken by the Contractor under this Agreement, the Contractor, to the extent that its performance of this Agreement includes the allowance or utilization by members of the public of credit cards to pay monetary obligations to the City or the Contractor, or includes the utilization, processing, transmittal and/or storage of credit card data by the Contractor, shall defend, release, indemnify and save and hold harmless the City against any and all fines, penalties, assessments, costs, damages or other financial obligations, however denominated, assessed against the City and/or the Contractor by credit card company(s), financial institution(s) or by the National Automated Clearing House Association (NACHA) or successor or related entity, including but not limited to, any credit card company fines, regardless of whether considered to be consequential, special, incidental or punitive damages, costs of notifying parties and persons affected by credit card information disclosure, the cost of replacing active credit cards, and any losses associated with fraudulent transaction(s) occurring after a security breach or loss of information with respect to credit card information, and shall defend, release, indemnify, and save and hold harmless the City from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature, of or by anyone whomsoever, in any way affected by such credit card data or utilizing a credit card in the performance by Contractor of this Agreement. In furtherance of this, Contractor covenants to defend and indemnify the City and the Contractor shall maintain compliance with the Payment Card Industry Data Security Standard (PCI DSS) and with all other

requirements and obligations related to credit card data or utilization set out in this Agreement.

30. SURVIVAL OF CERTAIN PROVISIONS: The terms of this Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of this Agreement survive this Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Contractor's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

31. ADVERTISING AND PUBLIC DISCLOSURE: Contractor shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of Contractor's advertising or public relations materials without first obtaining the written approval of the Director. Any oral presentation or written materials related to services performed under this Agreement will be limited to services that have been accepted by the City. Contractor shall notify the Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials, or precludes Contractor from performing its obligations under this Agreement, which by its nature involves advertising and promotion of the City and its events in the manner set forth in this Agreement.

32. CITY EXECUTION OF AGREEMENT: This Agreement will not be effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

33. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: This Agreement (including the Exhibits attached hereto) is the complete integration of all understandings between the parties as to the subject matter of this Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in this Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of this Agreement or any written amendment to this Agreement will have any force or effect or bind the City.

34. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A

concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

35. COUNTERPARTS OF THIS AGREEMENT: This Agreement may be executed in counterparts, each of which is an original and constitute the same instrument.

36. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Contractor consents to the use of electronic signatures by the City. This 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 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 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 ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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Contract Control Number:

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:

By _____

By _____

By _____



Contract Control Number: THTRS-201415955-00

Contractor Name: AXS DIGITAL LLC

By: _____
Bryan Perez

Name: BRYAN PEREZ
(please print)

Title: PRESIDENT
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBITS TO AGREEMENT

between the

CITY AND COUNTY OF DENVER and AXS DIGITAL, LLC

EXHIBIT A

SCOPE OF WORK

Contractor will provide the following tools and services or, where this Scope of Work identifies that services will be performed by a specifically-named affiliate or partner of Contractor or specifically-named third party service provider (each an “Affiliate”), Contractor will cause such services to be performed by the appropriate Affiliate. Contractor shall in no way be relieved of its obligation to provide the tools and services set forth herein if an Affiliate is unable to provide such tools and services.

A. Exclusivity. Contractor will serve as the City’s exclusive ticketing agent whenever Denver Arts & Venues (“DAV”), in its discretion:

1. requires the use of a third-party ticketing agent for events or shows (each, an “Event”) at a City Venue (as defined below) that are produced by the City; or
2. requires City Tenants (as defined below) to use a third-party ticketing agent for such City Tenants’ Events at a City Venue. If DAV does not require the use of a third-party ticketing agent, City Tenants may use the ticketing sales provider of their choice; or
3. requires the use of a third-party ticketing agent for Events at other City-owned or City-operated locations that are solely produced by DAV, provided that (i) another third-party ticketing agent does not have rights to provide ticketing sales and related services at such locations and (ii) the City agency authorized to operate, manage, and permit the use of such locations agrees to use Contractor for ticketing sales and services for the subject Events

Use of DAV’s discretion referred to above shall not include providing any other third party ticketing agent with exclusive rights with respect to the Events described in 1, 2, and 3 above during the Term; i.e. DAV shall not use any other third party ticketing service as its exclusive ticketing agent with respect to the Events described in 1, 2, and 3 above during the Term hereof.

If DAV otherwise desires the use of Contractor’s ticket sales and related services for an Event not described in 1, 2, or 3 above, Contractor shall provide such services.

The term “City Tenant” shall mean any promoters with rights to sell tickets to Events at a City Venue. The term “City Venue” shall mean each of the following: Red Rocks Amphitheatre, Denver Coliseum, Ellie Caulkins Opera House, Buell Theatre, Boettcher Concert Hall, McNichols Civic Center Building, Bellco Theatre, the Denver Performing Arts Complex, and the Colorado Convention Center (collectively, the “City Venues”).

B. Tools. The City shall receive the benefit of Contractor’s full suite of tools, including the tools described in this Scope of Work, including Hardware (as defined in Section I. below), Software (as defined in Section 28 of the Agreement) and any upgrades that are offered by Contractor including, without limitation, tools for sales, marketing and promotion, customer service, customer experience, and data collection and reporting.

Where Contractor or an Affiliate customarily charge for upgrades, or new tools are developed, the City shall be offered the opportunity to participate at market rates. If Contractor or an Affiliate offers other clients upgrades or new tools without cost, Contractor or the subject Affiliate shall provide the City with such upgrades or tools without cost. Notwithstanding the foregoing, the City shall be under no obligation to purchase upgrades and new tools from Contractor or its Affiliates and may, in the City’s discretion, purchase tools performing similar functions and services from other providers.

C. Event Submission, Creation, and Modification. The process of creating a ticketed event in Contractor’s ticketing platform (“AXS Ticketing”) is set forth below.

