

SPONSORSHIP AGREEMENT
(Non-Alcoholic Beverage Sponsor)

THIS SPONSORSHIP AGREEMENT (this “**Agreement**”) is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized and existing under and by virtue of Article XX of the Constitution of the State of Colorado (the “**City**”) and **SWIRE PACIFIC HOLDINGS, INC.**, a Delaware corporation, located at 12634 South 265 West, Draper, Utah 84020 (“**Sponsor**”).

1. **RECITALS:** The City through Denver Arts and Venues (“**A&V**”) owns and operates certain public entertainment venues, specifically the Quigg Newton Denver Municipal Auditorium “**Ellie Caulkins Opera House**,” the Buell Theatre, Boettcher Concert Hall (sometimes referred to collectively as the “Denver Performing Arts Complex”), Red Rocks Amphitheatre & Visitor Center, the McNichols Civic Center Building, the Denver Coliseum, and the Colorado Convention Center (collectively, the “**A&V Venues**”). The City also produces and promotes certain programs and events.

The City has entered into tax exempt Bond and Certificate financing transactions (collectively “Financings”) to finance various construction and maintenance projects at the A&V Venues and, pursuant to the Financings and authorizing ordinances and the tax-exempt status of the Financings, the A&V Venues are subject to regulation under the Internal Revenue Code and certain uses require review by Bond Counsel. Bond Counsel means the nationally recognized law firm or firms with expertise in public finance delivering their approving opinions with respect to the excludability from gross income for federal income tax purposes of interest on the Financings. The City Attorney’s Office retains a list of approved Bond Counsel.

Sponsor is in the non-alcoholic beverage manufacturing, sales, and distribution business, and would like to obtain certain sponsorship opportunities in connection with the City Venues and those City programs and events specified in Exhibit A (collectively, the “**Other City Assets**”).

The City and Sponsor have, therefore, agreed to a sponsorship arrangement in accordance with the following terms and conditions.

2. **AGREEMENT:** By and in consideration of the mutual promises set forth hereafter, the parties agree as follows:
 - 2.1. **Term.** The term of this Agreement shall commence as of July 1, 2017 (the “**Effective Date**”), and shall end at 12 o’clock midnight on June 30, 2022 (the “**Term**”). For purposes of this Agreement, a “Contract Year” shall mean each period commencing on July 1 and ending on the following June 30 throughout the Term. The Term may not be increased without approval of Bond Counsel.

- 2.2. Grant of Sponsorship Rights and Benefits. For each Contract Year of this Agreement, Sponsor shall be entitled to the rights and benefits set forth in **Exhibit A**. Sponsorship rights or benefits not used in one Contract Year will not “carry over” or otherwise be available in an ensuing Contract Year.
- 2.3. Sponsorship Rights Fees. In consideration of the rights and benefits provided to Sponsor as set forth in this Agreement, Sponsor shall pay to the City the fees set forth in **Exhibit B** in accordance with the schedule set forth in Exhibit B. The rights fees may not be amended without approval of Bond Counsel.
- 2.4. Additional Consideration by Sponsor. As further consideration for the rights and benefits afforded to Sponsor, Sponsor shall provide to the City the additional consideration specifically set forth in **Exhibit C**. The City may choose not to utilize such in-kind compensation and benefits at its sole discretion. Should the City not utilize such in-kind benefits, it shall have no effect on any other provision of this Agreement. The additional consideration may not be amended without approval of Bond Counsel. Additional consideration not used in one Contract Year will not “carry over” or otherwise be available in an ensuing Contract Year.
- 2.5. Requirements of the Financings. The parties agree that due to the Financings of the A&V Venues that this Sponsorship Agreement must be and has been approved by Bond Counsel, Stradling Yocca Carlson & Rauth, PC, 1400 16th Street, Suite 400, Denver, Colorado 80202. It is understood that the use A&V Venues is restricted by the Bond Ordinances, and by all applicable rules, regulations, statutes or ordinances promulgated by any federal, state or municipal agency having jurisdiction over the A&V Venues. The parties agree that, the Bond Ordinances permit the terms of the Sponsorship Agreement as written and that Sponsor shall comply with all IRS regulations and take no action that would jeopardize the tax exempt status of the Bonds. This Sponsorship Agreement has been approved by Bond Counsel, attached hereto as **Exhibit D**. The Sponsor agrees that in its activities and occupancy hereunder it will comply with all of the terms and conditions of the Financings as those requirements are stated in this Agreement and that it will take no action, nor omit to act in any manner, which would cause the City to breach or be in default under the Financings.
- 2.6. Equipment. Sponsor will loan each City Venue for the duration of the Term, at no charge to the City, appropriate equipment for dispensing the Sponsor Drinks, as defined in Section 2.8 below (the “**Equipment**”). Sponsor shall also provide, at no charge to the City, service and preventative maintenance to the Equipment. Sponsor shall provide the City with a telephone number to request emergency repairs and receive technical assistance related to the Equipment after regular business hours.

Sponsor shall promptly respond to all City requests for service and maintenance and shall use all reasonable efforts to remedy Equipment problems as soon as possible. Title to the Equipment shall remain vested in Sponsor or its affiliate and all such Equipment will be returned to Sponsor upon expiration or earlier termination of this Agreement.

