

FACILITY USE AND WAIVER OF LIABILITY AGREEMENT

In consideration of being permitted to use for the use set forth below (the "Permitted Use") the clubhouse facility owned by ACM Park Hill JV VII, LLC ("ACM PH"), and no other portion of the property owned by ACM PH (the "Facility"), the licensee identified below ("Licensee") acknowledges that the use of the Facility is undertaken solely by Licensee and solely for the benefit of Licensee and Licensee's officers, agents, representatives, vendors, suppliers, employees, volunteers, guests, invitees and any other person or entity present at the Facility claiming by, through or under Licensee (collectively, the "Licensee Parties") for the Permitted Use, subject to the terms and conditions of this Facility Use and Waiver of Liability Agreement (this "Agreement").

LICENSEE: _____

NAME OF FACILITY: Park Hill Clubhouse _____

NAME OF ORGANIZATION: _____

USE OF FACILITY: _____

ESTIMATED # OF ATTENDEES: ` _____

DATE AND TIME OF USE: _____

CONTACT NAME: _____

CONTACT PHONE: _____

CONTACT ADDRESS: _____

Licensee's Permitted Use of the Facility will include:

- Food/Drink (by Licensee)
- Stage/Sound/Lighting
- Other: _____
- Alcohol (by Licensee)

WAIVER/INDEMNIFICATION: The Licensee shall, and the Licensee shall require any Licensee Parties to, comply with all applicable laws, statutes, rules, requirements, declarations, regulations, ordinances, guidelines, recommendations, directives, best practices and orders of any federal, state, local or other authority regarding the use of and/or presence at the Facility by Licensee and/or the Licensee Parties, including without limitation the preparation, administration and updating of appropriate processes, procedures, safeguards and other measures (including without limitation preparing and conducting an event and any related safety program) as necessary or appropriate with respect to health related matters in general, and specifically with respect to the Coronavirus Disease 2019 pandemic ("COVID-19"). ACM PH, on behalf of itself and all ACM PH Parties (hereinafter defined) hereby disclaims any liability whatsoever, and Licensee hereby accepts such disclaimer and assumes all risks, on behalf of itself and the Licensee Parties, with respect to the non-compliance and/or compliance with this provision, including without limitation any damage, injury, death, loss and/or other matter related to or arising from the foregoing. The Licensee hereby agrees to indemnify, defend (without counsel acceptable to ACM PH) and hold harmless ACM PH and ACM PH's agents, employees, officers, representatives, guests, affiliates, successors, assigns and any other person or entity claiming by, through or under ACM PH (collectively, "ACM PH Parties"), with respect to any damage, loss, claim, demand, injury, cost, expense (including without limitation attorney and consultant fees), liability or other matter incurred or suffered by or asserted against ACM PH or any ACM PH Parties related to or arising out of any breach or default by Licensee and/or any Licensee Parties under this Agreement, the use of or presence at the Facility by Licensee or any Licensee Party, and/or any act, omission, activity or other thing done, not done, permitted or suffered by Licensee and/or the Licensee Parties, including without limitation any damage, injury, death, loss, expense and/or other matter related to or arising from COVID-19. Licensee, on behalf of itself and all Licensee Parties, hereby assumes all risks related to the Facility and the event related thereto, including without limitation damage to property and injury or death to persons in, upon or about the Facility, from any cause, and hereby waives, on behalf of itself and all Licensee Parties, all claims in respect thereof against ACM PH and all ACM PH Parties. Licensee, on behalf of itself and all Licensee Parties, hereby waives and releases all claims against ACM PH and all ACM PH Parties with respect to all matters disclaimed by ACM PH under this Agreement. Licensee covenants and agrees, upon behalf of itself and all Licensee Parties, that neither ACM PH nor any ACM PH Parties will at any time or to any extent whatsoever be liable, responsible or in any way accountable for any loss, injury, death, damage (including punitive or consequential damages), expense, liability, right of action, or claim of any kind whatsoever to Licensee or any Licensee Parties occasioned by any cause, either ordinary or extraordinary.

INSURANCE: Prior to entry into the Facility, Licensee shall obtain with respect to the Facility and the event related thereto, and maintain in force for the duration of the presence at the Facility of the Licensee and/or any Licensee Parties, as specified on Exhibit A: workers compensation insurance (to the extent required by law); commercial automobile liability insurance (including coverage for owned automobiles and for non-owned and hired automobiles), to the extent required by law; general liability insurance on an occurrence basis; professional liability insurance (if applicable); liquor liability insurance (if liquor will be served/consumed at the Facility by

Licensee or any Licensee Parties); and any other insurance reasonably required by ACM PH. With the exception of workers compensation and professional liability insurance, ACM PH and any other entities designated by ACM PH shall be named as additional insureds on each policy and any such coverage shall be primary and non-contributory with any insurance maintained by ACM PH. Licensee's insurance shall include contractual liability insurance covering the Licensee's indemnification and other obligations under this Agreement. Licensee shall provide ACM PH with a certificate of insurance and a copy of the applicable additional insured endorsement and waiver prior to entry to the Facility. If Licensee fails to provide the certificate of insurance with the appropriate coverages, Licensee assumes all risk on behalf of itself and the Licensee Parties, with respect to the non-compliance with this provision, including without limitation any damage, injury, death, and/or any other loss incurred.