1. City Tenant books an event at a City Venue by entering into a venue user agreement with the City.
2. City Tenant and DAV will negotiate event details, including but not limited to: dates, times, ticket prices, service charges, seating chart, scaling, the City Ticket Fee (as defined in Exhibit B), the per ticket fee to be paid to the City Tenant, the City Tenant contact information, etc. Contractor shall be paid the Contractor Ticket Fee as described in Exhibit B.
3. DAV will provide Contractor with event details on Contractor’s event submission form. This will begin Contractor’s event creation process.
4. Contractor may work directly with the City Tenant (if so requested by DAV) to determine final event build details, which will require written approval by the City.
5. Contractor will provide final event build details to DAV for its final written approval.
6. Upon DAV’s final written approval of the final event build details, Contractor will publish the event for on-sales.
7. After initial onsale, any changes made at the request of a City Tenant must be approved in writing by DAV before modifications are made.

D. Four Phases of the Event Lifecycle.

1. Discovery Phase.

a) Web and Mobile Promotion. Contractor will promote events at the City’s venues on AXS.com, m.axs.com, and AXS Mobile App.

b) Venue Web Services.

- Upon DAV’s request, carbonhouse will build customized websites for the following City Venues: Red Rocks Amphitheatre, Denver Coliseum, Ellie Caulkins Opera House, Buell

Theatre, Boettcher Concert Hall, McNichols Civic Center Building, Bellco Theatre, the Denver Performing Arts Complex, and the Colorado Convention Center. Additional Details:

- Each website will reflect a custom look and feel representing the brand of the City Venue on a DAV-approved wireframe utilized for all City Venues. Each City Venue's website will feel part of a family of 'City and County of Denver' venue websites.
 - In the event that the City removes a venue from the scope of ticketing services provided under this Agreement, Contractor shall not provide a website or app for any such venue.
 - Process will include discovery with DAV (via phone), sitemap implementation, content plan (all content provided by DAV prior to development phase), design kickoff with DAV (via phone), development of website, quality and assurances, training and deployment. Each website may launch independently of each other.
 - Design Scope – As part of the project, carbonhouse will work with DAV in preparing wireframes that will be used as a base for all websites created under this Agreement. Upon each venue design kick off, carbonhouse will prepare one design with two iterations for the venue. DAV will select one design iteration and provide two rounds of revisions to the selected iteration. Any additional design outside of the provided two rounds, or any revisions to previous phases approved in writing will be considered out of scope and billed to the City at the then-current rate card, which is currently \$200/hour.
 - Centralized event database allowing the City to add event information in one database, which will populate information to individual venue websites.
 - Website features will include at a minimum: Event Listing, Event Calendars, Education and Partnerships Sections, Showtime Content Management System, and Mobile Website Version.
 - Optional features may include: Interactive Visitor Guides, Order Forms, Media Centers, Microsites to promote special events (Broadway Series/Festivals/Education Camps). Optional features will be quoted on a project basis at the then-current rate card, which is currently \$200/hour.
 - System will include Search Engine Optimization (SEO) tools at no additional cost to the City, but SEO consulting is not included.
- carbonhouse will provide web hosting and support during the Term of the Agreement.

Additional details:

- The City will receive unlimited bandwidth at carbonhouse-hosted facilities.
- carbonhouse provides unlimited Training and Technical Support. Requests that require design or development services will be quoted at the then-current rate card.

- carbonhouse will aid the City in monetizing potential advertising revenues on the City Venues' new websites by providing ad placement and the tools to manage ad inventory.

c) Apps for Venues.

- Apps for Venues by carbonhouse, LLC will create customized mobile apps for each venue.
- Apps for Venues by carbonhouse, LLC will provide annual hosting and support.
 - Additional details: Apps for Venues will create an iOS and Android application for each City Venue. Venue applications will utilize the Apps for Venue design framework, and will include custom background, color scheme, navigation. All data will be fed from Showtime Content Management system allowing one point of data entry of Event and City Venue information. DAV will be provided access to mobile application notification system for push notifications of event and special offering information.

d) Local and Genre Destination Pages.

- Contractor will build, host, and maintain a Denver Destination page and Genre pages on AXS.com highlighting events as requested by DAV for which Contractor is the ticketing agent under this Agreement.

e) Event Detail Page (EDP).

- Contractor will provide the City the opportunity to customize (in accordance with AXS Ticketing standard customization offerings) web skins directly on AXS.com EDPs for events at City Venues when traffic originates from City-specific marketing efforts and websites.
- Contractor will provide one EDP for each event. For purposes of this provision a multi-day or multi-performance show or production shall be deemed one event.

f) AXS.com Brand Flexibility.

- Contractor will build and maintain a customized micro-site (Series Detail Page) for Film on The Rocks.
- Contractor will maintain a standard series detail page (SDP) for all multi-performance events.

g) AXS Marketing Services.

- Contractor's marketing professionals will provide setup and support consulting services for all marketing and promotional activities performed by the City's marketing professionals that promote events at the City Venues, including email campaigns, mobile/push notifications, social media, a grassroots street team program, and website optimization, as may be requested by the City.

h) AXS Advantage.

- Contractor will provide the AXS Advantage self-service suite of tools. Features include: List builder, Campaign creator, Remarketer, and Customer Targeting Tool.
- City will be responsible for costs associated with use of these self-service tools, including but not limited to delivery, shipping, email sends, and retargeting costs, which shall be invoiced by Contractor to City if not separately contracted for by City and a third party provider.

i) AXS Broadcasts.

- Contractor shall, subject to receipt of permission from the applicable performer(s), cause its broadcasting partner(s) to broadcast on television or the internet, at Red Rocks or other City Venues, a minimum of 30 shows in total, spread over the course of the Term of the Agreement, beginning in 2015 (the "Minimum Broadcasts"). If Contractor does not provide the Minimum Broadcasts, it shall pay the City the fee described in Section 2.c. of Exhibit B.

j) Affiliated Web Properties.