- 2.7. Uses and Protection of Trademarks/Service Marks and Other Intellectual Property. The City and Sponsor each acknowledge that the other party owns or is licensed to use certain names, trademarks, service marks, copyrights and other intellectual property associated with their respective businesses which marks will be specifically identified on **Exhibit E** (hereinafter collectively referred to as "**Marks**"), and each owns certain merchandising rights in and to the Marks, and all goodwill associated with or symbolized by the Marks.

It is agreed and understood that in marketing and promoting events at the City Venue and other A&V programs and events (the "**Events**") and various activities associated therewith, the City and Sponsor may make various references to each other and may display the Marks of the City and Sponsor as well as photographs or graphic images of these activities. Each party grants to the other a non-exclusive, non-transferable license to use its Marks during the Term of this Agreement, subject to the terms and conditions hereafter set forth, solely in connection with advertising and promoting the Events and activities incidental thereto. The City and Sponsor shall agree in writing as to the form and content of any promotional or advertising materials which bear the other party's Marks, and the media in which such materials are to be used prior to their use, which approval the parties shall not unreasonably withhold. Such use may be subject to such reasonable conditions as either party may impose, including, but not limited to, conditions affording each party adequate protection of its Marks. Use of the Coca-Cola Marks will also be subject to approval by Coca-Cola Company as the owner of the marks. Upon termination or expiration of this Agreement, both parties shall cease all use of the Marks of the other party as soon as practicable, but, in any event, within 30 days, unless the particular media which has been approved requires a longer lead time, but in no event longer than 90 days.

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.

Neither party is granted any right or license under this Agreement to sell or otherwise distribute for sale, any of the promotional advertising material or items related thereto, unless specifically set forth herein. If a party desires to sell or distribute for sale any of such 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.

- 2.8. Approval of Promotional Concepts. Each party reserves the right to approve all promotional concepts, which the other party wishes to use in connection with its identification with the first party. Under no circumstances will promotions which reflect unfavorably upon the City, or which are prohibited or restricted by law, rule, regulation, or executive order, be approved by the City.
- 2.9. Exclusivity. This Agreement between the City and Sponsor contained herein shall be exclusive. As used herein “exclusive” means that the City will not enter into a contract or other legally binding arrangement conferring pouring rights or marketing or other sponsorship opportunities for non-alcoholic beverages at the City Venues or with respect to the Other City Assets, except as set forth in **Exhibit A**.

In addition, the City will take customary reasonable measures to ensure that competitive beverage products are not sold, sampled, or otherwise distributed, except pursuant to the exceptions in the following sentences. Sponsor acknowledges that the City cannot control certain components of the City Venues when promoters or other tenants rent or otherwise use the City Venues; competing brand logos, signage, and the like may be visible or competing products otherwise promoted at these times and will not constitute a breach of this Agreement. In addition, the City may, without breaching this Agreement, enter into booking agreements for the use of the City Venues with entities who may compete or have sponsors that compete with Sponsor. Notwithstanding the foregoing, to the extent City has knowledge that competing brand logos and signage will be displayed, City shall provide Sponsor with written notice of the same. Upon such notice, Sponsor may, at its option, immediately terminate this Agreement or may continue to display its own display materials as set forth in Paragraph 2.9 and continue to sell Sponsor’s products. The City will not cover the Sponsor’s display materials except in the event of a termination.

Sponsor shall be subject to Arts & Venues Denver Venue Sponsorship Policy, as the same may be amended from time to time. A copy of the current policy is attached hereto as **Exhibit F**.

- 2.10. Independent Status. It is agreed and understood between the parties that nothing contained herein shall constitute or imply an agreement or understanding of joint venture, agency, partnership or employment between the parties, and neither party shall have the authority to incur any

financial or contractual obligations on behalf of the other party. Sponsor shall have no power of direction and control over the City or the City's employees, agents, subcontractors, or volunteers, or the manner or method utilized by the City in the performance of its functions. The City shall determine and have sole discretion over the manner and methods utilized to achieve the results desired by Sponsor and shall be solely responsible for the direction, control and supervision of Sponsor's acts and those of Sponsor's agents, employees, volunteers, and subcontractors relating to the performance of this Agreement.

2.11. Indemnification. Sponsor shall (i) defend, release, indemnify and save and hold harmless the City and (ii) with respect to the serving, selling, and/or sampling of Sponsor products, release, indemnify and save and hold harmless ARAMARK Sports and Entertainment Services, LLC, a Delaware limited liability company ("**Aramark**"), as concessionaire of the Red Rocks Amphitheatre (including the Visitor Center and Trading Post) and the Denver Coliseum: (x) against any and all damages to property or injuries to or death of any person or persons, including property and employees or agents of the City or Aramark ("**Damages**"), and (y) from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature, including workers' compensation claims, of or by anyone whomsoever ("**Claims**"). Sponsor's foregoing obligations shall apply to Damages and Claims in any way resulting from or arising out of and to the extent caused by acts, errors, or omissions of Sponsor or its officers, employees, representatives, suppliers, invitees, licensees, subconsultants, subcontractors, or agents in the performance under this Agreement; provided, however, that Sponsor need not indemnify and save and hold harmless the City, its officers, agents, and employees from damages proximately resulting from the sole negligence of the City's officers, agents, and employees. Sponsor need not indemnify and save and hold harmless Aramark, its officers, agents, and employees from damages proximately resulting from the sole negligence of Aramark's officers, agents, and employees. This indemnity clause shall also cover the City's defense costs, in the event that the City, in its sole discretion, elects to provide its own defense. Defense costs coverage must be included in the liability coverage provided for the City and County of Denver, its officers, officials and employees as additional insureds. These indemnification obligations shall survive the termination of this Agreement by expiration of the Term hereof or otherwise.