ALCOHOL/LIQUOR: If Licensee or any Licensee Parties will serve or consume alcohol at the Facility, then Licensee or the applicable Licensee Parties shall: obtain and maintain while present at the Facility, at their sole cost and expense, all necessary liquor licenses for on premises consumption of alcoholic beverages, and obtain and maintain during such period all additional insurance policies, in form and substance, required by ACM PH with respect to such use; and comply with all applicable laws, rules and regulations governing the on premises serving and consumption of alcoholic beverages.

RESPONSIBILITY: Licensee shall be responsible for all wayfinding, parking, ADA accessibility, A/V equipment, set-up and clean-up requirements (as set forth below).

RULES AND REGULATIONS: Licensee agrees to comply with all rules and regulations of the Park Hill Clubhouse in connection with Licensee's use of the Facility, including those posted at the Facility. Licensee acknowledges that failure to follow applicable laws, ordinances, rules, and regulations or direct instructions provided by ACM PH personnel may result in the expulsion of Licensee and any Licensee Parties from the Facility without prior notice.

CLEANING/REPAIRS: Licensee will be responsible for the cost of cleaning services for the Facility. **The COVID cleaning fee is \$185.00** and can be paid via check delivered to ACM Park Hill JV VII, LLC at 4100 E. Mississippi Ave., Suite 500 Glendale, CO 80246. An additional cleaning fee and/or repair fee may be charged for additional cleaning services and/or repairs required by use of the Facility by Licensee or any Licensee Parties.

HOURS: Facility must be vacated by 10pm for events held Monday-Thursday and 11pm for events held Friday-Sunday. It is the responsibility of the Licensee to return keys to the security guard on duty at time of exiting the Facility.

DISPUTE RESOLUTION: The Licensee and ACM PH agree that any unresolved claim, controversy, dispute or other matter in question between the parties to this Agreement arising out of or related to this Agreement, any breach thereof, or the Facility shall be subject to and decided by binding arbitration in accordance with the process set forth in this provision. A party seeking to initiate arbitration proceedings shall give written notice of the demand for arbitration to the other party. A demand for arbitration shall be made within a reasonable time after a claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of repose or limitation. Any claim, controversy, dispute or other matter of whatever nature, including but not limited to the issue of arbitrability, arising out of or relating to this Agreement, shall be decided by binding arbitration to be conducted in accordance with the Colorado Uniform Arbitration Act ("CUAA") and be decided by a single private party arbitrator who is a retired Colorado state court or federal judge or attorney licensed to practice law in Colorado, in accordance with rules and procedures determined by such arbitrator. If the parties are unable to agree upon an arbitrator within thirty (30) days from the date of the demand for arbitration, then the arbitrator shall be chosen in accordance with the rules governing the selection of an arbitrator under the CUAA. The venue for such arbitration shall be in the City and County of Denver, State of Colorado. The arbitrator may not award punitive, exemplary or consequential damages, except to the extent related to an indemnification obligation under this Agreement. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The costs of the arbitrator shall initially be borne equally by both parties. Following completion of the arbitration, the prevailing party in the arbitration shall be awarded from the non-prevailing party all costs associated with the arbitration, including, but not limited to, arbitration fees, attorney and consultant fees, and expert witness fees. The arbitrator will make a determination of costs to be recovered and by which party.

DEFAULT: In the event of a default by Licensee or any Licensee Parties under this Agreement, ACM PH shall be entitled to pursue all remedies available under law or equity, including without limitation damages, injunctive relief and specific performance.

ENTIRE AGREEMENT: This Agreement represents the entire and integrated agreement between the Licensee and ACM PH and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Licensee and ACM PH.

PHOTO/VIDEO RELEASE: The Licensee hereby grants permission to ACM PH and Westside Investment Partners, LLC to use photographs and/or video of any Licensee Parties present at the aforementioned event held at the Facility in any publications, news releases, online, and any other media communications by ACM PH.

INDIVIDUAL WAIVERS: Prior to entry onto the Facility by any Licensee Parties, Licensee shall obtain from each of such Licensee Parties (and provide a copy thereof to ACM PH) an executed copy of the document attached hereto as Exhibit B.

THE UNDERSIGNED HAS READ AND VOLUNTARILY SIGNS THIS AGREEMENT AS AUTHORIZED AGENT OF LICENSEE.

Signature of Licensee Authorized Agent

Print Name

Date

ACM Park Hill JV VII, LLC

Print Name

Date

Exhibit A

Insurance Requirements

1. \$1,000,000 in General Liability
2. \$2,000,000 in Aggregate
3. Primary and Non-Contributory respected language to be included on certificate in favor of additional insured ACM Park Hill JV VII LLC. Policy Form # and copy of Primary Non-Contributory form should be included with the Certificate of Insurance.
4. 30 Day Written Notice of Cancellation provided to the additional insured and ACM Park Hill JV VII LLC.
5. ACM Park Hill JV VII LLC and Westside Property Investment Company listed as Certificate Holders
6. ACM Park Hill JV VII LLC and Westside Property Investment Company listed as Additional Insured
7. ACM Park Hill JV VII LLC and Westside Property Investment Company with a Wavier of Subrogation

Exhibit B

(attached)