- Contractor will provide listings of events at the City Venues on strategic affiliated web properties.

2. Purchase Phase.

a) Ticketing Services.

- Contractor will provide a white label ticketing platform that is branded for use by the City for the City Venues.
 - *Core Ticketing System:* Each City Venue will be ticketed using AXS Ticketing for both single ticket sales and, to the extent applicable/available to consumers, season ticket sales. As described below, each box office location will be equipped by Contractor with everything needed to run day-to-day ticket sales operations, including, but not limited to, a web based portal with tools for Point of Sale, order management, CRM, and reports. Physical equipment to be provided by Contractor includes: PCs and Monitors, BOCA printers, credit card swipers, and iTouch devices for ticket scanning at the door. See Section I for quantities of equipment to be provided by Contractor
 - *Online Ticketing.*
 - As part of the consumer ticketing experience offered to the City's patrons, Contractor will include use of its proprietary features, including: the Waiting Room, AXS Invite, and Fair AXS.
 - Contractor's client services group will run, as directed by the City, internal ticketing operations for all City Venues on AXS Ticketing. This includes

activities such as venue setup, event programming, on sale setup, promotion creation, web link creation, etc.

- Customers also will be able to purchase tickets for events at the City Venues with the AXS Mobile App.
- Contractor will share insights from data gathered via the Waiting Room, AXS Invite, Fair AXS and other tools to help shape event scheduling for the City Venues. The City also shall have direct access to such tools where such access is commonly available to other Contractor clients.
- Contractor will provide and support all ticket delivery methods, including paper tickets, e-tickets (“print at home”), mobile ticket entry, and ticketless entry (“paperless”).

b) Consumer Purchase Experience.

- Contractor will provide the City the opportunity to customize web skins directly on AXS.com for 1) the City Venues 2) for mutually agreed upon high demand, high volume multi-day series events (e.g. ComicCon, Beer Fest, etc.) and 3) for other mutually agreed upon major events, shows, promotions, etc.; in all cases to the extent traffic originates from the City’s web properties and marketing efforts. Standard turn-around times apply.

c) StubHub Integration.

- Subject to the City’s continued performance of the terms in this Section c), Contractor will:
 - Cause StubHub to include promotion of on sales on StubHub.com for events at the City Venues and provide a secure, authorized platform for secondary ticket sales.
 - Present StubHub as an alternative ticketing option from the EDPs on AXS.com.
 - Include application programming interface (API) integration between AXS Ticketing and StubHub to support barcode validation, cancellation, and reissues as fans list, sell, and buy tickets on the StubHub marketplace.
 - Pay the City an annual StubHub integration payment, as detailed in Exhibit B to this Agreement.
- The City acknowledges that it will receive the annual StubHub integration payment only so long as StubHub receives the following promotional benefits and, in the event that StubHub does not receive such benefits and the City does not receive such integration payment (together, “such occurrence”), such occurrence shall not be deemed a breach of this Agreement if such occurrence is solely due to the City’s failure to perform under this Section c). Where StubHub’s promotional benefits require the action, coordination, or cooperation of Contractor, the same shall be considered obligations of Contractor under this Agreement, and Contractor’s failure to perform the same shall not be grounds for non-payment of the annual integration payment and shall be deemed a breach of this Agreement. The City’s failure to perform any of the following shall not be deemed a breach of this Agreement.

- Integration of StubHub text links that link directly on ‘click’ from the EDPs to the StubHub website.
- Placement of “StubHub: Buy or Sell (appropriate venue name) Tickets” text link in the Tickets section of the main navigation page of the EDPs on the left rail of the EDPs and/or the top rail of the EDPs, either of which shall be “above the fold” throughout the ticketing pages when such rails are available as part of page layout.
- Placement of a StubHub text link to sold out qualified events on the EDPs with a link to the StubHub website; “qualified events” are those events at City Venues for which Contractor is the sole ticketing sales provider.
- Placement of a StubHub advertisement or text link on the home page of the EDPs during the Term of this Agreement.
- Placement of a StubHub logo and text link on the schedule page or events page, and the “Tickets” page of the EDPs during the Term of this Agreement.
- Mention of StubHub in two (2) e-mails sent to the DAV database per year of the Term.
- Post on social media including, but not limited to, on Facebook and Twitter, when qualified events are sold out; “qualified events” are those events at City Venues for which Contractor is the sole ticketing sales provider.
- Placement of a StubHub display ad or text link on the homepage and/or ticket page of City Venues’ mobile websites during the Term of this Agreement.
- Placement of a link on City Venues’ websites or integration within mobile applications associated with City Venues during the Term of this Agreement.
- Maintain consistent look of StubHub text links with current versions of the EDPs.
- At least once per year of the Term, include information about StubHub integration in a City-sponsored season ticket insert, but only if/when City provides the season ticket service and only if/when Contractor is the sole ticketing sales agent for such season tickets. Contractor shall pay or shall cause StubHub to pay for the applicable printing costs for the inserts.
- Provide one offline DAV asset to StubHub once per year of the Term (such as concourse signage, barrier entrance signage or other hard asset).

d) Customer Relations Management (CRM).

- Contractor will provide CRM modeling services and StrongMail Message Studio, or a comparable emailing tool for all of the City Venues. In the event City utilizes such services or tools, the City will be responsible for the costs thereof, which shall be invoiced by Contractor to the City.

e) Box Office Services.

- Contractor will provide full box office services, including staffing, to the City at the staffing levels, times, and locations required by City. The City shall pay the rates set forth in Exhibit B for such services.

- Contractor will provide full financial settlement capabilities for all events at City Venues ticketed by Contractor.
- The City will provide physical box office facilities and shall also provide the IT Requirements (as defined in Section I below), and a dedicated safe if needed.
- Contractor shall implement its cash control system at all box offices, which shall be commensurate with industry standards.

f) Call Center Services.