2.12. Insurance.

2.12.1. General Conditions: Sponsor 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. Sponsor shall keep the required insurance coverage in force at all times during the Term of this Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of this 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 paragraph 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 such cancellation or non-renewal is 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, Sponsor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices paragraph of this Agreement 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 Sponsor. Sponsor 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 Sponsor. Sponsor 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.

- 2.12.2. Proof of Insurance: A certificate of insurance shall be supplied to the City prior to the execution of this Agreement. Sponsor may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. Sponsor certifies that the certificate of insurance complies with all insurance requirements of this Agreement. 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 Sponsor'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.

- 2.12.3. Additional Insureds: For Commercial General Liability, Sponsor's and any subcontractors' or subconsultants' insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
- 2.12.4. Waiver of Subrogation: For all coverages required under this Agreement, Sponsor's insurer shall waive subrogation rights against the City.
- 2.12.5. 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 requirements herein and shall procure and maintain the same coverages required of Sponsor. Sponsor shall include all such subcontractors and subconsultants 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. Sponsor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.
- 2.12.6. Workers' Compensation/Employer's Liability Insurance: Sponsor 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. Sponsor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of Sponsor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the Term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Sponsor executes this Agreement.
- 2.12.7. Commercial General Liability: Sponsor 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, \$50,000 fire damage legal (\$300,000 if a City facility is leased), \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- 2.12.8. 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.

- 2.12.9. Additional Provisions: For Commercial General Liability, the policies must provide the following:
- (a) That this Agreement is an Insured Contract under the policy;
 - (b) Defense costs are outside the limits of liability;
 - (c) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
 - (d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
- 2.13. Termination. The City and Sponsor may terminate this Agreement as follows:
- 2.13.1. If the other party (i.e., the City or Sponsor) commits a material breach of this Agreement and fails to cure said breach after receiving 30 days' notice in writing of the alleged breach from the aggrieved party.
 - 2.13.2. If the other party (i.e., the City or Sponsor) is unable to pay its liabilities when due, or makes an assignment for the benefit of creditors, or files a petition under any federal or state bankruptcy statute, or files a voluntary petition in bankruptcy, or is adjudicated bankrupt or insolvent, or if any receiver is appointed for its business or property, or if a trustee in bankruptcy or insolvency is appointed under the laws of the United States government or of the several states.

2.14 Effect of Termination. In the event this Agreement expires in accordance with its own Term, or is terminated prior to expiration as set forth above, the City and Sponsor shall cease using the other party's Marks. As soon as practicable after termination, the parties shall use all reasonable efforts to cease distribution of materials or broadcast of television promotional spots and other similar activities that reflect the relationship of the parties or the parties' Marks. After the first Contract Year, in the event of early termination of Sponsor by the City without cause, the City shall return to Sponsor any prepaid sponsorship funds, pro-rated on an unweighted monthly basis to the date of termination.

2.15. Miscellaneous General Provisions.

2.15.1. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties, as well as their respective successors in interest, whether by merger, reorganization or acquisition.

2.15.2. Assignment. Neither party shall assign or transfer its rights, nor delegate its obligations under this Agreement to any third party without the prior written approval of the other party, which may be withheld for any or no reason, with the exception that such assignment may be made without obtaining consent to (i) any affiliate of a party, or (ii) any entity (or its affiliate) acquiring all or substantially all of the assets or stock, by merger or otherwise, of a party or any affiliate of a party. For purposes of this provision, "affiliate" shall mean any entity controlling, controlled by or under common control with the referenced party.

2.15.3. Entire Agreement. This Agreement contains the entire understanding between the parties and supersedes all prior agreements between the said parties, whether written or oral, no representation, inducement, promises or agreements or otherwise, which are not embodied herein, shall be of any force or effect. This Agreement may not be amended or otherwise modified except by written agreement executed and authorized by all parties.

2.15.4. Severability. Any provisions of this Agreement prohibited by law, or found to be invalid by any court or agency having jurisdiction thereof, shall be ineffective to the extent of such prohibition or invalidity, without in any way invalidating or affecting the remaining provisions of this Agreement.

2.15.5. Counterparts. This Agreement may be executed in any number of counterparts, who together shall constitute one and the same instrument, but shall be effective only upon execution by each of the parties named below.

- 2.15.6. Notice. Any notice, request, approval or consent under this Agreement to be given by either party to the other shall be given in writing, and shall be considered served when delivered in person, or three (3) days after the date mailed by certified or registered mail, return receipt requested, addressed to the recipient at its address set forth below, or to such other address as the recipient may subsequently have furnished in writing to the sender.

CITY:

City and County of Denver
Director, Arts and Venues Division
1345 Champa Street
Denver, CO 80204

With a copy to:

City and County of Denver
Finance Director, Arts and Venues Division
1345 Champa Street
Denver, CO 80204

SPONSOR:

Swire Pacific Holdings, Inc
12634 South 265 West
Draper, Utah 84020

- 2.15.7. Force Majeure. Neither party shall be deemed in default hereunder and neither shall be liable to the other if either is subsequently unable to perform its obligations hereunder by reason of any fire, earthquake, flood, epidemic, accident, explosion, strike, riot, civil disturbance, act of public enemy, embargo, act of God, any municipal, county, state, or national ordinance or law, any executive or judicial order, or similar event beyond the parties' control; provided, however, that no party shall be entitled to relief under this Paragraph unless such party shall have given the other party reasonable notice of such event, and shall have exhausted all reasonable means of complying or implementing alternative means of compliance with its contractual obligations hereunder.
- 2.15.8. Governing Law, Venue. This Agreement shall be governed by and interpreted under the laws of the State of Colorado and the City and County of Denver. Any action regarding this Agreement shall be filed in the District Court in and for the Second Judicial District of

the State of Colorado, without regard to any statute or rule of law which would suggest or require another venue.

- 2.15.9. Authority. Each party represents and warrants that each, respectively, has full power and authority to enter into this Agreement.
- 2.15.10. Exhibits. All references to exhibits herein are to exhibits that are specifically incorporated by reference to this Agreement.
- 2.15.11. Headings. All headings and captions are for convenience only, and shall in no way affect their construction and interpretation.
- 2.15.12. Survival. The provisions of this Agreement, and the obligations of the parties which, by their own terms, contemplate actions to be performed after termination, including, but not limited to, payment of fees and other consideration, and the terms of this Agreement regarding indemnification, effect of termination, governing law, venue, and Marks, shall survive the termination of this Agreement.
- 2.15.13. No Express Or Implied Agency. This Agreement shall not be valid or binding in any way upon the City until fully executed by the City's authorized representatives appearing below.
- 2.15.14. No Discrimination In Employment. In connection with the performance under this Agreement, Sponsor agrees not to refuse to hire, discharge, promote, or demote, or to 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; and Sponsor further agrees to insert the foregoing provision in all subcontracts hereunder.
- 2.15.15. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and Sponsor, and nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. It is the express intention of the City and Sponsor that any person other than the City or Sponsor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- 2.15.16. Review Of Records. Sponsor agrees that any duly authorized representative of the City shall, until the expiration of three (3) years after final payment under this Agreement, have access to and

the right to examine any directly pertinent books, documents, and records of Sponsor involving matters directly related to this Agreement. The City's Auditor shall have the right at any time, and from time to time, to audit all of the records of Sponsor, directly related to this Agreement, and Sponsor, upon request, shall make all such matters available for such examination. The City's right to have such audit made with respect to any year, and Sponsor's obligation to retain the above records, shall expire three (3) years after Sponsor's final payment has been delivered to the City.

- 2.15.17. Electronic Signatures and Electronic Records. Sponsor 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.

[Remainder of page intentionally left blank.]

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-201735492-00

Contractor Name: Swire Pacific Holdings, Inc.

By: Jack Polo

Name: Jack Polo
(please print)

Title: President / CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Exhibit A

Swire Pacific Holdings, Inc. (dba Swire Coca-Cola, USA, Inc.) Scope of Sponsorship Benefits & Services

The Agreement between City and Sponsor shall be exclusive whereas the City will not enter into a contract or other legally binding arrangement conferring marketing, pouring rights, or other promotional opportunities at Red Rocks Amphitheatre, Denver Performing Arts Complex, the Denver Coliseum, and the Colorado Convention Center ("Applicable Locations") to a company in the business of manufacturing, selling, and distributing beverages including carbonated soft drinks, ready-to-drink teas, ready-to-drink coffees, ready-to-drink juices, isotonic sports drinks, protein drinks, frozen flavored beverages, bottled still water, flavored water and enhanced water (collectively, "Partner Soft Drinks"). For the avoidance of doubt, Partner Soft Drinks shall not include natural spring water (e.g. Eldorado Springs) at Red Rocks only or energy drinks (e.g. Red Bull) at Applicable Locations (the "Product Exceptions").

"Beverages" shall mean non-alcoholic beverages (i.e. anything consumed by drinking), whether or not such beverages (i) contain nutritive, food, or dairy ingredients, OR (ii) are in a frozen form. This definition applies without regard to the beverage's labeling or marketing. Powders, syrups, herbs (such as for tea), concentrates, and all other beverage bases from which Beverages can be made are deemed to be included in this definition. For the avoidance of doubt, "flavor enhancers," "liquid water enhancers," and non-alcoholic beverages sold as "shots" or "supplements" are considered Beverages.