- Contractor will provide City Venue specific vanity lines at its call center to reinforce City brands and to provide support and customer service for inquiries across all Events on AXS ticketing.
- Contractor's AXS Guest Services group will be available to assist event customers via Phone, Email, Mail, Web Form, Live Chat, Facebook, and Twitter.
 - Phone and live chat customer service will be available 7am-9pm MT, 7 days a week with phone calls being answered at the official AXS call center.
 - Other online customer service (web form and email) will be resolved by Contractor's central in-house team using cutting-edge customer support tools.
 - Responses to customer services inquiries will be AXS branded.

g) Outlet Strategy.

- Upon DAV's request, Contractor shall establish ticket sales outlets at either its sister company's (Regal Entertainment Group) Regal and UA Cinemas (currently 13 locations in the Denver area) or another distribution or promotional equivalent in the Denver area. DAV and Contractor shall mutually agree in writing on the number and locations of such outlets.

3. At-Event Phase.

- Contractor will integrate the City's venues into the AXS mobile app for enhanced customer experience while at a City Venue. For example, the app will provide information regarding directions, traffic, and parking, and restaurants and hotels in the area. The app also may be used for scannable tickets.
- Once inside the venue, the app will provide information regarding seating and restroom locations should the City's venues meet the IT Requirements and be equipped, at the City's expense, with consumer connectivity, e.g. Wi-Fi network
- Contractor will provide the City the ability to send specialized Alert Messaging via Push Notifications to subscribers through the AXS App for Events at City Venues (e.g. Red Rocks Weather Alerts), subject to customer connectivity provided at the City's expense.

4. Post Event Phase.

- Contractor will provide the full services of AXS IQ when available; if AXS IQ is not available, Contractor shall provide other comparable data-based insights via consultation.
- Contractor will include AXS IQ consultation sessions with Contractor's experienced marketing staff on a monthly basis.
- Contractor will provide the full services of AXS Turnkey Surveyor, or a comparable service, to City Venue staff for post event customer satisfaction measurement.

E. Personnel.

1. Executive Personnel. Contractor will provide an executive level primary point of contact to act as a liaison to the City for this Agreement. Contractor's initial primary points of contact will be Director, AXS Ticketing and Senior Vice President, AXS Ticketing. Contractor will also provide a primary customer service executive for this Agreement. Contractor's initial primary customer service executive will be Account Manager, AXS Ticketing. Contractor will promptly notify the Director of any change in the foregoing representatives or the contact information for the foregoing representatives. The Director shall notify Contractor of the executive personnel and primary points of contact to act as liaison to Contractor for this Agreement, which shall initially be the Director of Marketing and Business Development.

2. Ticketing Account Manager. An AXS Ticketing Account Manager will be assigned to the City at the beginning of the integration process. The assigned Ticketing Account Manager will be a seasoned veteran of the ticketing industry and expert user of AXS Ticketing. The Ticketing Account Manager will be the "go to" person for almost everything the City needs as it learns the new AXS system. The Ticketing Account Manager will be responsible for coordinating trainings and ensuring any and all questions related to AXS Ticketing or operations are answered in a timely manner. Upon integration, the Ticketing Account Manager will continue to manage, under Contractor's supervision, the day-to-day communications and relationship between the City and Contractor.

3. IT Services. An IT services team will be designated to provide technical details and support for the City's ticketing infrastructure to be provided under the terms of this Exhibit A, from the initial site survey to installation. Ongoing onsite IT infrastructure (i.e. circuits, wireless access points, etc.) maintenance is the responsibility of the City.

4. System Implementation. A system implementation team will be assigned to set up AXS Ticketing according to the City's needs from the beginning of the migration process. This team will also be there to assist with any future configuration changes.

5. Ticketing Training. An experienced team of ticketing professionals will be assigned to the City to train the City's staff on all functions, features and processes of the new ticketing system as well as ongoing training through webinars and on-site training if required.

6. Client Services. A client services team will be assigned to each City Venue to assist in the day-to-day needs of the venue, from event creation to questions about AXS Ticketing. In addition, this team will work behind the scenes conducting testing and verification

of event details and on sales. This team will work to ensure the event data is consistent across all events.

7. **Finance**. Contractor will assign experienced finance professionals who can help the City with reporting, audits, merchant accounts and any other finance questions, issues or suggestions for enhancement that the City Venues may have.

F. Training.

1. **AXS Ticketing Training**. Contractor will assign an Account Manager, as determined necessary by DAV, to provide the City with management-level and staff-level training on the following topics. These trainings will be provided by webinar and on-site at the City Venues. Training topics, curriculum, and timetable will be customized based on the necessities of the given venue and user level, and will include the following, as applicable:

1. Event creation
2. Event modification
3. Event pre-sale, on-sale, and promotion processes
4. Day-to-day box office activities
5. Box office manager training (restriction management, event validation, reports, and troubleshooting)
6. Day of show activities
7. Post show activities, including financial and administrative reporting
8. Outbox support and communication
9. Ticket seller training (transaction process, balancing procedures, etc.)

2. **Ticketing Trainers & Materials**. The Account Manager, with the assistance of a Documentation & Training Specialist, will be responsible for conducting training sessions with venue management and staff and City Tenants' management and staff, as determined necessary by DAV. The Account Manager will work with the City to develop a training plan specific to the City's organization.

3. **Training Documents**. The training materials used for system training are published and provided by the Documentation & Training department at AXS. Such materials are custom prepared in advance and distributed during the training sessions.

4. **Ticketing Tutorials**. As a part of on-going client support, the City will have available to it Contractor's comprehensive training and support system that is accessible worldwide 24 hours a day. In conjunction with AXS Ticketing training (described above), the Ticketing Tutorial space provides invaluable system training information including "how-to" videos and step-by-step documentation that will help guide users through the Outbox product.