"Permitted Exceptions" means Coca-Cola Beverages will be the only Beverages sold, served, distributed, sampled, or otherwise made available at Denver Arts and Venues and "Applicable Locations," provided however Denver Arts and Venues may serve, sell, or dispense the following Competitive Products ("Permitted Exceptions") at Denver Arts and Venues or its agencies:

- Fresh milk or fresh flavored milk,
- Hot tea and hot coffee freshly brewed on premise,
- Beer (alcoholic, low-alcoholic and non-alcoholic), wine, liquor,
- Hot chocolate,
- Bottled office water (i.e. bulk water 5 gallons and above),
- Natural Spring Water (e.g. Eldorado Springs)
- Energy drinks at Applicable Locations

With respect to natural spring water products, at all times during the Term, at each Applicable Location that dispenses natural spring water products, the City shall make available to select Beverage Partner for its bottled still water product the same number of facings that are provided to such natural spring water products.

Product Exceptions will not be dispensed or made available through Equipment provided by Partner.

Sponsor agrees to allow the outlined product exceptions during City produced fitness events only (e.g. Yoga on the Rocks, Winter Conditioning Program) and will include no more than 12 excluded events per year. Coca-Cola agrees to allow the outlined exceptions: ready-to-drink teas, ready-to-drink coffees, isotonic sports drinks, protein drinks, and enhanced water. The City will provide Beverage Partner with an annual list of City fitness events each year of contract.

The pricing, equipment, funding, and other elements of this Agreement will apply throughout the Term to all Beverage purchases by the City and its concessionaires, unless otherwise modified by written amendment signed by both parties. For avoidance of doubt, this Agreement takes precedence over any national plan or agreement in which a concessionaire might participate in other locations.

Equipment:

Select Partner will install at each Applicable Location, at no charge, appropriate equipment for dispensing the Partner Soft Drinks throughout the term of the agreement. The City agrees that the Equipment shall be exclusively used to display and merchandise the Partner Soft Drinks, and the City shall not use the Equipment to display, stock, advertise, sell or maintain any other products (including on the exterior of the Equipment).

Service & Maintenance:

Select Beverage Partner will also provide, at no charge to the City, service to the Equipment. Title to such Equipment will remain vested in Beverage Partner or its affiliate and all such Equipment will be returned to Beverage Partner upon expiration or earlier termination of this Agreement. Select Beverage Partner will provide, at no charge to the City, preventative maintenance and service to the Equipment. Beverage Partner will provide the City with a telephone number to request emergency repairs and receive technical assistance related to the Equipment after business hours.

Marketing & Promotions:

Each contract year, Sponsor will plan and execute the marketing and promotional initiatives outlined below to support the promotion of Applicable Locations and sale of partner beverages in sponsor distribution channels. By March 1 of each contract year, Sponsor will present a marketing and promotional plan to Arts & Venues intended to grow volume, revenue and consumer satisfaction of sponsor sold products at Applicable Locations.

1. *Large Store Family Promotion*
Location: Grocery (e.g. King Soopers, Safeway)
Sponsor will create one large store family promotion to include select Applicable Location(s). Sponsor will work with Arts & Venues to determine the select target market and store partner.
2. *Large Store Activation*
Location: Grocery
Sponsor will promote select Applicable Location in sponsor managed distribution channels via a Coca-Cola Neck Hanger Advertising Program. Applicable Location will be prominently displayed on select sponsor brand take-home packages at local Colorado large store locations.
3. *Small Store Promotion*
Location: Convenience Retail Channel (On-the-go consumer)
Sponsor will create and manage a custom promotion/special offer (e.g. buy two coca-coal product sand receive X voucher) for pre-determined target market and sponsor distribution channel.
4. *Foodservice On-Premise Promotions*
Location: Select healthcare, eating and dinning channels (e.g. HCA, Dominos)
Sponsor will create a special offer for select sponsor channel/partner. Promotional assets may include QR Code communication, table tent or other select POS messaging. Sponsor may place table tents in airport, restaurant, hospital cafeteria, etc.
5. *Coca-Cola Truck Back Promotion*
Sponsor will promote selected Applicable Location(s) on sponsor beverage delivery vehicles. Promotion and estimated number of vehicles will be outlined in annual marketing and promotional plan.

In addition to the annual marketing promotions, sponsor will make a concerted effort to work with Arts & Venues to cross promote Applicable Locations and/or select City programs with current and future sponsor partners leveraging national resources.

Hospitality:

Facility Usage: Sponsor will receive the opportunity on up to three (3) mutually agreed upon dates, to rent, at a rental rate of zero dollars, a meeting space at a Arts & Venues facility. for promotional activities or private meetings/events. During such rental use, Sponsor also will receive a special sponsor rate for food and beverage costs. All scheduling must be made in advance and will be subject to availability and final approval of Arts & Venues.

Event Tickets:

Red Rocks Amphitheatre

_____ Sponsor will receive four (4) tickets per show to each publicly ticketed concert. Additionally, sponsor will receive twenty (20) tickets to four (4) shows per season at Red Rocks Amphitheatre (subject to promoter approval and pre-sale purchase only).

Denver Coliseum

Sponsor will receive four (4) tickets per multi-day, publicly ticketed event at the Denver Coliseum.