5. **Monthly Newsletter**. A newsletter related to new content and tutorials available in the AXS Tutorials portal will be distributed to registered users each month. Newsletter content will specifically refer to product enhancement and related documentation.

6. Annual Seminar/Working Conference. Contractor holds an annual meeting for clients in Los Angeles every February. Entry will be free of charge to the City and there shall be no limits on the number of City representatives that may attend.

G. Daily Support. All of the City's and City Tenants' service needs are supported by the AXS Client Service and Support team. This may involve issues that may arise in: ticketing system, hardware (provided by Outbox) or networking issues (internal or external) that may or may not require coordination with a City Venue's IT staff or external providers.

Daily support will be provided and available 24 hours per day 7 days per week by Contractor's Client Services department located in Los Angeles, CA. The Client Services department will provide daily event configuration and day of event support to all City Venues. Regular hours are Monday—Saturday from 6:00 a.m. to 9:30 p.m. (PST) and Sunday from 7:00 a.m. to 9:00 p.m. (PST). After regular hours, a client services supervisor will be available on an on-call basis to provide assistance and answer any queries within a guaranteed response time of 15 minutes.

Response times are at least equal to industry standard for any phone call and email communication. After business or event hours, support supervisors are available within 15 minutes, guaranteed. In addition to the client service department in Los Angeles, AXS will have a dedicated client support specialist located in Denver.

H. System Installation, Quality Control & Testing, & Upgrades.

Contractor will integrate the City Venues onto AXS Ticketing in the following steps:

1. Planning and Research. During this phase, the parties will identify the objectives, scope and structure of the City's organization; the City's business needs and practices will be gathered and reviewed; Contractor will conduct site surveys of the City Venues to assess network and hardware infrastructure; and the Contractor will prepare for the City's written approval of a project plan and timeline for integration.
2. Kick-Off Call. Contractor will schedule a conference call to bring the AXS Project Team and the City's key personnel and stakeholders together to identify contacts within the organizations, outline the integration timeline and project plan.
3. Define Database.
4. Establish Connectivity.
5. Install Hardware.
6. Conduct Training. See paragraph F above.
7. Go-Live with first Event's on sale.
8. First Event with Scanning.

There will be no downtime as Contractor builds the operating system for the City Venues—the City will be able to continue using its existing ticketing system(s) without interruption while its new AXS Ticketing system is built by Contractor.

Quality control and testing will be completed on AXS Ticketing before it is installed at a City Venue. After installation, QA and Testing will be handled by Contractor's technology team

prior to any releases to production. Software upgrades for Contractor's products generally are scheduled for release approximately every 2-3 months. Contractor will upgrade the City's system to the latest version during each release cycle. All production upgrades and issues will be tested by both the technology team as well as by the Los Angeles office to ensure the releases are sufficiently vetted. Release notes will be sent to the City prior to each upgrade.

I. Equipment. Contractor will provide and maintain all AXS Ticketing communications and box office workstation equipment at the City Venues, including computers, monitors, keyboards, credit card readers, routers, switches, wireless access points for scanning, report and BOCA ticket printers (the "Hardware"), as more particularly described below, which the parties agree are comparable to that currently used for the systems presently in use at the City Venues.

Contractor and the City agree that the maximum quantities initially required at the City Venues will be as follows:

- Denver Coliseum: 8 workstations, 8 printers, and 12 scanners
- Red Rocks: 7 workstations, 7 printers, and 12 scanners
- Ellie Caulkins: 4 workstations, 4 printers, and 6 scanners
- Buell: 4 workstations, 4 printers, and 6 scanners
- Boettcher: 4 workstations, 4 printers, and 6 scanners
- Bellico Theatre: 6 workstations, 6 printers, and 10 scanners

Any Hardware required by the City in excess of the maximum quantities above shall, upon DAV's request, be provided by Contractor in a condition satisfactory to DAV, the costs of which shall be invoiced to and paid for by the City.

Contractor will be responsible for the installation of all Hardware in close coordination with the applicable City Venue's staff. The City shall be responsible for providing for each City Venue routine maintenance, access to areas required for installation, as well as providing electricity, cabling, internet connectivity, phone lines, and other technical requirements (the "IT Requirements"), as follows:

1. High Level IT Requirements.

Data Circuit/DMZ

Minimal 10MB circuit (recommended)

Must have Public IP/Static IP

- Any preferred provider (Fiber/DSL/Cable)

Rack Space

Minimal 6Us required for rack space

Central location to cabling

- Recommended (IDF/MDF) or in Box Office

Cabling and Ports

Need two open network ports per Box Office window (Computer/Boca)

Need one open network port per location for Back Office users (Boca)

Need one port per Access Point/Gate

- Cabling should be ran to central location (MDF/IDF) or in Box Office

Power

Need to have 15/20 amp circuit to Network Infrastructure (Outbox HW)
Need to have 4 open power outlets per workstation/window
➤ If not possible we will provide power strip

2. IP Ranges/Port Requirements.

IP Ranges:

65.93.252.98
76.232.250.194
64.70.59.129 - 64.70.59.251
64.34.154.130 - 64.34.154.159
69.90.179.34 - 69.90.179.62
69.90.181.226 - 69.90.181.254

Ports:

Port 22 – SSH
Port 631 – CUPs
Port 5222 – xmpp
Port 6556 – check_mk
Port 8443 – Remote Mgt
Port 9100 – IPP

J. Sponsorships. City will have the right to sell sponsorship opportunities related to the services and products provided per this Agreement by Contractor and Affiliates including, without limitation, hold time sponsorship advertising on Contractor’s City-specific vanity lines, website advertising on City owned websites built by carbonhouse (not applicable to axs.com), ticket backs, and ticket envelopes. Contractor will aid the City in its efforts to secure such sponsorship revenue.

K. Refunds. If an event is cancelled, the Account Balance (as defined below) shall be held and made available for distribution by Contractor to ticket purchasers. For purposes of this Agreement, the term “Account Balance” shall mean the amount of funds held at any time by Contractor on account of ticket sales for the subject event, including the Contractor Ticket Fees. Contractor shall immediately cease selling tickets upon its receipt of notice of the cancelled event and shall promptly make full refunds, including amounts attributable to Contractor Ticket Fees, to purchasers properly entitled to a refund. In the event the Account Balance is insufficient to make the applicable refunds, Contractor shall offset against other funds being held by Contractor under this Agreement at such time. The refund and/or exchange policy for postponed or modified events (e.g. substitute acts) shall be mutually determined the City Tenant and DAV on a case-by-case basis.

L. Consumer Data. The City shall own the consumer data collected by the Contractor in accordance with the Agreement. The Contractor and its Affiliates may use such consumer data, only in the following manner:

1. Customer Support. Contractor may use the data for the support of consumers (i.e., ticket purchasers) in connection with said consumers’ service inquiries.

2. **Ongoing Marketing** – During the term, Contractor and its Affiliates may use consumer data to provide the marketing services in Section D. No other sharing of consumer data is allowed other than as permitted under this Agreement.

3. **Consumer Opt-In**. Contractor and its Affiliates may use consumer data obtained from consumers who elect to receive AXS or third-party marketing communications from Contractor and/or its Affiliates.

5. **Data to City Tenants**. Notwithstanding the foregoing, if a City Tenant requests consumer data from the City Tenant’s specific show or event, Contractor shall provide said City Tenant with such consumer data for consumers who have opted in to receive communications from third parties, upon the prior written approval of the City.

M. **Additional Development Services**. At the request of the City, Contractor shall research and develop custom ticket enhancements for use by the City and/or its City Tenants (“Additional Development Services”). A custom ticket enhancement means a component that falls outside of Contractor’s current tool set or tools currently under development. A mutually agreed upon scope of work, signed by Contractor and the Director, will authorize the requested development services.

N. The parties agree that any time a notice or approval is required by this Scope of Work to be written or in writing, that an email or electronic transmission shall be deemed to be written or in writing.

EXHIBIT B

COMPENSATION AND PAYMENT

1. Contractor Compensation.

- a) ***Contractor Ticket Fee.*** Contractor shall be paid Three and No/100 Dollars for each ticket sold via online, mobile, phone, and any other consumer-facing retail channels by Contractor under this Agreement (the “Contractor Ticket Fee”). The Contractor Ticket Fee will increase, beginning in year 4 (i.e. on January 1, 2018), by Zero and 25/100 Dollars for each ticket sold via online, mobile, phone and any other consumer-facing retail channels. Contractor Ticket Fees shall be paid in accordance with the settlement procedure set forth in section 4.d of the Agreement and this Exhibit B.

Beginning in 2015, for each full calendar year of the Term, Contractor shall be paid the greater of: (i) the aggregate of Contractor Ticket Fees during the subject calendar year and (ii) Nine Hundred Thousand and No/100 Dollars (\$900,000.00) (“Minimum Guaranteed Payment”). Contractor Ticket Fees for all Events that are finally settled per section 4.d of the Agreement prior to December 31st of the subject calendar year shall be included in calculating (i).

In the event the aggregate Contractor Ticket Fees for a calendar year are less than the Minimum Guaranteed Payment (such difference, the “Gap Payment”), the City shall pay Contractor the Gap Payment upon its receipt of an invoice in a format and with a level of detail acceptable to the City, including all supporting documentation required by the City, to receive payment of Gap Payment. The City’s Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to this payment.

If required by the City in its sole discretion, Contractor shall reduce the Contractor Ticket Fee to as low as \$0.00 per ticket for low-cost events (“low-cost events” shall mean events for which the highest ticket price is no more than \$25.00), free events, non-profit events, not-for-profit events, and consumer shows (each, a “Reduced Fee Event” and collectively, “Reduced Fee Events”). A multiple day event shall be considered only one Reduced Fee Event. Contractor shall provide the ticket sales and related services described in this Agreement for up to ten (10) Reduced Fee Events without reimbursement from the City of the Contractor Ticket Fees for the tickets sold by Contractor to said ten events; the City shall solely determine which Reduced Fee Events shall be counted towards said ten events (the “Designated Reduced Fee Events” and all other Reduced Fee Events, the “Non-Designated Reduced Fee Events”). On or before forty-five days after the end of each calendar year, Contractor shall provide the City with a written report detailing the number of Non-Designated

Reduced Fee Events for which Contractor sold tickets, the number of tickets Contractor sold for each Non-Designated Reduced Fee Event, the aggregate number of tickets sold for the Non-Designated Reduced Fee Events, and the number of tickets sold for the Designated Reduced Fee Events. Subject to receipt of said written report and Section 4.e of the Agreement, the City will remit to Contractor an amount equal to the difference between \$3.00 and the amount of the Contractor Ticket Fee already paid (if any) for each ticket sold by Contractor to a Non-Designated Reduced Fee Event during the subject calendar year.

In addition, Contractor shall not receive the Contractor Ticket Fee for subscription events, comp tickets, or box office tickets.