Additional Tickets

Addition tickets may be requested by Sponsor and will be provided on an as-available basis.

Product Pricing:

Initial pricing is set forth on the attached pages. All pricing is subject to yearly increases. Additionally, in the event Coca-Cola is subject to extraordinary increases in cost of fuel, materials, and other products necessary for the manufacture and distribution of the Products, Coca-Cola may increase any pricing terms to reflect the increase in costs.

The pricing, will apply throughout the Term to all Beverage purchases by the City and its concessionaires, unless otherwise modified by written amendment signed by both parties, notwithstanding any national plan or agreement in which a concessionaire might participate in other locations.

Pricing Effective 1/1/17 - 12/31/ 1/1/17

Package	Unit Pack	2017 case price
Sparkling		
12 oz 12 pack fridge pack	24	\$ 13.20
8.5z Aluminum Bottle	24	\$ 24.00
1L Bottles	12	\$ 17.16
20z Bottles	24	\$ 22.00
355ml Glass Imports	24	\$ 22.08
500ml Glass Imports	24	\$ 24.00
8z Glass Bottles	24	\$ 24.00
Dasani		
Dasani .5L 24pk	24	\$ 11.50
Dasani 12z 8pk	24	\$ 11.76
Dasani 1L	12	\$ 14.88
Dasani 20z	24	\$ 16.00
Dasani Drops 1.9z	6	\$ 17.28
Premium Water		
smartwater 1L	12	\$ 17.64
smartwater 20z	24	\$ 24.48
smartwater 700ml	24	\$ 27.36
Zico 11.2z	12	\$ 15.96
Zico 16.9z	12	\$ 20.04
Zico 1L	12	\$ 40.08
Enhanced Water		
Minute Maid Sparkling 16.9z	12	\$ 13.20
vitaminwater .5L 6pk	24	\$ 25.68
vitaminwater 20z	24	\$ 29.52
vitaminwater 32z	15	\$ 24.15
Powerade		
Powerade 12z 12pk	24	\$ 14.64
Powerade 20z 24pk	24	\$ 22.08
Powerade 20z 8pk	24	\$ 22.08
Powerade 32z	15	\$ 16.35
Powerade Drops 3z	6	\$ 17.28
Powerade Powder 2.5G	8	\$ 30.00
Juice		
Minute Maid 10z	24	\$ 16.32
Minute Maid 450ml	24	\$ 30.00
Tum-E Yummies	12	\$ 9.00

Package	Unit Pack	2017 case price	
Tea			
Fuze Tea 12z 12pk	24	\$	13.20
Fuze Tea 1L	12	\$	17.16
Fuze Tea 20z	24	\$	26.40
Fuze Tea 2L	8	\$	14.16
Gold Peak 18.5	12	\$	14.40
Honest Tea 16.9z	12	\$	15.60
Peace Tea 23z	12	\$	11.28
Mixers			
Mixers 10z	24	\$	18.24
Mixers 1L	12	\$	17.64
Milk			
Core Power 11.5z	12	\$	27.00
Core Power 14z Elite	12	\$	30.00
Muscle Monster 15z	12	\$	24.00
Yup 14z	12	\$	15.00
Coffee			
illy 11.5z	12	\$	18.96
Dunkin Coffee 13.7z 12ct	12	\$	21.00
Sparkling Water			
Sparkling Water 12z 12pk	24	\$	13.20
Sparkling Water 12z 8pk	24	\$	13.20
Dasani Sparkling 20z	24	\$	18.96
smartwater Sparkling 20z	24	\$	24.48
smartwater 1L	12	\$	17.64

For dispensed sparkling and still brands, i.e., bag-in-the-box Swire Coca-Cola will offer the then Coca-Cola National Foodservice Price.

Exhibit B – Fee Schedule

Invoice Schedule

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

Year 1 - \$400,000 (\$300,000 + \$100,000 Signing Bonus)

****Due upon execution of agreement***

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

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

Year 4 - \$330,000 Due August 1, 2020

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

TOTAL SPONSORSHIP FEES: \$1,720,000

EXHIBIT C

(exhibit follows)

Exhibit C
Additional Financial Considerations

Additional Financial Considerations

In addition to the annual fee, sponsor will provide Arts & Venues with additional financial compensations outlined in the following table below.

Additional Financial Compensations						
<i>Marketing Funds & Product Sampling Donation</i>						
	Year 1	Year 2	Year 3	Year 4	Year 5	
Donated Beverage Products*	\$12,500	\$12,500	\$12,500	\$12,500	\$12,500	\$62,500
Exit Sampling*	\$4,800	\$4,800	\$4,800	\$4,800	\$4,800	\$24,000
On-site Exposure**	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
Umbrellas	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$5,000
Large Regional Marketing Campaign***	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$50,000
Total Estimated Value	\$33,300	\$33,300	\$33,300	\$33,300	\$33,300	\$166,500

*Calculated based on the price that would otherwise be charged to Arts & Venues or its concessionaire.

**Branding, signage, customized vending, point-of-sale items, etc. that will jointly promote Sponsor's Beverage and Arts & Venues locations and programs.