- b) ***Box office staffing reimbursement.*** The City will reimburse Contractor at the rate of \$22.50 per hour for Contractor's box office managers and \$15.00 per hour for Contractor's box office staff. The City will make such payments upon its receipt of an invoice in a format and with a level of detail acceptable to the City, including all supporting documentation required by the City. The labor rates for box office managers and box office staff shall increase on February 1st of each year, beginning on February 1, 2016, in accordance with the annual percentage increase in the Consumer Price Index ("CPI") (rounded up to the nearest \$0.25 per hour), as determined between the most recently published CPI prior to October 1 each year after 2015 and the most recently published CPI that is at least one year prior thereto ("COL Increase"). As used herein, CPI means the consumer price index for the Denver metropolitan area 1982-1984 = 100 as published by the United States Department of Labor, Bureau of Statistics or any successor index. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to this payment.
- c) ***Credit card transaction fees.*** To cover the costs of credit card payment authorization and credit card processing fees and Chargebacks, at the time of event settlement per section 4.d of the Agreement, Contractor will retain from the ticket sales proceeds for each event a "Credit Card Fee" in an amount equal to 2.5% of the Face Value of all tickets purchased with credit cards at the City's box offices and are processed through AXS merchant accounts or for season tickets that are fulfilled by Contractor under this Agreement and processed through AXS merchant accounts, plus 3.0% of the Face Value of all tickets purchased with credit cards from Contractor online, via its call centers, or at its retail outlets and are processed through AXS merchant accounts. The parties acknowledge that AXS Ticketing is programmed to round up the Credit Card Fees to the nearest nickel. "Chargebacks" means the amounts that the merchant bank is charged back by a cardholder or a card issuer under the card organization rules (e.g., cardholder dispute, fraud, declined transaction, returned tickets for

cancelled attractions, etc.). “Face Value” means the face price of a ticket, inclusive of Contractor Ticket Fees, City Ticket Fees and City Tenant Fees, and all applicable taxes and facility, parking and similar fees assessed via AXS Ticketing associated with an Event (e.g. add-ons or merchandise).

- d) ***Additional Development Services.*** The City shall pay Contractor Two Hundred Fifty and No/100 Dollars (\$250.00) per hour for any Additional Development Services (as defined Section N of Exhibit A) performed by Contractor. This shall be the pay rate regardless of the number of Contractor staff or subcontractors used to perform such services. This pay rate shall not be subject to a COL Increase. Contractor shall spend no more than 300 hours during the Term of this Agreement performing Additional Development Services.
- e) ***Fulfillment Fees:*** The Contractor shall be paid a standard fee to cover delivery and mailing of tickets, in an amount agreed upon in writing by the City, which fee will be passed onto the consumer.

2. City Compensation.

- a) ***City Ticket Fee.*** The City will be paid a fee per ticket sold to the subject event (the “City Ticket Fee”) in amount(s) to be determined by the City, prior to onsale, on an event-by-event basis. These fees shall be paid from amounts collected from the consumer and in accordance with the settlement procedure set forth in section 4.d of the Agreement.
- b) ***Ticket Sales Guarantee.*** Contractor guarantees that, beginning in 2015, during each full calendar year of the Term it will sell 275,000 tickets for events at the City’s venues that are promoted by Anschutz Entertainment Group or any entities owned, controlled, or operated by Anschutz Entertainment Group, including but not limited to, AEG Live – Rocky Mountains, LLC (each, an “AEG Live Event”). If less than 275,000 tickets are sold by Contractor to AEG Live Events during a calendar year, Contractor shall pay the City Three and No/100 Dollars (\$3.00) for each ticket under 275,000 not sold during the subject calendar year. This payment shall be made by Contractor to the City on or before forty-five (45) days after each calendar year.
- c) ***Minimum Broadcasts.*** In the event that Contractor fails to provide the City with the Minimum Broadcasts defined in Section D.1.i of Exhibit A, Contractor shall pay the City prior to the expiration of the Term a lump sum payment equal to Ten Thousand and No/100 Dollars (\$10,000.00) for each show less than the Minimum Broadcasts.
- d) ***StubHub Integration Payment.*** Subject to Section D.2.c of Exhibit A, Contractor shall pay to the City an annual payment of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) on or before thirty (30) days after the effective date of this Agreement, and, thereafter, on or before thirty (30) days after the end of each calendar year during the initial Term.

Any payments not made to the City pursuant to the above terms, when due, shall accrue interest at the rate of eighteen percent (18%) per annum, commencing on the 5th calendar day after the date such amount is due and owing until paid to the City.

EXHIBIT C

CERTIFICATE OF INSURANCE

(ATTACHED.)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/15/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|--|--|---|--|
| PRODUCER MARSH USA INC. 1225 17TH STREET, SUITE 1300 DENVER, CO 80202-5534 Attn: Denver.certrequest@marsh.com | | CONTACT NAME: PHONE (A/C, No. Ext): FAX (A/C, No): E-MAIL ADDRESS: | |
| 02220 -LIVE-GAWU2-13/14 | | ENDT | |
| INSURED AXS Digital, LLC 800 W Olympic Blvd, Suite 305 Los Angeles, CA 90015 | | INSURER(S) AFFORDING COVERAGE INSURER A: Greenwich Insurance Company INSURER B: N/A INSURER C: XL Specialty Insurance Company INSURER D: N/A INSURER E: INSURER F: | |
| | | NAIC # | |
| | | 22322 | |
| | | N/A | |
| | | 37885 | |
| | | N/A | |

COVERAGES

CERTIFICATE NUMBER:

SEA-002447646-04

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|-----------|----------|---------------|-------------------------|-------------------------|--|
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$100,000 SIR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | RGE500035701 | 11/15/2013 | 11/15/2014 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 20,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS | | | RAG500035801 | 11/15/2013 | 11/15/2014 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| | UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ | | | | | | EACH OCCURRENCE \$ AGGREGATE \$ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | N/A | RWD500035601 | 11/15/2013 | 11/15/2014 | <input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: TICKETING SERVICES - CITY CONTRACT NUMBER TO BE PROVIDED
 CITY AND COUNTY OF DENVER, ITS ELECTED AND APPOINTED OFFICIALS, EMPLOYEES AND VOLUNTEERS ARE NAMED AS ADDITIONAL INSURED ON THE GENERAL AND AUTO LIABILITY POLICIES AS REQUIRED BY CONTRACT OR AGREEMENT. WAIVER OF SUBROGATION APPLIES AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT EXECUTED PRIOR TO LOSS. COVERAGE PROVIDED BY THE ABOVE GENERAL LIABILITY POLICY SHALL BE PRIMARY AND NON-CONTRIBUTORY AS REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER**CANCELLATION**

| | |
|---|--|
| CITY AND COUNTY OF DENVER ATTN: KENTON JANZEN GENERAL SERVICES-PURCHASING DIVISION 201 W. COLFAX AVENUE, DEPT. 304 DENVER, CO 80202 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Sharon A. Hammer <i>Sharon A. Hammer</i> |
|---|--|

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/15/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|--|--|-----------------------|---------------|
| PRODUCER Marsh Risk & Insurance Services CA License #0437153 777 South Figueroa Street Los Angeles, CA 90017 Attn: Brooke Barnett (213) 346-5637 194461-AEG-E&O-14-15 | CONTACT NAME: PHONE (A/C, No. Ext): | FAX (A/C, No): | |
| | E-MAIL ADDRESS: | | |
| INSURED AXS Digital, LLC 800 W. Olympic Blvd., Suite 305 Los Angeles, CA 90015 | INSURER(S) AFFORDING COVERAGE | | NAIC # |
| | INSURER A: Hiscox Insurance Co. Ltd | | 1120525 |
| | INSURER B: | | |
| | INSURER C: | | |
| | INSURER D: | | |
| INSURER E: | | | |
| INSURER F: | | | |

COVERAGES **CERTIFICATE NUMBER:** LOS-001624164-02 **REVISION NUMBER:** 2


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|--|------------------------------|-------------------|-------------------------|-------------------------|---|
| | GENERAL LIABILITY | | | | | | EACH OCCURRENCE \$ |
| | <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ |
| | <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR | | | | | | MED EXP (Any one person) \$ |
| | | | | | | | PERSONAL & ADV INJURY \$ |
| | | | | | | | GENERAL AGGREGATE \$ |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | PRODUCTS - COMP/OP AGG \$ |
| | <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | | | | \$ |
| | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) \$ |
| | <input type="checkbox"/> ANY AUTO | | | | | | BODILY INJURY (Per person) \$ |
| | <input type="checkbox"/> ALL OWNED AUTOS | <input type="checkbox"/> | <input type="checkbox"/> | | | | BODILY INJURY (Per accident) \$ |
| | <input type="checkbox"/> HIRED AUTOS | <input type="checkbox"/> | <input type="checkbox"/> | | | | PROPERTY DAMAGE (Per accident) \$ |
| | | | | | | | \$ |
| | UMBRELLA LIAB | | | | | | EACH OCCURRENCE \$ |
| | <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR | | | | | | AGGREGATE \$ |
| | <input type="checkbox"/> CLAIMS-MADE | | | | | | \$ |
| | <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ | | | | | | \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | WC STATUTORY LIMITS |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) | <input type="checkbox"/> Y <input checked="" type="checkbox"/> N | <input type="checkbox"/> N/A | | | | E.L. EACH ACCIDENT \$ |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE \$ |
| | | | | | | | E.L. DISEASE - POLICY LIMIT \$ |
| A | E&O/Professional Liability | | | US UUA 2603736.14 | 04/19/2014 | 04/19/2015 | \$10,000,000 Single Agg. Limit \$100,000 Retention Each Loss |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Ticketing Services - City Contract Number to be provided
City and County of Denver, its elected and appointed officials, employees and volunteers are named as additional insured on the Errors & Omissions Policy as respects operations of the Named Insured and as required by contract.

CERTIFICATE HOLDER **CANCELLATION**

| | |
|--|--|
| City and County of Denver Attn: Kenton Janzen General Services-Purchasing Division 201 W. Colfax Avenue, Dept 304 Denver, CO 80202 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
| | AUTHORIZED REPRESENTATIVE of Marsh Risk & Insurance Services Brooke Barnett  |

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/17/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | |
|---|--|--|
| PRODUCER MARSH RISK & INSURANCE SERVICES 345 CALIFORNIA STREET, SUITE 1300 CALIFORNIA LICENSE NO. 0437153 SAN FRANCISCO, CA 94104 J02220-FINP-crl-14-15 | CONTACT NAME: _____ PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ | |
| | INSURER(S) AFFORDING COVERAGE | |
| INSURED ANSCHUTZ COMPANY & ITS SUBSIDIARIES INCLUDING AXS DIGITAL LLC 800 W OLYMPIC BLVD SUITE 305 LOS ANGELES, CA 90015 | INSURER A: National Union Fire Ins Co Pittsburgh PA NAIC # 19445 | |
| | INSURER B: _____ | |
| | INSURER C: _____ | |
| | INSURER D: _____ | |
| | INSURER E: _____ | |
| | INSURER F: _____ | |

COVERAGES **CERTIFICATE NUMBER:** SEA-002501260-01 **REVISION NUMBER:** 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATION MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|-----------|----------|---------------|-------------------------|-------------------------|--|
| | GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | | | | EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ |
| | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS | | | | | | COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| | UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ | | | | | | EACH OCCURRENCE \$ AGGREGATE \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | <input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ |
| A | Crime | | | 013010509 | 06/15/2014 | 06/15/2015 | Limit of Liability \$1,500,000 Deductible \$250,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CITY AND COUNTY OF DENVER ARE INCLUDED IN THE CRIME POLICY LISTED ABOVE AS LOSS PAYEE

CERTIFICATE HOLDER CANCELLATION

| | |
|--|--|
| CITY & COUNTY OF DENVER ATTN: KENTON JANZEN GENERAL SERVICES - PURCHASING DIVISION 201 W. COLFAX AVENUE, DEPT 304 DENVER, CO 80202 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh Risk & Insurance Services Seth Naterman |
|--|--|