***Calculated by Sponsor based on estimated value to Arts & Venues.

EXHIBIT D

(exhibit follows)

Heydman, Laurie J. - CAO MUNI Municipal Ops Liability

From: McHugh, Darren <DMcHugh@SYCR.com>
Sent: Tuesday, November 21, 2017 2:18 PM
To: Heydman, Laurie J. - CAO MUNI Municipal Ops Liability
Subject: Pouring Rights Contract

Hi Laurie,

In accordance with our previous correspondence on this topic, I am writing to let you know that the Pouring Rights contract that we've reviewed for you will create less than 1% private business use in each year during which it is effective. Accordingly, the contract will not, by itself, adversely affect the tax status of the obligations the proceeds of which were used to finance those properties.

Thanks,

Darren McHugh

Stradling
Attorneys at Law

Stradling Yocca Carlson & Rauth, a Professional Corporation

1400 16th Street Suite 400 | Denver, CO 80202

(o) 720-616-6980 | (f) 949.823.6880

dmchugh@sycr.com | sycr.com

[Website Profile](#) | [vCard](#)

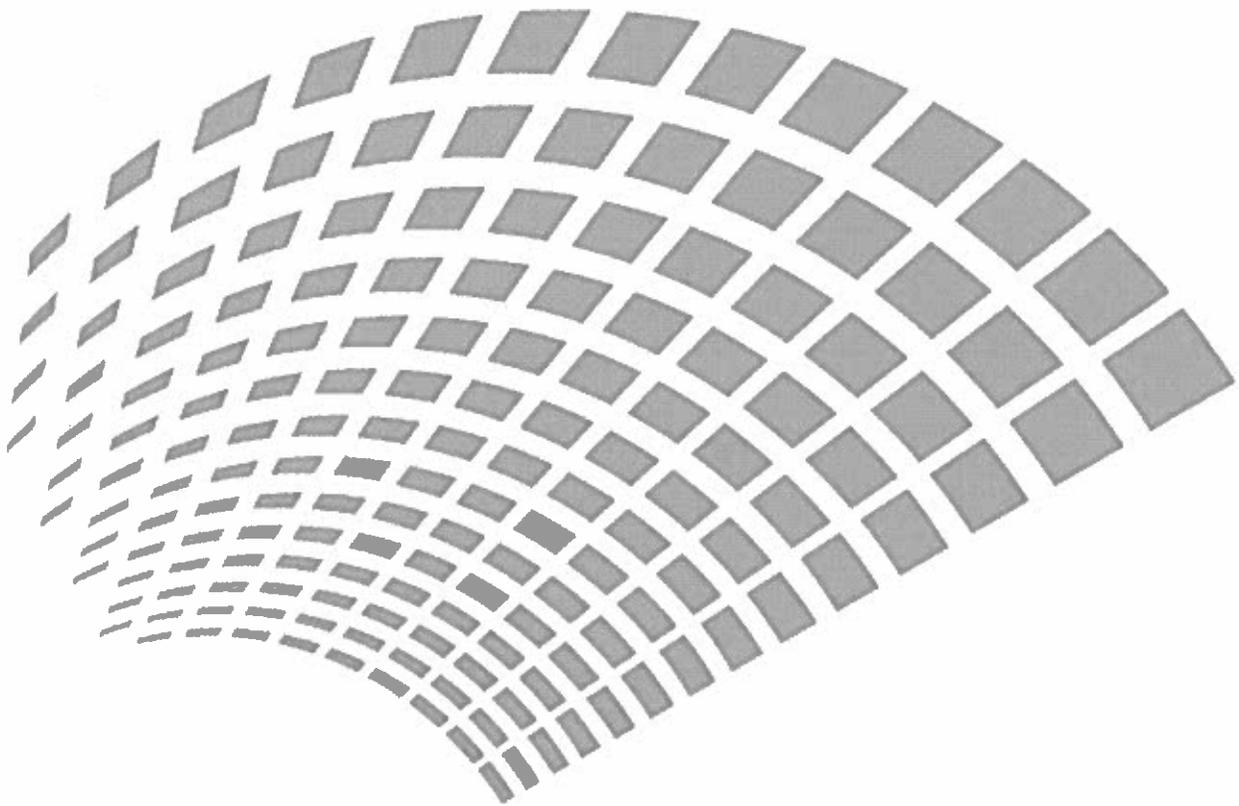
CONFIDENTIALITY NOTICE

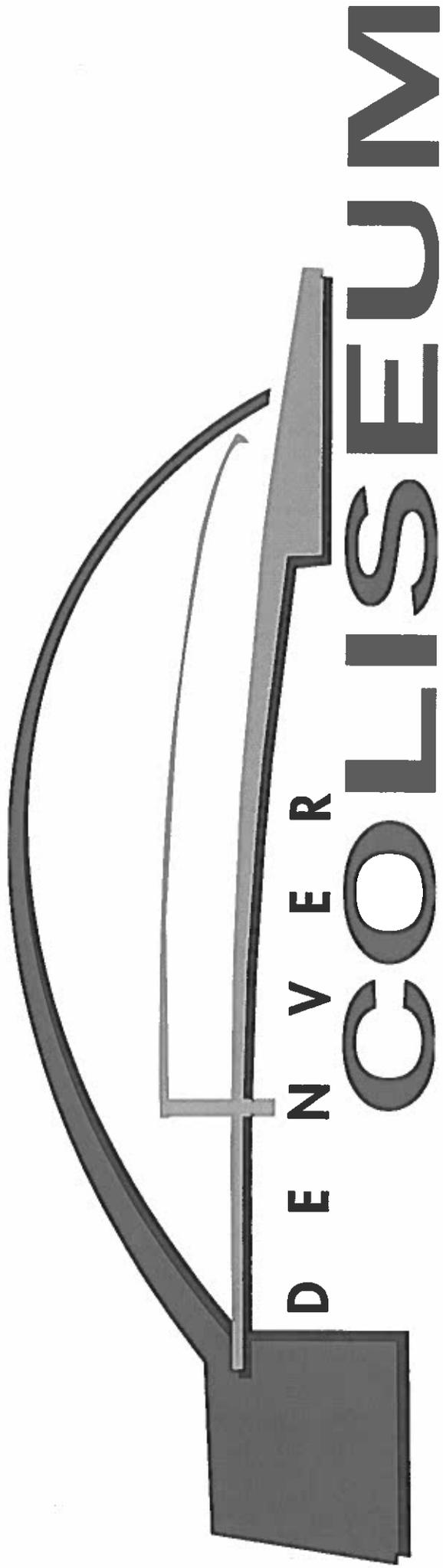
This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error please notify us immediately. Thank you.

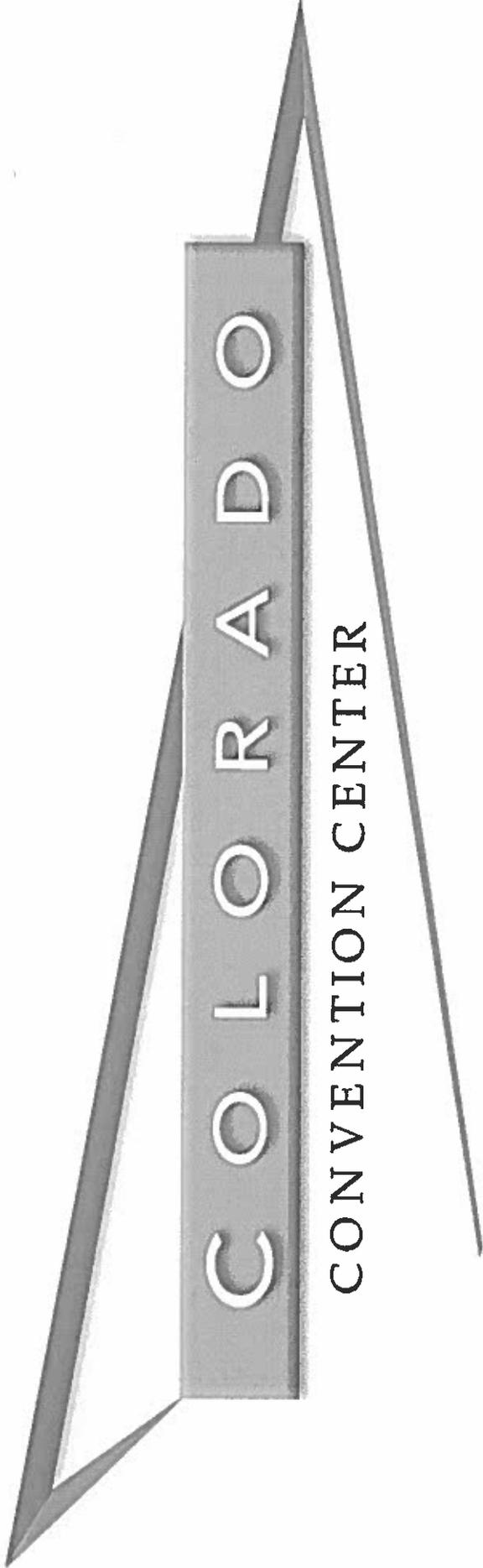
EXHIBIT E

(exhibit follows)

**DENVER
PERFORMING
ARTS COMPLEX**







COLORADO

CONVENTION CENTER

EST.

1941



RED ROCKS

PARK AND AMPHITHEATRE

Coca-Cola®





EXHIBIT F

ARTS & VENUES DENVER VENUE SPONSORSHIP POLICY

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

If there are any questions regarding the terms below, please contact AVD Marketing & Communications Department.

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

SPONSORSHIP CATEGORIES

- Airline
- Beer/Malt Beverages
- Beverages, Soft Drinks, Juices, & Sport Drinks
- Natural Spring Water and Bottled Water
- Energy Drink
- Spirits/Liquor
- Spirits/Wine
- Waste & Recycling
- Food Service Products

CURRENT SPONSORS

Southwest Airlines
MillerCoors
Pepsi Bottling Group
Eldorado and Aquafina
Red Bull
Brown-Forman
Treasury Wine Estates
Alpine Waste
Eco-Products, Inc.

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

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

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

AVD Marketing Department Contacts

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

Or

Amy Lindsey
Assistant Director of Marketing & Communications
Amy.lindsey@denvergov.org
720-865-4226